Is Government keeping its promises to children?
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Foreword

An overall Report Card grade of ‘C’, as compared to the ‘C-’ in 2017 and ‘D+’ in 2018, recognises the fulfilment of commitments in the Programme for Government.

This is the eleventh Report Card and the third under A Programme for a Partnership Government. Again this year, our independent panel of experts graded the Government’s performance.

The Government is awarded an overall ‘C’ grade for living up to its promises to children, an increase on last year’s ‘C-’ and a significant improvement from the ‘D+’ grade that was awarded in 2017. This grade represents a satisfactory attempt, but some children are still left wanting.

Positives include the long awaited enactment of the Public Health (Alcohol) Act in 2018 which is a significant measure that will benefit children by helping to delay the age at which children start to drink alcohol and that will deter parental alcohol abuse. A commitment to introduce two weeks’ paid parental leave for each parent in the first year of a child’s life, and a fairer means assessment for one-parent families in receipt of social welfare payments are important steps towards a more family-friendly Ireland. Measures delivered in Budget 2019 will also go some way towards addressing the high levels of child poverty caused by the recession and we hope to see the downward trend continue in 2019.

The lowest grade in Report Card 2019 is an ‘F’ – or a FAIL – for ‘Child and Family Homelessness’. This is the first time under this Programme for Government that we have awarded a score this low. This is due to the ongoing homelessness crisis and the failure of Government to reduce the number of children living in emergency homeless accommodation. We know the negative impact that homelessness has on their education, their self-esteem, their peer relationships and their health. A housing emergency must be declared and the building of public housing must become the Government’s top priority. Childhood does not stand still and radical action is urgently needed.

The publication of the world’s first LGBTI+ Youth Strategy 2018-2020 yielded the highest grade this year, an ‘A-’. The strategy guarantees a cross-governmental approach to address some of the key challenges these young people face every day.
The grade attributed to ‘Education’ increased slightly from a ‘C’ to a ‘C+’. We witnessed progress with the removal of the baptism barrier and other barriers to school admission. However, we need a long-term plan to increase the number of non-denominational and multi-denominational schools to 400 by 2030.

We are pleased that funding has been secured for a hot meals pilot project in Delivering Equality of Opportunity in Schools (DEIS) primary schools, resulting in a ‘B’ grade for ‘Physical Health’ – an important measure to tackle food poverty experienced by many disadvantaged children. A major review of Relationships and Sexuality Education in schools is also a big plus given its importance in protecting and empowering children and young people.

The Report Card panel awarded the Government a ‘C’ for ‘Rights in Early Childhood’. This significant increase (up from a ‘D’ grade last year) recognises a number of marked improvements. 2018 saw the launch of First 5, Ireland’s first early years’ strategy providing the basis for services for young children and recognising the importance of investing early in all aspects of a child’s first five years of life. Progress on a legislative framework for the Affordable Childcare Scheme is another step forward for families who struggle to pay high costs of childcare. This commits that only Tusla-registered childminders can participate in it. However because the sector remains largely unchanged, the vast majority of childminders are still not registered and therefore unregulated leaving children at potential risk.

Significant steps have been taken in the area of ‘Primary Care’, which received a ‘C+’ grade this year. The extension of free GP care to 14,000 carers and a €25 increase in the weekly income threshold for free GP visit cards are positive.

On ‘Mental Health’ the Government was awarded a ‘D-’ reflecting long waiting lists for community and specialised services. In addition, a lack of age-appropriate facilities means that some of the most vulnerable children continue to be neglected.

An equally dismal low grade, ‘D-’, is awarded to ‘Traveller and Roma Children’, a small but significant decrease on the ‘D+’ attributed last year. While there has been welcome progress on the National Traveller and Roma Inclusion Strategy actions, we are concerned at the repeated underspend of local authorities on Traveller-specific accommodation despite increasing numbers of homeless Traveller families.

There was a marked improvement for ‘Refugee and Asylum-Seeking Children’, moving from a ‘D+’ to a ‘C’ grade. This acknowledges the adoption of an important EU Directive into Irish law and the fact that Ireland has met its relocation commitment to take in 1,022 refugees from Greece. The Government must now meet its full commitment to resettle 855 refugees in 2019. We look forward to the publication and roll-out of new national standards for Direct Provision in the coming months.

All in all, it is fair to say that incremental progress has been made over the lifetime of this Government to date. An overall Report Card grade of ‘C’, as compared to the ‘C-’ in 2017 and ‘D+’ in 2018, recognises the fulfilment of commitments in the Programme for Government. As the housing crisis continues to escalate and Ireland braces itself for the repercussions of Brexit, it is vitally important that in reacting to these significant challenges, a child-centred approach is mobilised across government in every policy area. At this significant turning point, it is important to recognise that history will not judge us kindly for not putting our children’s rights front and centre.

Tanya Ward
Chief Executive
### Children's Rights Alliance members (as at December 2018)

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The Children’s Rights Alliance wishes to thank all those who contributed to researching and compiling this report. In particular, the Alliance would like to thank our partners in helping to produce Report Card 2019 including The Community Foundation for Ireland, Pobal, the Tomar Trust, the Department of Rural and Community Development and the Katharine Howard Foundation.

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- Department of Children and Youth Affairs
- Department of Education and Skills
- Department of Housing, Planning, Community and Local Government
- Department of Health
- Department of Justice and Equality
- Department of Public Expenditure and Reform
- Department of Employment Affairs and Social Protection
- Dublin Region Homeless Executive
- Health Service Executive
- Irish Refugee Protection Programme
- National Vetting Bureau
- Pobal
- Reception and Integration Agency
- Tusla, the Child and Family Agency

The expert contributions of Children’s Rights Alliance member organisations are gratefully acknowledged, in particular:

- Barnardos
- BeLonGTo
- Children in Hospital Ireland
- Cork Life Centre
- Cybersafe Ireland
- Dublin Rape Crisis Centre
- Educate Together
- EPIC
- Focus Ireland
- Inclusion Ireland
- Irish Council for Civil Liberties
- Irish Heart Foundation
- Irish National Teachers Organisation
- Irish Refugee Council
- ISPCC
- Irish Traveller Movement
- Mental Health Reform
- National Youth Council of Ireland
- One Family
- Pavee Point
- Prevention and Early Intervention Network
- Rape Crisis Network Ireland
- Simon Communities of Ireland
- SpunOut.ie
- St Patrick’s Mental Health Services

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We extend our thanks to the members of the Assessment Panel who, by assessing the grades in each section and adding their considerable experience, validate this report. The grades allocated represent the collective views of the Panel rather than the views of any individual. The Assessment Panel comprised:

- Seamus Boland, Chief Executive Officer, Irish Rural Link
- Professor Maurice Devlin, Director of the Centre for Youth Research and Development, School of Applied Social Studies, Maynooth University
- Catherine Ghent, Solicitor, Gallagher Shatter Solicitors
- Professor Nóirín Hayes, Visiting Professor, School of Education, Trinity College Dublin
- Áine Hyland, Emeritus Professor of Education and former Vice-President of University College Cork
- David Joyce, Equality Officer, Irish Congress of Trade Unions
- Emma Kerins, Head of Policy and Public Affairs, Chambers Ireland
- Judge Catherine McGuinness, former member of the Supreme Court of Ireland and member of the Council of State
- Dr Aisling Parkes, Law Lecturer, University College Cork

Finally, massive thanks go to the Report Card team for their incredible hard work and commitment to produce a superb publication once again this year.
# Grading for Report Card 2019

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<tr>
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<td><strong>Right to Equality</strong></td>
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<td>Traveller and Roma Children</td>
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<td>B−</td>
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### Explanation of Grades:

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

- **896 schools included in DEIS programme**
- **20-30 cent** levy on sugar-sweetened drinks
- **Rise** in homelessness over the last 4 years
- **€574m** budget allocation to childcare
- **One House** project in Galway
- **2 weeks** paid parental leave for both parents
- **Hot school meals** €54 million invested in pilot programme for DEIS schools
- **2,250** children waiting for CAMHS appointment
- **1,724 under 18s in Direct Provision** —almost a third
- **LGBTI+ Youth Strategy** The first strategy of its kind in the world
Introduction

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

The Report Card is a tool for identifying serious issues for children. It is an established accountability tool for the Children’s Rights Alliance and our members, as well as an important information resource for politicians, policy makers, service providers, non-governmental organisations and academics. It scrutinises the Government’s own commitments to children flowing from its programme for government.

This is the eleventh edition of our annual Report Card series, launched in 2009. Report Card 2019 is the third edition of the new series and the second full year under A Programme for a Partnership Government. The commitments selected from A Programme for a Partnership Government are those that are likely to have the biggest impact on children’s rights and that are measurable for the Children’s Rights Alliance team.

The research process for Report Card 2019 involved desk research, semi-structured interviews, analysis of legal judgments and data, and a wide-ranging consultation with member organisations and key stakeholders. In addition, a thorough engagement took place with various government departments and agencies with responsibility for the commitments concerned. The grading was carried out by a high-level independent assessment panel, comprised of some of Ireland’s leading experts in child law, human rights and education, and representatives from business, trade unions, Social Partnership, academia and rural Ireland. Report Card 2019 contains information up to the end of December 2018.

The Government is awarded an overall ‘C’ grade in Report Card 2019, an improvement on last year’s ‘C-’ grade, and the ‘D+’ grade awarded in Report Card 2017. Similar to last year, the grade reflects a satisfactory attempt overall but children are still left wanting. While the highest grades in Report Card 2019 are an ‘A-’ for LGBTI+ Children, and a ‘B’ for both Physical Health and Child Protection, the lowest grade is again awarded for Child and Family Homelessness, which received a ‘F’ grade in light of the continuing and escalating national emergency in housing. The Children’s Rights Alliance recognises the significant steps that have been taken by the Government and the advancements that have been made in certain areas. However, there is still work to do in areas where progress has stalled or regressed. The Government is now at the halfway point, and we look forward to seeing the fulfilment of additional commitments and further progress as it enters the second phase of its term.
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

Chapter Grade:

C+
Government Commitment

A Programme for a Partnership

Government commits to:

- 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

- Publish a new School Completion Strategy.
  - Progress: Steady

‘Educational Disadvantage’ receives a ‘C’ grade in Report Card 2019, the same as last year’s grade. The new DEIS Plan was published in 2017 and work is underway to progress the actions set out under the Plan. The gap in retention rates between DEIS and non-DEIS schools remained the same over the past year. A review into out-of-school education provision was completed and a taskforce on the reform of the School Completion Programme was established.

Every child has a right to education and should have an equal opportunity to participate in education.¹ The UN Committee on the Rights of the Child has stated 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.’² The Committee further states that education goes beyond formal schooling 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.³ States are required to take measures to ‘encourage regular attendance at schools and the reduction of drop-out rates’.⁴

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² UNCRC General Comment No. 1 on Article 29(1) the Aims of Education (2001) CRC/GC/2001/1 para 2.
³ Ibid
Educational Disadvantage:

In Ireland, a person’s socio-economic background remains a strong determining factor in their educational attainment. A person is almost three times more likely to go on to higher education if their parents have higher education than someone whose parents have not completed primary-level education.5

Since 2005, the Delivering Equality of Opportunity in Schools (DEIS) Programme has been the State’s main vehicle for supporting children who experience educational disadvantage. Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020 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’.6 It also commits 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’.7

The DEIS Plan 2017, promised in the Action Plan for Education 2016–2019,8 was published in February 2017.9 The Plan, replaces the 2005 plan and sets out the Government’s vision for social inclusion in education policy with over 100 actions to support its goals.10 Work has started on the implementation of almost 90 per cent of the actions.11 The Plan provides that improved data allows the identification of schools to be more responsive to the demographic and other changes in an area and this is expected to facilitate the aim of more closely matching resources to identified need.12 The schools brought into the DEIS programme in 2017 have not been included in the School Completion Programme because the necessary resources to include the schools have not yet been allocated to Tusla’s Educational Welfare Service.13 No further schools have been included or upgraded in the DEIS programme since September 201714 and no new schools will be included in the programme until work to enhance the quality of the data is complete.15 In the 2018/2019 academic year, 896 schools (698 primary and 198 post-primary) are included in the DEIS programme.16 There was no additional DEIS specific allocation for Budget 2019.17

The gap between DEIS and non-DEIS schools has narrowed in terms of academic achievement, in particular in mathematics and reading, but the performance of DEIS schools still falls below the overall achievement levels in other schools.18 Improved retention rates to Leaving Certificate in DEIS schools are evident, with the gap between DEIS and non-DEIS schools halving between the 2001 and 2011 entry cohorts, falling from 16.8 to 8.5 per cent.19 However, the average rate of school completion for

7 Ibid Commitment 2.22.
10 Ibid 6, 10.
11 Communication received by the Children’s Rights Alliance from the Department of Education and Skills, 11 January 2019.
12 Communication received by the Children’s Rights Alliance from the Department of Education and Skills, 11 January 2019.
13 Communication received by the Children’s Rights Alliance from Tusla, 24 December 2018.
14 Communication received by the Children’s Rights Alliance from the Department of Education and Skills, 11 January 2019 and communication received by the Children’s Rights Alliance from the Department of Education and Skills, 4 February 2019.
15 Ibid.
16 Ibid.
17 Ibid.
DEIS schools continues to fall below that of non-DEIS schools.20 While it is positive that more pupils in DEIS schools than ever before aspired to third level education and had similar aspirations to children in other schools, it is concerning that fewer of them actually expected to be able to go to college.21

A Programme for a Partnership Government also commits to examining how to better support students outside of DEIS, given that a ‘significant proportion’ of disadvantaged students attend non-DEIS schools.22 The reduction in pupil/teacher ratios in non-DEIS post-primary schools to 19.1 will go some way towards supporting disadvantaged pupils.23

School Completion:

In the context of a general improvement in second-level retention rates, the stated policy aim is to increase the rate of 84.4 per cent in DEIS schools to the national norm of 90.2 per cent, by 2025.24 Overall, Ireland has the third highest completion rates for girls at 92 per cent and the second highest for boys at 90 per cent ‘among countries and economies with comparable data’ in the OECD.25 However, this means that consistently one in every ten boys in Ireland leaves school with no qualification. In March 2018, the Department of Education and Skills (DES) launched a review on current and future provision of out-of-school education, a commitment in the DEIS Plan 2017.26 The review aimed to ‘identify the needs of the cohort of children who have disengaged with the mainstream education system or are at risk of doing so’.27 The review was carried out by a Working Group chaired by the Department, including representatives from Tusla and the Education and Training Board sector and a report was being finalised by the Working Group at year’s end.28 It provides an opportunity to consider the availability of alternative forms of education provision for young people who leave school without a qualification, and to provide financial support to them and ensure that alternatives are seen as a legitimate part of second level education. The views of early school leavers who disengaged with mainstream education should inform the review.

The School Completion Programme (SCP) was established in 2002 by the Department of Education and Skills as part of the DEIS programme building on the earlier Early School Leaver Initiative (ESLI). The programme was expanded in 2005/2006 when additional schools were included in the DEIS programme. The aim of SCP is to increase the numbers of young people staying in primary and second-level schools and, in doing so, improve the numbers of pupils who successfully complete the Senior Cycle, or equivalent. In 2014, the SCP came under the remit of Tusla, the Child and Family Agency.

The SCP is one of three main strands of the Educational Welfare Service (EWS) of Tusla aimed at promoting school attendance, participation and retention. These are the statutory Educational Welfare Service, the Home School Community Liaison scheme (HSCL) and the SCP. The SCP has 124 local projects and operates in 467 primary schools and 224 post-primary schools nationwide.29 SCP funding in the 2018/19 academic year is over €24.7 million.30 The SCP is a targeted support programme that focuses on students most at risk of early school leaving and young people of school going age not attending an appropriate educational setting. Each SCP prepares an Annual Retention Plan outlining the identified needs in its catchment area. It also sets out the interventions and supports it plans to provide such as breakfast clubs, in-school learning supports and interventions, homework clubs, after school and holiday provision.31

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20 ibid.
22 Emer Smyth et al, Review of the School Completion Programme, Research Series Number 44 (ESRI 2015) 79.
In Ireland, a person’s socio-economic background remains a strong determining factor in their educational attainment. A person is almost three times more likely to go on to higher education if their parents have higher education (...
There has been a general improvement in second-level retention rates in recent years. In the 2017/2018 school year, a total of 94,647 young people engaged with the SCP through both targeted and universal supports and of these, 24,899 received targeted provision. The most recent figures available show that of the cohort of young people who enrolled in first year in 2011, 92 per cent completed the Leaving Certificate in 2016 and 2017.

The Economic and Social Research Institute produced a review of the SCP in 2015. It found that existing evaluation reports have not assessed the SCP or focused on measuring the kinds of outcomes for students on which the programme focuses, such as school engagement and socio-emotional development. The DES inspectorate research on DEIS planning has not commented on the SCP in an evaluative way and notes that such an evaluation may not be possible given the complexity of the programme, the age groups and varying locations involved. A focus on improving the quality and effectiveness of the programme to meet the needs of different groups of children in a measurable way as part of the reform of the SCP could be considered. In addition, it will be important to monitor the mechanisms for the intake of students to the SCP to ensure a new model captures children most at risk of early school leaving.

The DEIS Plan 2017 reiterated the Government’s commitment to the publication of a new strategy to improve school retention rates and set a target date of Q3 2017 for it to be published. Although there is clear progress in relation to participation and retention rates in Ireland, it has become apparent that a coordinated policy platform is required to underpin the future development and direction of these key services at a national level. In light of this, the Minister for Children and Youth Affairs, Dr Katherine Zappone TD established a Task Group in 2018 with terms of reference and a time-line for the development of a succinct and purposeful policy blueprint. This group comprises representatives of the Department of Children and Youth Affairs, Department of Education and Skills, Tusla and stakeholders from the respective areas of the Educational Welfare Services.

The key output of this Task Group is the preparation of the policy blueprint which will set out a clear platform and process for the development of the EWS, including the SCP. It is intended to be responsive to existing and emerging needs; reflective of relevant policies/initiatives being progressed by the Department of Children and Youth Affairs, Tusla and the Department of Education and Skills; and informed by the perspectives of practitioners who work at the front-line of service delivery.
Educational Disadvantage
Immediate Actions for 2019

Continue to implement the DEIS Plan and monitor its efficacy in improving outcomes for pupils.

Ensure that an adequate monitoring and evaluation system is put in place with tangible indicators to monitor ongoing implementation, in order to improve and adapt the system and ensure continuous improvement of the DEIS scheme.

Produce the Policy Blueprint for the EWS and begin implementation of actions in 2019.

Complete the work of the task group for the development of the EWS into the future. Produce the Policy Blueprint and begin implementation of the actions contained therein with a focus on improving the quality and effectiveness of the educational welfare services in delivering outcomes that meet the needs of different groups of children in a measurable way.

Publish the outcome of the review on current and future provision of out-of-school education.

The review of out-of-school education provision is an opportunity to consider the availability of alternative forms of education provision for young people who leave school without a qualification and to provide financial support to them and ensure that alternatives are seen as a legitimate part of second level education.
1.2 Religious 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: Slow

Publish new School Admissions and Excellence legislation and enact this legislation for the beginning of the school year 2017.  
Progress: Good

‘Religious Diversity in Schools’ receives a ‘B-’ grade in Report Card 2019, an improvement on last year’s ‘C-’ grade. This reflects the removal of the baptism barrier and other barriers to school admissions in the Education (Admission to Schools) Act 2018. While the number of multi-denominational primary and post-primary schools increased slightly in 2018, there is no long-term plan as to how the Government’s target will be achieved. There have been welcome efforts to improve the collection and processing of parental preference on school patronage but existing patrons still make decisions on the divestment of schools to new patrons rather than decisions being based on the best interests of children.

Every child has a right to education ‘on the basis of equal opportunity’ and the right to respect for their freedom of thought, conscience and religion. Children have the right to be free from discrimination of any kind, irrespective of, amongst other things, the child’s or a parent’s 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. In 2016, the UN Committee on the Rights of the Child encouraged Ireland to promote the establishment of

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43 Ibid Art 14(1).
44 Ibid Art 2.
would be established between 2019 and 2022 with a view to providing up to 20,000 new places. The Department of Education and Skills runs a patronage process to determine who will operate each new school and this is open to all patron bodies and prospective patrons. As part of this, a process to determine parental preference of pre-school children in each area is also underway, which the Minister for Education and Skills has stated will be a key determinant of the patron for each school. Other determinants include parental preferences in relation to the language of instruction of the schools and the extent of diversity in the area. With the aim of making the collection and processing of parental preferences more efficient, an Online Patronage Process system was rolled out in 2018, which is a welcome measure. The patronage process for 4 new post-primary schools to be established in 2019 has been completed and in November 2018, the Minister for Education and Skills, Joe McHugh TD invited applications for the patronage of 12 new primary schools due to open in September 2019. Based on current population growth trends, new schools will account for circa one third of the additional multi-denominational schools required to hit the target of 400 schools by 2030.

#### Divestment/Reconfiguration:

The Forum on Patronage and Pluralism in the Primary Sector, established in 2011, examined how the education system could best provide a sufficiently diverse number and range of schools nationwide for children of all religions and none. From 2013-2018, only 11 schools were divested to multi-denominational patrons, with agreement reached on a further school to be established in September 2019. However, 14 towns in which non-denominational or multi-denominational schools and to amend existing legislation to eliminate discrimination in school admissions.

### Non- and multi-denominational schools:

The UN Committee’s 2016 recommendation called on the State to ‘expeditiously undertake concrete measures to significantly increase the availability of non-denominational and multi-denominational schools’. A non-denominational school is defined as a school under the patronage of a secular body with a secular ethos. Multi-denominational schools ‘do not provide religious education as formation, during the school day, but do provide education about religions and beliefs’. Both A Programme for a Partnership Government and the Action Plan on Education 2016–2019 commit to a target of 400 multi- and non-denominational schools by 2030.

The majority of publicly funded schools in the Irish education system are denominational in nature with 94.4 per cent of primary schools in the 2018/19 academic year having a religious patron. 90.3 per cent of all primary schools remain under the patronage of the Catholic Church and 4.1 per cent are run by minority religions. At post-primary level, 47.9 per cent of denominational schools are run with a Catholic ethos with a further 3.7 per cent run with another denominational ethos. There are over 3,000 primary schools, of which 119 are multi-denominational, and 17 are described as inter-denominational but in four counties in Ireland, there is no alternative to denominational primary school provision. There are 44 multi-denominational post-primary schools.

A total of nine (four primary and five post-primary) new multi-denominational schools were established in 2018. In April 2018, the Government announced that 42 new schools (26 primary and 16 post-primary)
families chose Educate Together as a patron in the last parental preference consultation in 2012/2013 are still waiting for their ‘divested’ school. This should be urgently addressed as part of this process.62

In January 2017, the Government announced the New Schools Reconfiguration process to provide more multi-denominational and non-denominational schools.63 This involves the relevant Education and Training Board reporting on the level of demand for a new choice of school patronage within areas identified for survey. Transfers would then be managed by existing patrons in conjunction with schools communities and prospective patron bodies.64

The Schools Reconfiguration Process is intended to move from the identification of schools phase into the implementation phase, which will involve consultations with local schools communities on accommodating demand through the transfer of patronage of existing schools to new multi or non-denominational patrons.65

The transfer of existing schools from religious patronage under the School Reconfiguration process, phase 1 of which commenced in May 2018, is aimed at meeting the majority of the target.66 However, it remains unclear how the Government’s target will be achieved given the slow pace at which reconfiguration is progressing. A clear plan involving all patrons and setting out the phases of development, with timelines and a monitoring structure is required to provide clarity for communities and families. Non-denominational schools should be an explicit part of the plan as well as the number of schools which are to be primary and post-primary.

The decision-making power afforded to the current landowner to determine the multi-denominational patron to which a school will be transferred is at odds with the constitutional rights of parents to decide the type of school their children attend.67

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62 Communication received by the Children’s Rights Alliance from Educate Together, 8 January 2019.
64 ibid. Communication received by the Children’s Rights Alliance from the Department of Education and Skills, 4 January 2019.
65 Minister for Education and Skills, Joe McHugh TD, Written Answers, School Patronage, 16 October 2018 [42500/18].
66 Communication received by the Children’s Rights Alliance from the Department of Education and Skills, 8 January 2019.
67 Irish Constitution, Art 42.3.1°. This provision states that ‘The State shall not oblige parents in violation of their conscience and lawful
Based on current population growth trends, new schools will account for circa one third of the additional multi-denominational schools required to hit the target of 400 schools by 2030.
Given that the vast majority of primary schools in the country are under the patronage and ownership of one denomination, decisions on patronage should be undertaken by an independent body to ensure a more transparent approach.

> School Admissions:

In 2016, the UN Committee recommended that the State amend the ‘existing legislative framework to eliminate discrimination in school admissions, including the Equal Status Act’.\(^{68}\) Better Outcomes, Brighter Futures commits to reducing discrimination and intolerance of all types experienced by marginalised groups including those from religious minorities.\(^{69}\) In July 2018 the Education (Admission to Schools) Act 2018 was signed into law. The Act aims to ‘increase the transparency and fairness of school admissions’\(^{70}\) by amending the Equal Status Acts 2000–2015 to remove the provision that enables denominational schools to use religion as an eligibility criterion for school admissions or ‘baptism barrier’. This has been a recurring recommendation in this Report Card series and is a very welcome development.\(^{71}\) The Act also provides for children of minority religions to access the school of their faith or similar faith on a priority basis\(^{72}\) but this is only relevant if the school is oversubscribed.\(^{73}\)

The Act bans school admission fees or contributions, except for fee charging secondary schools, boarding sections of boarding schools or post leaving certificate and further education courses run by secondary schools.\(^{74}\) These key provisions were commenced in 2018.\(^{75}\)

However it should be noted that while these provisions are very positive, children whose parents are members of a minority or no religion will continue to have little choice in the type of school to which they can send their children. It is likely that many of these children will continue to be educated in schools that promote a particular ethos for their entire educational experience. This is also because of the integrated nature of the curriculum and the fact that few schools have the facilities or personnel to facilitate children opting out of denominational teaching.\(^{76}\) This makes the achievement of the Government’s target to increase the number of multi-denominational and non-denominational schools highly consequential for those families.

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68 UNCRC ‘Concluding Observations: Ireland’ (2016) UN Doc CRC/C/IRL/CO/3-4, para 64(a).
71 Education (Admissions to Schools) Act 2018, s 11.
72 ibid.
74 Education (Admissions to Schools) Act 2018, s 96(4).
Religious Diversity in Schools
Immediate Actions for 2019

Review the plan for the transfer of existing schools from religious patronage to ensure that decisions are made in the best interests of children.

Proposals to provide for the transfer of existing schools from religious patronage to other patrons 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. Children and young people should be consulted.

Publish a plan to increase the number of multi- and non-denominational schools to 400 by 2030.

A 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.
1.3 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: Complete

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: Some

‘Disability and Additional Needs in Education’ receives ‘B-’ in Report Card 2019, the same as last year’s grade. This reflects the additional resourcing for Special Needs Assistants (SNA) in Budget 2019 and the publication of the findings of the comprehensive assessment of the SNA Scheme. The pilot project to provide in-school and pre-school language therapy services is welcome. The enactment of theEducation (Admission to Schools) Act 2018 includes a power to compel a school to make additional provision for the education of children with special educational needs.

Every child has a right to education regardless of their needs or ability. 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’. The right extends 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’. 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

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77 UNCRC ‘General Comment No. 9 on the rights of children with disabilities’ (2006) UN Doc CRC/C/GC/9 para 62. All children in Ireland up to the age of 18 have the right to primary education under Article 42 of the Irish Constitution.
78 UNCRC ‘General Comment No. 1 on the Aims of Education Article 29(1)’ (2001) UN Doc CRC/GC/2001/1 para 2.
79 ibid.
their rights'. Children with special educational needs have a right to individualised support and reasonable accommodations in the general education system.

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

Ireland ratified the UN Convention on the Rights of Persons with Disabilities (UNCRPD) on 20 March 2018. It recognises the rights of people with disabilities to an education that is inclusive, free from discrimination and directed to the ‘full development of the human potential and sense of dignity and self-worth... the development... of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential and enabling [them] to participate effectively in a free society.’

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. The number of students receiving low-incidence supports (for physical disabilities, intellectual hearing impairments and autism) in mainstream schools was 43,600 in 2016. Budget 2019 provides the Department of Education and Skills with €1.8 billion for special education, which represents almost 20 per cent of the education budget, and an approximate 43 per cent increase in spending provision since 2011.

In September 2017, the new resource allocation model based on the profiled need of each school, without the need for a diagnosis of disability was introduced across primary and post primary schools. An analysis of the need for a new model can be found in Report Card 2018. The new model is welcome, however there is an outstanding issue when the parents and the school disagree as to the support allocated to a child. Under the new model, resources are allocated to schools to reflect their profiled needs and the school decides whether and how much support a child needs. If a parent is unhappy with their child’s support allocation they have no way to seek a review or to appeal the decision other than to go back to the school who is the original decision-maker and make their case. The Department of Education and Skills plays no direct role in appealing the allocation and recommends that if a parent continues to be concerned with the level of support their child receives, having raised it with the class teacher and school principal, they should take it up with the school’s Board of Management. The new model encourages dialogue between parents and schools but has the potential for tension if the parents and school ultimately disagree with no further recourse available to the family. The new model is expected to ‘provide a greater level of autonomy for schools’ in how they manage additional teaching supports and is expected to result in a better use of resources and this is welcome. However, parents should be provided with an independent and transparent process in which to express their concern and seek further support for their child.

In September 2018, an additional 800 SNA posts were introduced bringing the total number of
SNAs to 15,000. At the end of 2018, the number of special education teachers in mainstream schools was 13,395. Budget 2019 provided for the recruitment of an additional 950 SNAs and 101 new teachers in special education classes.

The National Council for Special Education (NCSE) published its findings of the comprehensive assessment of the SNA Scheme in May 2018. The review highlighted the many ‘positive and worthwhile features’ of the SNA Scheme. Key findings include the potential for a better model to support students with additional care needs resulting in better outcomes and gaps in the support system relating to critical elements of the system. Overall the Scheme has positive features but is a blunt instrument to deal with the very wide range and variety of needs, age ranges, developmental stages and school settings. The Departments of Education and Skills; Health; and Public Expenditure and Reform are considering the review and are working to develop an implementation plan and a governance and accountability framework with detailed costings of proposals for Government.

The NCSE has previously highlighted that some schools erect overt and/or ‘soft’ barriers to prevent or discourage enrolment of children with special educational needs, by suggesting to parents that a different school is more suitable or has more resources for supporting students with additional needs. Key provisions of the Education (Admission to Schools) Act 2018 relating to special educational needs were commenced in December 2018. This provides the Minister for Education and Skills with the power to compel a school to make additional provision for the education of children with special educational needs after consultation with the NCSE, the Board of Management and the school’s patron. While this is a positive measure, concerns have been expressed that the Act may place undue burden on parents navigating the application, refusal and appeals processes of numerous schools before the NCSE intervenes to compel a school to take a child. If the parent then does not agree with the school designated by the NCSE, they have no way to appeal such a decision. A child should be facilitated to attend their local school or the same school as their siblings.

Consultation on the Education for Persons with Special Educational Needs (EPSEN) Act 2004:

A Programme for a Partnership Government commits to stakeholder consultation on the progression of the EPSEN Act 2004. It is the key statute providing for the education of children with special needs and provides for ‘inclusive education’, in line with the UNCRPD and the Salamanca Statement on Principles, Policy and Practice in Special Needs Education. Despite its enactment more than 14 years ago, key provisions of the EPSEN Act 2004 remain unimplemented and the full education rights of children with disabilities and special educational needs remain unfulfilled. For commentary on the implementation of the Act see Report Card 2018.

95 Minister for Education and Skills, Richard Bruton TD, Written Answers, Special Educational Needs Staff Data, 29 May 2018, [23337/18].
96 Communication received by the Children’s Rights Alliance from the Department of Education and Skills, 11 January 2019.
99 ibid 20.
100 ibid 27.
101 ibid 24.
102 ibid 20-21.
103 Communication received by the Children’s Rights Alliance from the Department of Education and Skills, 11 January 2019.
Despite its enactment more than 14 years ago, key provisions of the EPSEN Act 2004 remain unimplemented and the full education rights of children with disabilities and special educational needs remain unfulfilled.
The Government’s commitment to consult on the EPSEN Act does not go far enough and falls short of the Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020 commitment to ‘prepare and implement a plan, guided by the National Council for Special Education (NCSE) policy advice, on how aspects of EPSEN Act can be implemented’.110 Without full commencement of the Act, measures progressed on a non-statutory footing run the risk of being removed at any time by a change in policy and children will have no right to redress.

Other consultations have taken place for example with education partners and stakeholders on the development of the new allocation model for special education teachers introduced in September 2017, as part of the development and implementation of policy advice papers through the NCSE111 and as part of the comprehensive review of the SNA scheme.112

In-school speech and language service:

A Programme for a Partnership Government commits to introduce a new in-school speech and language service at primary level and to support children in their early years. The HSE provides speech and language services. Internationally, children with speech and language difficulties are the largest single group of all children with additional needs.113 These difficulties are among the most common neuro-developmental disorders of childhood,114 although the prevalence in Ireland is unclear.115 Typically, these difficulties first become apparent in a child’s pre-school years.116 Where they can be resolved by the age of five, a child is unlikely to experience long-term effects, whereas the later the intervention, the more likely the child is to experience long-term academic and/or social difficulties.117 Therefore, the introduction and location of in-school speech and language services in early years and at primary level is particularly important.118

Reports of variations in waiting lists and HSE responses for initial speech and language assessments across the country have resulted in some parents paying privately for diagnosis and treatment.119 Poor public access means that early intervention may not take place. In May 2018, the Ministers for Education and Skills, Children and Youth Affairs, and Health, and the HSE launched a pilot project to provide in-school and pre-school language therapy services to be managed by the NCSE.120 It aims to explore a model of tailored therapeutic supports that allow for early intervention in speech and language and occupational therapy within ‘educational settings’.121 In Phase One, 150 schools and pre-schools will test the model over the 2018-2019 school years with a budget of €2.25 million122 and will be evaluated in terms of possible extension.123

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111 Communication received by the Children’s Rights Alliance from the Department of Education and Skills, 11 January 2019.
112 ibid.
113 Dublin South-West Inner City NEYAI Consortium, Preschoolers Get Talking and Communicating (Dublin South-West Inner City NEYAI Consortium 2013).
114 Noirin Hayes et al, Evaluation of the Early Years Programme of the Childhood Development Initiative (Childhood Development Initiative 2013) 7.
115 ibid.
116 Dublin South-West Inner City NEYAI Consortium, Preschoolers Get Talking and Communicating (Dublin South-West Inner City NEYAI Consortium 2013).
117 Noirin Hayes et al, Evaluation of the Early Years Programme of the Childhood Development Initiative (Childhood Development Initiative 2013) 7.
119 Kitty Holland, ‘Over 15,000 people waiting for speech assessment’ The Irish Times, 3 May 2016.
121 ibid.
122 ibid.
123 Communication received by the Children’s Rights Alliance from the Department of Education and Skills, 11 January 2019.
Disability and Additional Needs in Education

Immediate Actions for 2019

Develop and publish detailed costings for implementing the EPSEN Act in full with a view to commencing all of its provisions in 2019.

The rights of children with special educational needs should be placed on a statutory footing by implementing the EPSEN Act 2004.

Develop and publish the implementation plan to roll-out the recommendations of the NCSE on the comprehensive assessment of the SNA Scheme.

The implementation plan should be developed alongside the governance and accountability framework. Detailed costings of proposals for Government to improve and enhance the SNA Scheme should be developed to inform Budget 2020.
Right to an Adequate Standard of Living
Every child has the right to a standard of living that is adequate to their development – physical, mental, spiritual, moral and social. While parents and guardians have the primary responsibility to provide for the child’s material needs, the State also has the responsibility to assist parents and guardians to alleviate poverty where needed.

Summary of Article 27 of the UN Convention on the Rights of the Child

Chapter Grade:

D+
2.1 Child and Family Homelessness

Government Commitment

A Programme for a Partnership

Government commits to:

End the use of unsuitable long-term emergency accommodation for homeless families in part by providing 500 rapid-delivery housing units.

Progress: Limited

‘Child and Family Homelessness’ receives an ‘F’ grade in Report Card 2019, a drop from last year’s ‘E’ grade. This grade reflects the deteriorating housing crisis with almost 10,000 people living in emergency or temporary accommodation. Nearly 4,000 children are experiencing homelessness which is having a detrimental impact on their health, wellbeing, education and relationships. Family hubs are being heavily relied upon in the absence of affordable and social housing. The Rapid Build Programme has delivered fewer than 350 homes out of a planned 1,500 in almost three years of operation.

Every child has the right to an adequate standard of living for his or her physical, mental, spiritual, moral and social development. The UN Convention on the Rights of the Child requires the State to assist parents and guardians who are in need by providing ‘material assistance and support programmes particularly with regard to nutrition, clothing and housing’. The right to adequate housing is defined as being accessible, habitable and affordable with certain ‘facilities essential for health, security, comfort and nutrition’. Households should have legal security of tenure and States must take steps to prevent illegal evictions. The right to housing also means that

125 ibid Art 27(3).
126 UN Committee on Economic, Social and Cultural Rights ‘General Comment No. 4 on the Right to Adequate Housing (Art 11(1) of the Covenant)’ (1991) UN Doc E/1992/23 para 8(b).
127 ibid para 8(b).
128 ibid para 8(e).
States must ‘progressively and to the extent allowed by their available resources, prevent and address homelessness; provide the physical infrastructure required for housing to be considered adequate... or ensure adequate housing to individuals or groups unable, for reasons beyond their control, to enjoy the right to adequate housing, notably through housing subsidies and other measures’. In 2016, the UN Committee on the Rights of the Child expressed its concern at families with children ‘facing significant delays in accessing social housing and frequently living in inappropriate, temporary or emergency accommodation on a long-term basis’. Children as a priority group must be ‘accorded full and sustainable access to adequate housing resources’. The UN Committee has called on the State to undertake measures to increase the availability of social housing and emergency housing support.

Homeless families:
The number of families with children experiencing homelessness exceeded record numbers in 2018 with 1,728 families with 3,811 children living in emergency homeless accommodation in November 2018, the majority in Dublin. Child and family homelessness outside Dublin has continued to increase as in November 2018, 432 families with 995 children were in emergency accommodation, up from 342 families with 800 children in November 2017. Young parents aged 18 to 24 years make up 20 to 25 per cent of families in Dublin experiencing homelessness; nine per cent of them moved straight from their family home of origin into emergency accommodation with their children.

Lone parent families represent 60 per cent of the total number of families living in emergency accommodation. In November 2018, children comprised more than one third of the overall homeless population (38 per cent). While no official figures exist on the number of cases of hidden homelessness in June 2018, almost 20 per cent of the 72,000 households on the social housing waiting list are people living with their parents and a further eight per cent live with family or friends. However, it is likely that the number of people experiencing hidden homelessness is higher.

In March and April 2018, the Department of Housing, Planning and Local Government (DHPLG) removed 635 adults and 931 children from the monthly homelessness statistics as it contends that they were incorrectly categorised as they were not accommodated in emergency accommodation. Instead they were accommodated in houses and apartments owned or leased by local authorities or approved housing bodies. These properties...
are transitional in nature with the aim of the family moving from the accommodation within 18 months into a rented property or social housing.

The deadline set out in Rebuilding Ireland: An Action Plan for Housing and Homelessness to use ‘emergency hotel and B&B type accommodation for families’ only ‘in limited circumstances’ by mid-2017 has not been met. In the third quarter of 2018, 3,362 adults were recorded as being resident in emergency accommodation for more than six months. In the first half of 2018, 2,332 adults moved into independent tenancies. A new system, to replace the current homeless case management system, is in development and aims to record more detailed information including the number of children exiting homelessness. In the interim revised reporting systems will be in place. This is welcome as the number of children experiencing homelessness continues to rise it is imperative that the DHPLG track the number of children who exit homelessness.

Despite the commencement of legislation to protect tenants in January 2017, high rents, lack of security of tenure and overall lack of housing supply, particularly properties falling within stated rent limits for the purposes of Rent Supplement or Housing Assistance Payment (HAP), have fuelled the crisis. In June 2018, 52 per cent of families presented to homeless services in Dublin due ‘to a loss of or inability to secure private rented accommodation’. Dublin Regional Homeless Executive (DRHE) has noted that the reasons why people experience homelessness changed over the course of 2018 from relationship breakdown, family issues or overcrowding to lack of access to the private rented sector.

By July 2017, the roll-out of family supported accommodation facilities or ‘family hubs’ began as a way of transitioning families out of unsuitable emergency hotel and B&B accommodation to provide ‘a greater level of stability than is possible in hotel accommodation’. At the beginning of 2019 there were 26 hubs in operation nationwide with capacity to accommodate 600 families. A facility to cater for six women with newborn babies has opened in Dublin and there are plans to refurbish another. The length of stay in family hubs is currently not captured. The Department has acknowledged that it may not be possible to facilitate the exit of some families within the six month target depending on their requirements or preferences.

In the first nine months of 2018, housing authorities spent €14.8 million on the operation of the family hub programme. To date, capital funding for the development of additional family hubs was estimated at €45 million and a significant proportion of the €60 million allocated to homeless services in Budget 2019 will be assigned to the hubs programme. Hubs may represent a more suitable alternative to hotel and B&B accommodation but they remain a temporary short-term solution and the scale of investment in these hubs is misplaced. More sustainable solutions are needed to provide families with a place to call home.

In September 2017, Minister for Housing, Planning and Local Government, Eoghan Murphy TD established a Homeless Inter-Agency Group to provide a more coherent and coordinated approach to the State’s response to homelessness. At the January 2018 Housing Summit, the Minister requested that local authorities work with families to prevent homelessness.

142. Communication received by the Children’s Rights Alliance from the DHPLG, 8 January 2019.
143. Joint Oireachtas Committee on Housing, Planning and Local Government, Housing (Homeless Families) Bill 2017: Discussion, 3 October 2018.
144. Communication received by the Children’s Rights Alliance from the DHPLG, 8 January 2019.
145. ibid.
146. Planning and Development (Housing) and Residential Tenancies Act 2016.
149. Homeless Inter-Agency Group, Report to Minister for Housing, Planning and Local Government (Homeless Inter-Agency Group 2018) 3.
152. Communication received by the Children’s Rights Alliance from the DHPLG, 8 January 2019. There are 22 family hubs in Dublin with one in Cork, Kildare, Louth and Limerick.
153. ibid
154. ibid
155. ibid
156. ibid
157. Homeless Inter-Agency Group, Report to Minister for Housing, Planning and Local Government (Homeless Inter-Agency Group 2018) 18. The Group includes membership from the County and City Management Association; Department of Children and Youth Affairs; Department of Employment Affairs and Social Protection; Department of Health; Department of Housing, Planning and Local Government; Department of Justice and Equality; Department of Public Expenditure and Reform; Dublin Region Homeless Executive; Health Service Executive; and TUSLA, the Child and Family Agency.
Many families in homeless services cited B&Bs and called for stronger regulation of the rental of family hubs to minimise the use of hotels and Group recommended the continued development order to address family and child homelessness, the services and published its first report in June 2018. The Homeless Inter-Agency Group met seven times in the first half of 2018 to consider a range of issues on policy formulation and delivering services and published its first report in June 2018. It continues to meet on a bi-monthly basis. In order to address family and child homelessness, the Group recommended the continued development of family hubs to minimise the use of hotels and B&Bs and called for stronger regulation of the rental sector. Many families in homeless services cited difficulties with the private rented sector and thus were reluctant to accept HAP instead preferring to wait for local authority housing due to the greater stability and security of tenure. The Group called for a review and update of the Joint Protocol relating to the accommodation needs of young care leavers who are particularly vulnerable to homelessness. The cross-departmental approach to homelessness is welcome but the Interagency Group should be expanded to include the Department of Education and Skills which has responsibility for policy formation in relation to the education of school-age children experiencing homelessness. In 2018, the Children’s Rights Alliance commissioned a report on the educational needs of children experiencing homelessness. Children living in some emergency accommodation facilities (including family hubs) could not access and participate fully in school due to the inability to meet a child’s fundamental requirements such as food, adequate rest and physical health. Children at times experienced poor physical health and mental well-being, irritability, exhaustion, low self-esteem and feelings of social isolation which in turn impacted on their school attendance and resulted in reduced engagement and participation in school life and learning. While living in emergency accommodation impacted negatively on some children’s grades, the study found that educational settings are sources of predictability and comfort, where consistent routines and responsive teachers could offer children a sense of stability and continuity amid the uncertainty of family homelessness. It also found that emergency homeless accommodation can impact ‘negatively on families’ daily food habits and dietary quality, not only in terms of what is consumed but also in how they prepared and ate their food.

Budget 2019 allocated almost €2.4 billion to the DHPLG with a commitment to meet the housing needs of 27,400 households in 2019 through build, acquisition, long-term leasing, HAP and RAS. However, investment in affordable and social housing is essential to provide people with long-term and sustainable homes. Moreover, this would help ensure that children do not spend long periods living in inappropriate accommodation without access to their own space to play and learn. A minimum of 81,118 homes will be required between 2016 and 2020 to keep up with demographic changes although this figure does not include ‘pent-up demand’ resulting from the current crisis and will not alleviate the situation of almost 72,000 households currently awaiting social housing or assistance.

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161 Homeless Inter-Agency Group, Report to Minister for Housing, Planning and Local Government (Homeless Inter-Agency Group 2018) 5.
162 Communication received by the Children’s Rights Alliance from the DHPLG, 8 January 2019.
163 Homeless Inter-Agency Group, Report to Minister for Housing, Planning and Local Government (Homeless Inter-Agency Group 2018) 36-37.
164 ibid 18.
165 ibid 39.
166 Dr Geraldine Scanlon & Grainne McKenna, Home Works: A Study on the Educational Needs of Children Experiencing Homelessness and Living in Emergency Accommodation Executive Summary (Children’s Rights Alliance 2018). Research was conducted with 20 parents with 38 children and 46 educational professionals.
167 ibid 5.
168 ibid.
169 ibid 6.
social housing alone cannot solve the crisis, and while the State can use a mix of public and private measures to provide housing, at least 10,000 social housing units should be delivered each year and more must be done to utilise vacant dwellings and encourage construction of affordable housing.

**National Quality Standards Framework:**

The National Quality Standards Framework (NQSF) for Homeless Services, developed by the DRHE in 2015 in consultation with stakeholders, is welcome. Standards should ensure improved quality and consistency in emergency accommodation as well as ensuring that residents can hold providers to account for substandard conditions.

In total 20 pilot projects were implemented in three phases. The NQSF has both a qualitative and quantitative element consisting of a Quality Improvement Workbook and measuring Key Performance Indicators. The workbook consists of eight themes, four focused on service user outcomes and four on service development. The inclusion of child-specific standards for homeless services is welcome as these could help ensure that children are considered in the running of services which have been designed primarily to accommodate adults. The NQSF provides that children will receive age-appropriate information on their rights and that their needs will inform wider planning decisions for their family. The Standards provide for children's rights to be facilitated and where they are not, a child-friendly complaints mechanism is available. Service providers will also have to undertake a risk assessment for children in their service. The NQSF sets out the minimum standards and legal requirements for dealing with child protection and child safety issues as well as the supports to be provided.

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174 Information provided by the Dublin Region Homeless Executive at a meeting with the Reception and Integration Agency, 13 October 2017.

175 Communication received by the Children’s Rights Alliance from the DHPLG, 8 January 2019. Twelve in Dublin, four in the Midlands, two in the South West region and two in the North East.

176 Communication received by the Children’s Rights Alliance from the DHPLG, 21 December 2018.


178 ibid 17.

179 ibid 47.

180 ibid 93.

181 Communication received by the Children’s Rights Alliance from the DHPLG, 8 January 2019.

182 ibid.

183 Communication received by the Children’s Rights Alliance from the DHPLG, 21 December 2018.

184 Communication received by the Children’s Rights Alliance from the DHPLG, 4 December 2017.


186 Communication received by the Children’s Rights Alliance from the DHPLG, 8 January 2019.

187 ibid.

188 Brian Hutton, ‘New €1 bn Social Housing Project in Dublin is put out to Tender’ The Irish Times, 5 September 2018.

189 Communication received by the Children’s Rights Alliance from the DHPLG, 8 January 2019.

190 ibid.
Child and Family Homelessness
Immediate Actions for 2019

As proposed in Report Card 2018, declare a housing emergency and commit to taking all feasible measures to address the shortage of housing, and the lack of affordability and security being experienced by so many households in Ireland.

Ensure that families are provided with the necessary financial and material supports to enable them to remain in their homes, increase security of tenure and ensure that children are not forced to live in unsafe and unsuitable conditions. Redirect funding from family hubs into longer-term sustainable solutions.

Commit to the principle that long-term social housing need will be met through social housing provided by local authorities, voluntary housing bodies or some other new not-for-profit entities.

While supplementation of rents in the private rental sector can play an important role in meeting social housing need in the short-term, the policy of increasingly relying on such supplementation to respond to long-term social housing need has proven to be an expensive failure, and is a key factor in the creation of the current homelessness crisis.

Legislate to end the long-term use of unsuitable emergency accommodation for children and families and implement Housing First commitments as a matter of urgency.

Prioritise families with children and move them from unsuitable emergency accommodation, including hotels, into long-term sustainable housing. Children should be able to access play and recreational facilities while in homeless accommodation. In order to avoid the risk of institutionalisation and the ‘normalisation’ of homelessness, families should not be left longer than six months in family hubs before being re-housed. In order to hold the Government accountable for delivering this aim, legislate to limit the use of emergency and temporary accommodation.

Fully implement the National Quality Standards Framework for homeless services and establish a robust compliance framework with an independent inspectorate.

Complete the review of the NQSF with a view to implementing them in all homeless services in 2019. In order to ensure that the standards are adhered to and applied consistently across all forms of homeless accommodation, including family hubs, publication and implementation of the Framework must be accompanied by the establishment of an independent inspectorate.

Complete the Rapid-Build Programme as a matter of urgency.

Complete the programme as a way to deliver more social housing units.
2.2 Parental Leave and Income supports

Government Commitment

A Programme for a Partnership Government commits to:

Increase paid parental leave in the first year after birth and support stay-at-home parents through an increase in the Home Carer’s Credit.

Progress: Good

Introduce a new Working Family Payment to promote work over welfare and supplement the income of a household to ensure that every parent working at least 15 hours per week will have more take-home pay for each hour they work. Support middle-income lone parents in work by increasing income disregards through this scheme.

Progress: Steady

‘Parental Leave and Income Supports’ receives a ‘B’- grade in Report Card 2019, an improvement on last year’s ‘C’ grade. This grade reflects the welcome commitment to introduce two weeks paid parental leave for each parent in the first year of their child’s life by the end of 2019. It also reflects the increases in Budget 2019 for payments for over 12s and income disregards for lone parents.

Every child has the right to a standard of living that is adequate for their physical, mental spiritual, moral and social development.191 Parents and guardians have the primary responsibility to provide for the child’s material needs but the State is also responsible for assisting parents and guardians to alleviate poverty where necessary.192 In 2016, the UN Committee on the Rights of the Child expressed its deep concern at the ‘significant increase in the number of children living in consistent poverty’ and in particular referred to single-parent households.193 Article 18 of the UN Convention on the Rights of the Child recognises that support for parents in the early years of a child’s life is particularly important. In interpreting this provision, the UN Committee requires the State ‘to take all appropriate measures to ensure that children of working parents have the right to benefit from childcare services, maternity protection and facilities for which they are

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192 Ibid.
Since the introduction of paid paternity leave in September 2016, more than 51,000 paternity benefit claims have been awarded\(^\text{204}\) including 24,000 in 2018.\(^\text{205}\) Paid paternity leave can be taken in the first six months after the birth of the baby (or adoption placement) by fathers or same-sex partners. In 2017, the first full year of the scheme, 26,139 applications for paternity benefit were made.\(^\text{206}\) The uptake of paternity benefit in 2018 equates to 60 per cent of maternity benefit applications in 2018.\(^\text{207}\) In 2019, €11.7 million was allocated for paternity benefit.\(^\text{208}\) Despite the proposal to introduce seven weeks paid parental leave per parent, when combined with maternity and paternity benefit, Ireland will still

- **Paid Parental Leave:**

  The Budget 2019 announcement to introduce two weeks paid parental leave for each parent is an important milestone. The Parental Leave Scheme, due to commence in November 2019,\(^\text{196}\) will enable both parents to access two weeks of parental leave paid at the same rate as maternity and paternity benefit during the first year of their child’s life.\(^\text{197}\) Leave under the scheme will be non-transferable between parents in recognition of the equal role a father has to play in their child’s life\(^\text{198}\) and to encourage both parents to take time off work to care for their children.\(^\text{199}\) When combined with maternity and paternity benefit, parents will be supported to care for their children at home for the first 30 to 32 weeks of a child’s life.\(^\text{200}\) The First 5: A Whole-of-Government Strategy for Babies, Young Children and their Families 2019-2028 committed to introduce an individual entitlement of seven weeks of paid parental leave per parent by 2021.\(^\text{201}\) In 2019, an estimated 2,700 recipients are expected to avail of parental leave benefit at a cost of €1.5 million.\(^\text{202}\) In a full year, 60,000 people are expected to receive the benefit at the cost of €32 million.\(^\text{203}\)

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195 ibid para 20(a).
196 Minister for Employment Affairs and Social Protection, Regina Doherty TD, Written Answers, Parental Leave, 6 November 2018 (45579/18).
198 Communication received by the Children’s Rights Alliance from the DEASP, 9 January 2019.
199 Minister for Employment Affairs and Social Protection, Regina Doherty TD, Written Answers, Parental Leave, 6 November 2018 (44849/18).
200 Maternity benefit runs for 26 weeks, alongside two weeks for paternity benefit and 2 weeks per parent of paid parental leave.
203 ibid.
be at least 10 weeks short of providing paid family leave to cover the first year of a child’s life. The cost to the State of providing additional Parental Benefit needs to be weighed against the benefit to children who do best when cared for at home during at least the first year of their lives. Furthermore, employee retention and productivity is higher when organisations have parental leave policies and provide flexible working arrangements.

The EU is currently negotiating a new work-life balance directive to address challenges for working parents and caregivers. In June 2018 the European Council agreed to introduce at least four months of paid parental leave for working parents including two non-transferable months. The original proposal set an age limit of 12 years but the updated position grants Member States discretion to set an age. On return from parental leave, parents will be entitled to more flexible working arrangements. Work is ongoing on a Family Leave Bill to consolidate existing leave entitlements including maternity, parental, carer’s and adoptive leave and the necessary legislation is due to be in place in late 2019.

The clear commitments to introduce paid parental leave are welcome but momentum needs to be maintained to meet the target of paid parental leave for the first year of a child’s life in line with the strategic action outlined in First 5.

Additional Support for Low-Income Families:

A Programme for a Partnership Government committed to introduce a Working Family Payment (WFP) with the aim of reducing in-work poverty for families with children and to incentivise employment by making work pay. In 2017, the Family Income Supplement (FIS), a weekly tax-free payment for low-paid employees with children, was renamed the WFP. To qualify for the payment, the applicant (and their partner) must work at least 38 hours every fortnight, have at least one qualified child and the weekly family income must be less than the set limit for their family size. Once the level of support for the applicant is determined, the family will receive a guaranteed level of income support a year if the applicant remains in full-time employment. In November 2018, 54,000 families with almost 122,000 children were in receipt of WFP with approximately 24,000 of these families headed by lone parents. On average, families receive a weekly payment of €135 a week.

A review of the FIS found that existing in-work supports are effective, and work well in assisting individuals into employment. However, the number of hours a family can work to qualify for the WFP places an additional burden on lone parent families. All applicants including lone parents must work 38 hours in a fortnight; two parent families can both work to make up the 38 hours. A maintenance disregard for recipients of WFP is due to take effect from March 2019 and will help to ease the financial burden felt by lone parent families.

Budget 2019 introduced a number of important measures to help tackle child poverty and deprivation including the introduction of a higher rate of Qualified Child Increase (QCI) for children over the age of 12. This reflects the higher cost of living for adolescent

212 ibid.
213 ibid.
214 ibid.
215 Minister of State for Integration, Immigration and Equality, David Stanton TD, Written Answers, Parental Leave 15 February 2018 (8044/18).
216 Communication received by the Children’s Rights Alliance from the DEASP, 9 January 2019.
217 Communication received by the Children’s Rights Alliance from the Department of Social Protection (DSP), 23 January 2017.
218 Minister for Employment Affairs and Social Protection, Regina Doherty TD, Written Answers, Working Family Payment, 13 November 2018 [46862/18].
221 ibid.
222 Communication received by the Children’s Rights Alliance from the DEASP, 9 January 2019.
223 Minister for Employment Affairs and Social Protection, Regina Doherty TD, Written Answers, Working Family Payment, 15 November 2018 [46862/18].
225 Minister for Employment Affairs and Social Protection, Regina Doherty TD, Written Answers, Working Family Payment Data, 23 October 2018 [43510/18]. The new weekly disregard will amount to €95 in respect of housing costs, with the remainder of the maintenance assessed at 50 per cent.
Targeted weekly increases of €5.20 will take effect from 2019 bringing the rate of QCI to €37 for over 12s and the rate for under 12s was also increased by €2.20. This welcome measure delivers an immediate action outlined in Report Card 2018. The increase of €25 on the Back to School Clothing and Footwear Allowance, bringing the rates up to €150 for children under the age of 12 and €275 for children aged 12 and over, will also help to meet school costs although the rates still remain lower than 2011 levels. It is harder for lone parents, particularly those in work, to qualify for the payment as the amount of income they can earn and still qualify for the payment is lower than that for a two-parent household despite experiencing similar school costs.

For tax purposes, in Budget 2019 the yearly Tax Credit was increased for the fourth time in four years from €1,200 to €1,500 where the home carer has an annual income of less than €7,200.

Income Disregards for Lone Parents:
In 2016, there were 218,817 one-parent families in Ireland of which almost 190,000 were headed by women. More than 350,000 children live in a household headed by a lone parent. In 2018, 63 per cent of lone parents were at work compared to 78.5 per cent of two-parent families. In 2017, one in five lone parent households lived in consistent poverty, 40 per cent were at risk of poverty and 45 per cent experienced enforced deprivation. Lone parents were five times as likely to live in consistent poverty, four times as likely to be at risk of poverty,

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228 Department of Public Expenditure and Reform, Part II - Expenditure Allocations 2019-2021 (DPER 2018) 46.
229 Department of Public Expenditure and Reform, Part II - Expenditure Allocations 2019-2021 (DPER 2018) 46.
236 Ibid.
and almost three times as likely to experience deprivation as two parent households. This compares to an overall consistent child poverty rate of 8.8 per cent meaning that children of lone parents are more than twice as likely to live in consistent poverty as the general child population.

One parent families are also at a much greater risk of in-work poverty; between 2015 and 2016 the rate of in-work poverty increased from 14 to 20.3 per cent. In 2015 the comparable figure for a two parent household was 5.3 per cent and in 2016 this rate reduced to 4.3 per cent. The comparable figure for a two parent family in 2015 was 5.3 per cent and in 2016 this rate reduced to 4.3 per cent.

Income disregards support lone parents in work as a certain portion of a person’s earned income is not counted when a person is means-tested for a social welfare payment. Lone parents require additional supports to ensure that they can engage in paid work and there are concerns that with a focus on employment activation measures, transitioning to other payments such as Jobseekers Allowance (JA) or WFP acts as a disincentive to taking up part-time work due to the loss of income disregards.

A 2018 ESRI report found that changes to the One Parent Family Payment (OPFP) eligibility criteria between 2011 and 2018 reduced the income of lone parents in employment. Sixteen per cent of lone parents were found to be financially better off not working due to the cost of childcare but is expected to fall to 13 per cent when the Affordable Childcare subsidies are in place.

It is welcome that the Whole of Government Approach to Tackling Child Poverty recognises that lone parent families are ‘significantly more at risk of poverty compared to the population as a whole’. In this context the Government has committed to reform the OPFP so that lone parents have access to a range of supports and services designed to provide them with pathways to work while acknowledging their caring responsibilities and to reform ‘initiatives to actively promote progression into the labour market’.

The review of the payment is currently underway and is quantitative and qualitative in nature.

Budget 2019 demonstrated a commitment by Government to put children and families first and lift children out of consistent poverty. All social welfare payments increased by €5 including the OPFP. The income disregard for OPFP or Jobseeker’s Transition Payment (JST) was also increased by a further €20 per week meaning that from March 2019 lone parents can earn up to €150 weekly and still qualify for their full social welfare payment. The income of non-earning lone parents increased by 2.5 per cent following Budget 2018 changes. While the increase restores the disregard to pre-2012 levels, it does not take account of the increased national minimum wage and inflation. In November 2018, 14,349 OPFP recipients (39 per cent of all recipients) are in employment, and of 14,418 JST recipients, 4,037 recipients work. The WFP is an important support for working parents; almost half of recipients are households headed by a lone parent.

Income supports alone cannot alleviate or eradicate the high poverty rates being experienced by one parent families so it is important that the Government continues to invest in targeted supports and services for these families.
Enact the legislation to provide for paid leave for parents in the first year of a child’s life.

Publish and enact the Family Leave Bill in 2019 to provide for paid parental leave to be taken after maternity leave by both parents. Monitor the uptake of paternity benefit to ensure that as many new parents as possible are availing of the entitlement.

Monitor the uptake of the Working Family Payment and consider ways in which it could be improved to support families in need.

Ensure the WFP is an effective targeted payment to alleviate child poverty.

Complete and publish the review of the One Parent Family Payment in 2019.

In line with the commitment in *The Whole of Government Approach to Tackling Child Poverty*, complete the review of the OPFP to ensure that lone parents can access a range of supports and services designed to provide them with pathways to work while acknowledging their caring responsibilities.
2.3 Prevention and Early Intervention

‘Prevention and Early Intervention’ receives a ‘C+’ grade in Report Card 2019, a slight increase on last year’s grade. This grade reflects the continued funding for the ABC Programme and its move into Tusla. The awarding of funding under the Quality and Capacity Building Initiative (QCBI) in 2018 was a welcome development. The Prevention and Early Intervention Unit held a series of stakeholder dialogues.

Every child has the right to survival and development.256 The UN Committee on the Rights of the Child recognises that prevention and intervention strategies during early childhood have the potential to impact positively on young children’s current well-being and future prospects.257 Prevention is defined as stopping a problem from happening in the first place; early intervention means acting at the first signs of trouble; while treatment means responding once what could go wrong, has gone wrong.258 Prevention and early intervention means intervening at a young age, early in the onset of difficulties, or at points of increased vulnerability such as school transitions, adolescence and parenthood.259 The Council of Europe’s260 recommendation with regard

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258 Michael Little and Sonia Sodha, Prevention and Early Intervention in Children’s Services (NESTA 2012) 3.
260 The Council of Europe is a human rights institution. It includes
to fulfilling children’s rights in social services planning, delivery and evaluation are based upon the principles of prevention and early intervention, child-focused partnership with parents, and assessment of the child’s needs, to include and strengthen protective factors, as well as risk factors in the child’s environment.261

The UN Committee requires that States take all possible measures to improve perinatal care for mothers and babies, reduce infant and child mortality, and create conditions that promote the well-being of all young children.262 Young children are especially vulnerable to the harm caused by unreliable, inconsistent relationships with parents and caregivers, growing up in extreme poverty and deprivation, or being surrounded by conflict and violence.263

States are required to render appropriate assistance to parents, guardians and extended families in the performance of their child-rearing responsibilities.264 An integrated approach would include interventions that impact indirectly on parents’ ability to promote the best interests of children (e.g. taxation and benefits, adequate housing, working hours) as well as those that have more immediate consequences (e.g. perinatal health services, parent education, home visitors).265 The UN Committee obliges States to create a safe and supportive environment for adolescents, including within their family, in schools, in all types of institutions in which they may live, within their workplace and/or in the society at large.266

International evidence suggests that prevention and early intervention approaches achieve much better results for children than later intervention, and can reduce the need for costly, less effective interventions later in life.267 However, Ireland’s balance of public spending is skewed towards crisis rather than preventative spending.268

**Better Outcomes Brighter Futures: The National Policy Framework for Children and Young People 2014 – 2020** identifies prevention and early intervention as one of six ‘transformational goals’.269 These goals aim to strengthen the system of supports around children and young people by improving timeliness, effectiveness and responsiveness of policy and services that will lead to better outcomes for children and young people in the future.270 Strategically Better Outcomes Brighter Futures considers universal services as the main providers of prevention and early intervention, naming early childhood education and care services, schools, youth, community and health services.271 Prevention and early intervention is also central to First 5: A Whole-of-Government Strategy for Babies, Young Children and their Families 2019-2028 published in November 2018.272 The Strategy adopts a progressive universalist approach, by providing universal services and programmes in child health, parenting and family supports, early learning and care with targeted services for families who need additional support.273 First 5 also commits to measures that are key to prevention and early intervention, including a new model of parenting support, a dedicated child health workforce and a package of measures to tackle early childhood poverty.

> Community-based Early Intervention Programmes:
From 2004, the Government and the Atlantic Philanthropies co-funded evidence-informed programmes aiming to improve outcomes for children in urban areas of disadvantage, by intervening in their lives from the pre-natal stage to 18 years.274 The Area Based Childhood (ABC) Programme, operating since 2013, offers interventions in 13 urban sites around the country addressing child health and development, children’s learning, parenting, and

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261 Council of Europe, *Council of Europe Recommendation on children’s rights and social services friendly to children and families* (Council of Europe 2011) 9.
264 ibid para 20.
265 ibid, para 20a.
270 ibid
271 ibid
273 ibid 26 and 102.
integrated service delivery. The ABC Programme aimed to test and evaluate innovative prevention and early intervention approaches to improve outcomes for children and families at risk of poverty. The Programme was due to end in 2016, but funding was extended and renewed until December 2018.

As the main purpose of the ABC Programme was to identify key learnings and transfer this knowledge to established services, the Department of Children and Youth Affairs (DCYA) decided, in consultation with key stakeholders, to transfer the current ABC Programme to Tusla, the Child and Family Agency from September 2018. The transition requires the alignment of the ABC Programme with Tusla’s Prevention, Partnership and Family Support (PPFS) Programme to help embed and enhance the Agency’s prevention and early intervention work. The transfer will enable the ongoing delivery of innovative measures, and mainstream evidence-based practice to improve outcomes for children and families and build on the Tusla PPFS programme. The national evaluation of the ABC Programme was completed in 2018 to guide future development. It highlighted improvements in children’s socio-emotional well-being, positive parent-child relationships and improved school-readiness as well as professional ways of working and increased capacity to capture and use data and evidence. A budget of €9.5 million has been allocated to Tusla’s PPFS programme in 2019, including the next phase of the ABC Programme. It is welcome that work is ongoing to develop an action plan for the next phase of the ABC Programme as part of the PPFS programme.

The DCYA launched the Quality and Capacity Building Initiative (QCBI) to ‘take a co-ordinated approach to enhance capacity, knowledge and quality in prevention and early intervention for children, young people and their families.’ The aim of the QCBI is to improve the outcomes for children and young people experiencing disadvantage through supporting organisations working with children and young people to take an evidence informed approach to their work. QCBI involves four components aimed to align data; harness evidence; enhance implementation through coaching and development; and embed prevention and early intervention approaches through the development of a shared quality framework.

In 2018, DCYA and Tusla finalised the development of the first phase of the Outcomes for Children National Data and Information Hub. The data hub is an online interactive area based geo-mapping system based on the five Better Outcomes, Brighter Futures national indicators using readily available administrative data and is expected to be launched in early 2019. In addition, DCYA made progress on securing the development of an online evidence matrix to collate information on the impact that has been achieved by evidence based programmes across the globe and in Ireland, and provide guidance on what to consider when implementing these in a local context. These developments as part of the QCBI aim to ensure that the best and most suitable approach or programme can be chosen by commissioners, and service providers for the local context. The Evidence Matrix will highlight factors such as impact and resource effectiveness and will signpost people in the direction of organisations and practitioners who use these approaches to good effect, thereby strengthening the community practice connections.

Sharing and Implementing Learning:

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276 Ibid.
277 Minister for Children and Youth Affairs, Katherine Zappone TD, Written Answers, Area Based Childhood Programme, 6 November 2018 [45860/18].
278 Minister for Children and Youth Affairs, Katherine Zappone TD, Written Answers, Area Based Childhood Programme, 18 October 2018 [43159/18].
279 Ibid.
281 Ibid 127.
282 Ibid 45.
283 Centre for Effective Services, National Evaluation of the Area Based Childhood Programme: Main Report, (DCYA 2018) x.
284 Communication received by the Children’s Rights Alliance from the DCYA, 20 December 2018.
285 Ibid.
Some €2.2 million in funding for 2018 was allocated to the QCBI Innovation Fund under the Dormant Accounts Fund to test prevention and early intervention innovations that build on existing data and evidence to improve outcomes for children and young people (0-24 years) who experience disadvantage in Ireland. A spectrum of projects were funded including English language supports to programme refugees, efforts to scale-up parenting supports, pedagogical leadership in early childhood education and care centres, and supports for youth services for young people up to 24 years of age experiencing education and social disadvantage. Under the QCBI Innovation Fund, two types of funding were made available: SCALE funding supports organisations to build on existing programmes or models with demonstrated positive outcomes for children and young people while SEED funding was used to support new and creative approaches to problems faced by children and young people experiencing disadvantage. In total, 239 applications were made and 29 organisations were awarded SEED funding and 22 awarded SCALE funding. In November 2018 the Minister for Children and Youth Affairs, Dr Katherine Zappone TD, announced the launch of a new Network Support Fund under the professional development and capacity building QCBI strand. The aim of the scheme is to improve the capacity of providers and practitioners in the ‘appraisal and application’ of evidence based prevention and early intervention methods through ‘collaborative programmes of developing including coaching, mentoring and networking’.

Work is ongoing to identify and support professional learning approaches that the QCBI can engage to ensure everyone working with children, young people and their families understands what works in prevention and early intervention and can use data, evidence and practice approaches to plan, deliver and evaluate their services. In 2018, the DCYA and University of Limerick developed a pilot Executive Leadership Programme for service providers and practitioners in the Dublin North East inner city under the QCBI. The Department also brought all grantees from the Innovation Fund together to consider and plan for the development of action learning sets across grantees in 2019.

Prevention and Early Intervention Unit:

The Prevention and Early Intervention Unit (PEIU) was established in the Department of Expenditure and Public Reform (DPER) in May 2017 and forms part of DPER’s Irish Government Economic and Evaluation Service (IGEES) - an integrated cross-Government service to enhance the role of economics and value-for-money analysis in public policy making. It aims to support the development of a sustainable and cross-sectoral approach to prevention and early intervention in public policy in the context of the management and evaluation of public expenditure. The Unit focuses on prevention and early interventions that can improve the life outcomes of children as well as the quality of life of older people dealing with long-term conditions such as chronic illness, which the PEIU locates within the context of population health.

The PEIU aims to leverage recent budgetary reforms to ensure that the IGEES considers prevention and early intervention as a policy option in its management and evaluation of public spending, in the implementation of Ireland’s Public Spending Code.

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294 Minister for Children and Youth Affairs, Quality and Capacity Building Initiative, Dáil Debates, 20 September 2018.
295 Communication received by the Children’s Rights Alliance from the Department of Children and Youth Affairs, 5 February 2019.
296 Ibid.
297 Ibid.
298 DCYA, List of Successful Projects: SEED Strand (DCYA 2018).
301 Ibid.
302 Communication received by the Children’s Rights Alliance from the DCYA, 20 December 2018.
and in performance budgeting. This work is intended to help support the further development of existing prevention and early interventions, and act as a future resource for those who are charged with designing, implementing and evaluating such interventions.

The PEIU hosted dialogue events in March and May 2018 with a broad range of stakeholders from the children and youth sector and the health sector. The dialogues were structured around three core questions: what is meant by prevention and early intervention; how do we know if prevention and early intervention works and how this information can be used to inform decision-makers. The purpose of the dialogue sessions was to establish an opportunity for cross-sectoral sharing of the deep and broad experience and expertise of prevention and early interventions in Ireland. In July 2018, the Unit published a report providing a summary overview of the points raised at the dialogue sessions.

In working towards drafting a thematic consideration of prevention and early intervention in Ireland, the PEIU is publishing a series of Focused Policy Assessments on key prevention and early interventions. These assessments examine key publically funded interventions by focusing on their rationale, allocated resources, services provided and achievements relative to their stated goals. In 2018, the Unit published five reports, four of which related to interventions that have a direct benefit for children and young people: immunisation, aftercare, educational welfare and early learning and childcare.

The Unit’s objective has been to add value to the development of prevention and early intervention in the public policy space and avoid duplication with related initiatives, such as the DCYA’s lead role on prevention and early intervention for children and families, the work of the Department of Health, and IGEES’ economic evaluations. The Unit’s role is limited in scope in terms of the influence it exerts in designing or developing public policy as it has no decision-making powers and is advisory in nature.

However, it does have an important function in embedding prevention and early intervention in terms of managing and evaluating public spending. Irish policy is often skewed towards crisis-intervention or entrenched societal problems resulting in more costly services. Determining the impact of different levels and types of public expenditure on childhood and life outcomes is complex. In this regard the Eurochild Childonomics project may be helpful as it combines economic discipline with children’s rights and has developed a methodology to assess how different inputs – policies, services, and investments – produce better outcomes for children, families, communities and society as a whole. Childonomics is directly relevant and could be used to inform the work of the PEIU in its economic evaluations and the implementation of the Public Spending Code, particularly in how to research, identify and present inputs and child outcomes that meet the goals of Better Outcomes, Brighter Futures as well as ensuring transparent and accountable public spending.

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311 Communication received by the Children’s Rights Alliance from the DPER, 8 February 2019.
312 Ibid.
313 Department of Public Expenditure and Reform, Dialogue on Effective Prevention and Early Intervention Approaches in Human Services: Working Towards a Shared Understanding (Department of Public Expenditure and Reform 2018) 2.
314 Ibid 2 - 3.
315 Communication received by the Children’s Rights Alliance from the DPER, 21 December 2018.
316 Department of Public Expenditure and Reform, Dialogue on Effective Prevention and Early Intervention Approaches in Human Services: Working Towards a Shared Understanding (Department of Public Expenditure and Reform 2018) 2.
317 Communication received by the Children’s Rights Alliance from the DPER, 21 December 2018.
320 Communication received by the Children’s Rights Alliance from the DPER, 8 February 2019.
Prevention and Early Intervention
Immediate Actions for 2019

Complete the development of the action plan for the next phase of the ABC Programme as part of the PPFS from 2019 onwards. The action plan will be important to provide clarity and direction for the continuing ABC programmes under the aegis of Tusla.

The PEIU could consider publishing a plan for 2019 to communicate its role and its planned activities for 2019 to the sector. The Unit could apply the Childonomics methodology to its work in embedding prevention and early intervention into the public policy process.
3 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

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**Chapter Grade:**

**C**

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**Mental Health Reform @MHReform**

1,686 under 18’s waiting for more than 1 year for public psychological services - unacceptable waiting list lengths, unacceptable waiting time, and need for investment so services are there to meet children and teenagers when they need them #MentalHealth

2 Aug 2018
‘Primary Care’ receives a ‘C+’ grade in Report Card 2019, an improvement on the ‘C-’ grade awarded last year. The extension of free GP care to 14,000 carers and the €25 increase in the weekly income threshold for free GP visit cards are positive measures. However, there has been no progress on extending free GP care to under 18s and the extension to under 12s has been designated a long-term objective. Furthermore, the National Oral Health Policy has yet to be delivered.

Every child has the right to enjoy the highest attainable standard of physical and mental health.322 Article 24 of the UN Convention on the Rights of the Child places particular emphasis on the development of primary health care which includes access to General Practitioner (GP) care.323 The UN Committee on the Rights of the Child has stressed that primary care should include the provision of information and services, as well as the prevention of illness and injury.324 Better Outcomes, Brighter Futures, The National Policy Framework for Children and Young People 2014 – 2020 reiterated the commitment to introduce universal GP services,325 first articulated in the 2012 Future Health Framework.326

323 Ibid Art 24(2)(b).
326 Department of Health, Future Health: A Strategic Framework
However, it appears that this is now a long-term objective rather than a government priority. In July 2018, the Sláintecare Programme Office was established and an Executive Director appointed. In October 2018, the newly established 23 member Advisory Group met for the first time. The Sláintecare Implementation Strategy, published in August 2018, outlines 10 key strategic actions including ‘expanding eligibility on a phased basis to move towards universal healthcare and support a shift to community based care’. The focus on greater access to universal healthcare is welcome but the Strategy

Universal health coverage has significant longer-term health, financial and political benefits, while at the same time making the health care system more equitable for individuals and cost-effective for States. In recognition of this, the 2017 report of the all-party Committee on the Future of Healthcare, Sláintecare, recommended the delivery of expanded primary care services by the introduction, among other measures, of universal access to GP care without fees. The Committee recommended extending GP care to an additional 500,000 people each year for five years at an estimated cost of €91 million per year. The next step in the roll-out of free GP care was due to be for children under 12.

Free GP Care:

Since July 2015, children under the age of six are entitled to free GP care following the enactment of the Health (General Practitioner Service) Act 2014 and the successful negotiation of a contract with GPs. This was the first step towards introducing universal free GP care. By November 2018, 2,832 GPs had entered an agreement with the Health Service Executive (HSE) to provide the service, and 358,239 children under the age of six (approximately 93 per cent of the eligible population) were registered for it. These children can access GP care without fees through entitlement to either a medical card or a GP visit card. The scheme includes the provision of wellbeing and prevention assessments at age two, and again at five years, as well as an agreed cycle of care for children diagnosed with asthma.

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327 Communication received by the Children’s Rights Alliance from the Department of Health, 20 January 2017
328 Minister for Public Expenditure and Reform, Brendan Howlin TD, Address to Dáil Éireann on Expenditure Estimates 2014, 15 October 2013
329 Communication received by the Children’s Rights Alliance from the Department of Health, 15 January 2019.
333 ibid 65.
334 Minister for Public Expenditure and Reform, Brendan Howlin TD, Address to Dáil Éireann on Expenditure Estimates 2016, 13 October 2015.
335 Martin Wall & Fiach Kelly, ‘Universal Free GP Care to be Significantly Delayed’ The Irish Times (Dublin, 23 July 2018).
Although the roll-out of universal healthcare has been delayed, the Government has taken a number of welcome measures to increase access to free GP care. In July 2018, eligibility was extended to 14,000 carers following the passage of the Health (General Practitioner Service) Act 2018.343 This is a welcome measure to help ease the financial strain on families caring for a person with disabilities. In Budget 2019, the Government also announced a €25 increase in the weekly income threshold for GP visit cards which will benefit an estimated 100,000 people on low incomes.344

The implementation of Sláintecare and the extension of free GP care to children under 18 is contingent upon the renegotiation of a new GP contract meaning that buy-in from GPs is essential. The Irish College of General Practitioners has criticised the proposal to extend free GP to children under 12 without an increase in capacity.345 However, the introduction of free GP care on a universal basis would be an important early intervention and prevention measure. Removing financial barriers to healthcare for children ‘has a significant positive impact on child health, and later-life outcomes’.346 The evidence indicates that where a child's parents ‘face the full out-of-pocket cost of GP care’ they have fewer GP visits than their peers with a medical card, GP visit card or private health insurance with GP cover.347 Children with GP cards or medical cards have a ‘significantly higher number of GP visits per annum than children with ‘no cover’ although it is not possible to analyse the data to determine whether parents are foregoing ‘necessary’ GP visits due to cost.348

Dental Health:

A Programme for a Partnership Government commits to introduce a dental health package for children under six which will include timely access to a comprehensive preventive dental health programme. Currently, HSE Dental Clinics provide services for children under 16, focusing on a targeted screening and fissure sealant programme for children at age six, nine and 12 years.349 HSE clinics also provide emergency services to all children under the age of 16.350 However, reports indicate that the age at which children have their first dental screening varies significantly depending on where the child lives.351

The Department of Health is due to finalise the National Oral Health Policy in early 2019.352 It is welcome that First 5: A Whole-of-Government Strategy for Babies, Young Children and their Families 2019–2028 has committed to ‘introduce a universal dental health package for children under six, supported by a screening/surveillance programme to target key ages and vulnerable groups’.353 Both the new policy and First 5 should inform the introduction and roll-out of the dental health package.354 Work to date on developing

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340 The Strategy refers to designing new models of care around certain groups or cohorts including children, implementing the Electronic Health Record starting with in the Children’s Hospital and includes ongoing reforms in relation to GP care and medical cards for children with disabilities.
341 Department of Health, Sláintecare Implementation Strategy (Department of Health 2018) 48
342 ibid 49.
344 Minister for Health, Simon Harris TD, Written Answers, Budget 2019, 23 October 2018 [43554/18].
345 Irish College of General Practitioners, ‘Professional body for general practitioners makes urgent call for increased investment in primary care to avoid waiting lists for appointments’ (ICGP) <http://bit.ly/2g7EWGw> accessed 14 September 2017.
348 ibid.
349 Communication received by the Children’s Rights Alliance from the Department of Health, 24 November 2017.
350 ibid.
351 Helen O’Callaghan ‘Nothing to smile about: Children’s dental health suffers due to under-resourced public systems’, The Irish Examiner, 29 January 2018.
352 Communication received by the Children’s Rights Alliance from the Department of Health, 23 November 2018.
354 The project, led by the Chief Dental Officer, includes a needs assessment, a review of resources and involves consultation with stakeholders, including dental professionals and the public. Detailed financial analysis will be required in order to establish as accurately as possible the expected costs to the Exchequer in each case. Minister for Health, Simon Harris TD, Written Answers, Dental Services, 31 May 2017 [26065/17].
Children with GP cards or medical cards have a ‘significantly higher number of GP visits per annum than children with no cover’...
the Policy has included a needs assessment, consultation with stakeholders and a review of resources. The aim of the policy is to develop a model of care that will enable preventive approaches to be prioritised, improve access, and support interventions appropriate to the current needs. To adequately vindicate the child’s right to health, effective actions in relation to oral health promotion as well as adequate access for all children to dental treatment are important. A Policy that is ‘evidence driven, patient centred and prevention focused’ and ensures equal access to treatment is recommended.

Medical Cards:

HSE medical cards entitle holders to a range of health services free of charge including GP visits and hospital care. Since June 2017, all children who qualify for the Domiciliary Care Allowance (DCA) are eligible for a medical card without having to undergo a means-test and can retain the medical card until their 16th birthday. DCA is a monthly payment for children under 16 with a ‘severe disability’ who require ongoing care and attention, substantially over and above what is usually needed by a child of the same age. This a positive step in realising the rights of children with disabilities in Ireland who have exceptional care needs as access to a medical card will have a significant impact in improving the health of children with high medical needs. It will also improve the lives of their families by alleviating the burden of high healthcare costs.

The processing of DCA claims has fallen from a high of 18 weeks to 10 weeks in 2018. The Department of Employment Affairs and Social Protection attributes this decrease in delays to the allocation of additional staff resources and the redesign of the application form in consultation with interest groups to allow for more relevant care needs information to be provided at the initial application stage. In 2017, a total of 10,666 applications were finalised with 8,197 new application received during the year. Of the applications finalised, 64 per cent were allowed at first instance, with 83 per cent ultimately allowed following the completion of customer review requests and formal appeals to the Social Welfare Appeals Office. In November 2018, 1,335 claims for DCA were awaiting a decision.

In 2018, the Social Welfare Appeals Office received a total of 1,432 DCA appeals, a 19 per cent increase on 2017 figures. There was a significant increase in the number of appeals finalised in 2018 (including some carried over from the previous year): 1,572 in 2018 compared with 801 in 2017. A high proportion of DCA appeals continue to be favourable for the appellant with 83 per cent subsequently revised by a deciding officer, or allowed or partially allowed by an appeals officer. Although the average appeal processing times have reduced significantly over the past number of years, in 2018 there was a delay of 32 weeks for a summary decision based on the documentation only, and 36 weeks when an oral hearing was held for DCA appeals. These delays mean that children who are entitled to the payment may have to wait for months to receive it. With eligibility for a medical card under the new scheme resting solely on whether a child qualifies for DCA, it is essential that decisions made at the first instance are correct and are not subject to any unnecessary delays.

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355 Minister for Health, Simon Harris TD, Written Answers, Dental Services Provision, 2 May 2017 [19252/17].
356 Minister for Health, Simon Harris TD, Written Answers, Health Care Policy, 10 July 2018 [30849/18].
361 Ibid.
363 Communication received by the Children’s Rights Alliance from the Department of Employment Affairs and Social Protection, 31 January 2019.
364 Ibid.
365 Ibid.
366 Ibid. The significant number of applications allowed on review or on appeal is due in many instances to additional information or supporting medical evidence becoming available, which was not provided with the application initially.
368 Ibid.
369 Communications received by the Children’s Rights Alliance from the Social Welfare Appeals Office, 15 and 18 January 2019.
Primary Care
Immediate Actions for 2019

Set out a clear timeline for the introduction of free GP care for under 12s and the plan to extend this to under 18s.

As the Government has stated that the commitment in *A Programme for a Partnership Government* to extend free GP to under 18s is no longer a government priority, a clear plan with associated timelines should be developed and published to achieve this aim.

Publish the National Oral Health Policy as a matter of priority in 2019.

The Policy was due to be published in 2017 but two years on it has not yet been delivered and should be prioritised. The dental health package should be introduced without delay following the publication of the policy.

Adequately resource the Department of Employment Affairs and Social Protection to reduce processing times and waiting times for appeals for DCA applications and appeals.

The DEASP should be adequately resourced to reduce the waiting times for processing applications and appeals in relation to DCA. It is essential that initial decisions are correct and prompt so that eligible children will not experience delays in receiving the payment and in obtaining the medical card to which they become entitled on qualifying for DCA.
3.2 Mental Health

Government Commitment

A Programme for a Partnership

Government commits to:

Conduct an evidence-based expert review of the current status of implementation of A Vision for Change in Ireland and of international best practice in the area of mental health within the frame of human rights. The review will advise on building further capacity in Child and Adolescent Mental Health Services (CAMHS) and the introduction of more 24/7 service support and liaison teams in primary and emergency care.

Progress: Some

Establish a National Taskforce on Youth Mental Health to consider how best to introduce and teach resilience, coping mechanisms, greater awareness to children and young people, and how to access support services voluntarily at a young age.

Progress: Delivered

‘Mental Health’ receives a ‘D-’ grade in Report Card 2019, a slight decrease on last year’s ‘D+’ grade. The review of A Vision for Change is not complete and requires a greater sense of urgency. Many recommendations from the National Taskforce on Youth Mental Health have been partially implemented. Progress on establishing Pathfinder has been slow. HSE commitments to develop a seven day CAMHS service and 24/7 phone, text and digital supports for children and young people are welcome.

All children have a right to enjoy the highest attainable standard of physical and mental health under Article 24 of the UN Convention on the Rights of the Child. The UN Committee on the Rights of the Child has emphasised the importance of the mental health of children and the need to tackle ‘behavioural and social issues that undermine children’s mental health, psychosocial wellbeing and emotional development’.371 In 2016, the UN Committee expressed its concern about access to mental health treatment in Ireland, highlighting the inadequate availability of age-appropriate mental health units, long waiting lists to access mental health supports and the lack of out-of-hours services.372 The Committee called on the State to take action to improve ‘the capacity and quality of its mental health-care services for in-patient treatment, out-of-hours facilities and facilities for treating eating disorders’.373

373 ibid para 54 (b).
The review of *A Vision for Change* commenced in 2016 with an expert evidence review of best practice mental health service developments in Ireland and internationally. The Minister for Health established an independent Oversight Group to oversee the development of the ‘refreshed’ policy for mental services in Ireland that reflect the present day context. The recommendations of the expert review will inform the revised national policy and will be an outcomes based framework ‘which sets out current and future service priorities within a time-bound implementation plan’.

The Oversight Group established an expert review group comprising members from the statutory, voluntary and community sectors. The relevant findings of the Youth Mental Health Taskforce report, findings from the consultation process and other reports were considered.

Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014 – 2020 includes a commitment to implement *A Vision for Change* (the national policy for mental health services in Ireland) as it relates to children and young people. Better Outcomes, Brighter Futures also aims to improve equity of access to services and coordination of service supports, with a focus on improving mental health awareness and reducing incidents of self-harm and suicide.

In October 2018, the Joint Oireachtas Committee (JOC) on the Future of Mental Health Care, established in July 2017, published its final report. It set out the long-term vision for mental healthcare including a focus on timely access to appropriate care ‘on a no wrong door basis’ to require officials to signpost individuals who present at the wrong service to the correct service rather than leave them without any assistance.

The Committee highlighted the importance of early intervention in primary and community services, adequate resourcing for acute services available on an immediate basis and the need to target resources for ‘at risk’ groups including Travellers and young LGBTI+ people.

**Review of *A Vision for Change***:

*A Vision for Change*, published in 2006, is the national policy for mental health. It was due to be fully implemented by the end of 2016 but progress ‘has been slow and ongoing challenges in the effective development of community services remain.’

In October 2018, 2,250 children were waiting for a first appointment with CAMHS.

The review of *A Vision for Change* commenced in 2016 with an expert evidence review of best practice mental health service developments in Ireland and internationally. The Minister for Health established an independent Oversight Group to oversee the development of the ‘refreshed’ policy for mental services in Ireland that reflect the present day context. The recommendations of the expert review will inform the revised national policy and will be an outcomes based framework ‘which sets out current and future service priorities within a time-bound implementation plan’.

The Oversight Group established an expert review group comprising members from the statutory, voluntary and community sectors. The relevant findings of the Youth Mental Health Taskforce report, findings from the consultation process and other reports were considered.
relevant youth-related strategies will inform the final report. It is important that the revised framework has a strong emphasis on the development of child and youth mental health services including improving service coordination and increasing timely access to appropriate mental health supports and services at a primary level. The Oversight Group has consulted with service users and professionals working in the mental health area. It was originally due to conclude its work in December 2018, however, the delivery date has been extended to February 2019. The Community Psychology Service focuses on prevention, assessment, early detection and intervention for children in difficulty. At a primary care level, 7,206 children under the age of 17 were waiting for a community-based psychology appointment in September 2018, a five per cent reduction from

July 2017. The JOC on the Future of Healthcare recommended the extension of counselling, and the development of psychology services in primary care for children and young people. To improve services, the HSE recruited an additional 20 staff grade psychologists to oversee care by the 114 assistant psychologists employed in CAMHS.

The Sláintecare Implementation Strategy commits to enhance community mental health services by 2021 and notes the allocation of an additional €55 million for mental health services in 2019. It is welcome that a significant proportion of the 2019 investment has been ear-marked to develop mental health services for young people.

388 ibid.
389 Ombudsman for Children’s Office, Take My Hand: Young People’s Experiences of Mental Health Services (OCO 2018) 29.
390 Joint Oireachtas Committee on the Future of Mental Health Care, A Vision for Change: Engagement with Department of Health Oversight Group, 30 May 2018.
391 Ibid.
392 Communication received by the Children’s Rights Alliance from the Department of Health, 10 January 2019.
394 Minister of State for Mental Health and Older People, Jim Daly TD, HSE Waiting Lists, Dáil Debates, 28 September 2017 [41188/17]. In July 2017, there were 6,811 children under 17 waiting for a community-based psychology appointment; a third had been waiting over a year.
396 Ibid 8.
397 Health Service Executive, HSE Performance Profile: April - June 2018 (HSE, 2018) 34.
398 Department of Health, Sláintecare Implementation Strategy (Department of Health 2018) 12.
399 Ibid 6.
400 Communication received by the Children’s Rights Alliance from the Department of Health, 10 January 2019.
In 2015, Ireland had the seventh highest rate of youth suicide (aged 15-19) across 33 countries.\footnote{401 National Office for Suicide Prevention, Annual Report 2017 (HSE, 2018) 61. Comparison data on suicide in Europe is compiled by Eurostat and 2015 is the most recent year for which data is available.} This has improved from being second highest in 2011 but has risen again since 2014 when it was 20th in Europe.\footnote{402 Ibid.}

CAMHS is a specialist clinical service that provides assessment and treatment to children and young people under 18 who are experiencing mental health difficulties such as anxiety, moderate to severe depression, eating disorders, self-harm and psychosis.\footnote{403 Communication received by the Children’s Rights Alliance from the HSE Mental Health Services, 4 December 2018.} In October 2018, 2,250 children were waiting for a first appointment with CAMHS, 79.4 per cent were offered an appointment within three months, waiting for a first appointment with CAMHS; 79.4 per cent were offered an appointment within three months, while 286 children were waiting for more than a year.\footnote{404 Ibid.}

Waiting lists vary throughout the country due to the availability of specialist CAMHS clinicians and difficulties in recruitment.\footnote{405 Ibid.} Currently, a young person can only access out-of-hours mental health treatment through hospital emergency departments as CAMHS do not offer this support. Young service users have highlighted difficulties in accessing CAMHS including long waiting times and differences in availability and consistency of services across the country.\footnote{406 Communication received by the Children’s Rights Alliance from the HSE Mental Health Services, 4 December 2018.} In the development of a revised Vision for Change, out-of-hours services for children should be prioritised and strengthened in line with the 2016 recommendation of the UN Committee on the Rights of the Child.\footnote{407 Ibid.} In particular, it is essential that 24/7 support and liaison staff be deployed in sufficient numbers at primary care level and in mental health teams, so that children and young people can more readily access the help they need and without attending a hospital emergency department.

The HSE Service Plan 2019 includes welcome commitments to develop a seven day per week CAMHS service.\footnote{408 Ibid.} A clear implementation plan setting out associated costs and timelines should be developed in 2019. The Service Plan also aims to ensure that older children can access specialist mental health services or be admitted to and cared for in adolescent-specific settings when admission is required.\footnote{409 Ibid} It is important that adequate funding to deliver these commitments is provided and that savings measures do not impinge on their delivery.

There is a total of 74 public in-patient beds for under 18s but they are not all operational.\footnote{410 Communication received by the Children’s Rights Alliance from the HSE Mental Health Services, 4 December 2018.} At the end of November 2018, there were 46 young people in CAMHS inpatient beds nationally.\footnote{411 Ibid.} The new Children’s Hospital and the New Forensic Hospital are due to increase capacity by an additional 20 beds but they will not open until 2021 and 2020 respectively.\footnote{412 Ibid.} A capacity review for all existing CAMHS inpatient units is underway, however, data protection issues have delayed its completion.\footnote{413 Ibid.} In 2017, there were 308 admissions to CAMHS inpatient units and approximately 265 to these age-appropriate units by the end of November 2018.\footnote{414 Ibid.} Moreover, there are ongoing difficulties in recruiting and retaining skilled CAMHS staff, in particular consultants and nurses.\footnote{415 Ibid.} Both the UN Committee on the Rights of the Child,\footnote{416 Ibid.} and the Mental Health Commission,\footnote{417 Mental Health Commission, Annual Report 2017 (MHC 2018) 7. The Mental Health Commission’s Code of Practice (2009) states that the placement of children in adult wards would be phased out by the end of 2011. Mental Health Commission, Code of Practice Relating to Admission of Children under the Mental Health Act 2001: Addendum (MHC 2009).} have criticised the continued admission of under 18s to adult facilities. In 2017, 82 children and young people were admitted to 19 adult units compared to 68 in 2016.\footnote{418 Ibid.} While it is welcome that the majority of time spent by young people as in-patients (96 per cent of bed days) was spent in an age-appropriate facility,\footnote{419 Ibid.} under 18s receiving in-patient care should always be separated from adults where appropriate including on initial admission to hospital.\footnote{420 UNCRC, ‘General Comment No. 4 on The Implementation of the Rights of the Child during Adolescence (2016) UN Doc CRC/GC/20 para 29.}

The availability of specialist CAMHS clinicians and difficulties in accessing CAMHS including long waiting times and differences in availability and consistency of services across the country.\footnote{406 Ombudsman for Children’s Office, People’s Experiences of Mental Health Services (OCO 2018) 40.} In the development of a revised Vision for Change, out-of-hours services for children should be prioritised and strengthened in line with the 2016 recommendation of the UN Committee on the Rights of the Child.\footnote{416 Ibid.} 407 UNCRC, ‘Concluding Observations: Ireland’ (2016) UN Doc CRC/C/IRL/CO/3-4, para 53. In particular, it is essential that 24/7 support and liaison staff be deployed in sufficient numbers at primary care level and in mental health teams, so that children and young people can more readily access the help they need and without attending a hospital emergency department.

\footnote{401 National Office for Suicide Prevention, Annual Report 2017 (HSE, 2018) 61. Comparison data on suicide in Europe is compiled by Eurostat and 2015 is the most recent year for which data is available.} \footnote{402 Ibid.} \footnote{403 Communication received by the Children’s Rights Alliance from the HSE Mental Health Services, 4 December 2018.} \footnote{404 Ibid.} \footnote{405 Communication received by the Children’s Rights Alliance from the HSE Mental Health Services, 4 December 2018.} \footnote{406 Ombudsman for Children’s Office, People’s Experiences of Mental Health Services (OCO 2018) 40.} \footnote{407 UNCRC, ‘Concluding Observations: Ireland’ (2016) UN Doc CRC/C/IRL/CO/3-4, para 53–54.} \footnote{408 Health Service Executive, National Service Plan 2019, (HSE 2018) 41.}
It is critical that the review of A Vision for Change is completed as a matter of urgency to address the significant shortcomings across all levels of mental health service provision for children and young people. The development of a multi-annual implementation plan and the establishment of an independent monitoring group are essential to ensuring continuing improvements in the system. It should also ensure that it aligns with commitments in First 5: A Whole-of-Government Strategy for Babies, Young Children and their Families 2019 – 2028 on early identification of mental health issues.421

National Youth Mental Health Taskforce:
The Taskforce, established in August 2016422 as a government priority, had a year to complete its work focusing on the mental health needs of children and young people aged zero to 25 years.424 The Taskforce published its report in December 2017.425 The recommendations are set out under 10 headings, and include amending the Mental Health Act on consent to mental health treatment for under 18s, improving accessibility and alignment of mental health services through the Pathfinder project and using digital technologies in the delivery of mental health supports to children and young people.429 The HSE National Service Plan 2019 commits to introduce a 24/7 contact line, crisis text line and other digital responses.430 However, for the second year in a row the HSE National Service Plan refers only to the implementation of the Taskforce recommendations for young people aged 18 to 25 years, meaning that measures relating to younger children are not reflected.

The Department of Health has initiated the Pathfinder Project to examine cross-departmental collaboration on youth mental health, which has the potential to achieve a whole-of-government approach and deliver improved access to child-friendly mental health services. The Project has received Civil Service Management Board and ministerial approval but is not yet operational due to technical issues.432 The Pathfinder team is expected to be established in 2019.434 This action should be prioritised to drive cross-departmental action and delivery of commitments on youth mental health.

A key recommendation of the Taskforce Report is to establish an independent National Youth Mental Health Advocacy and Information Service.435 Access to such an independent advocacy service for children and young people is particularly important as children under 18 cannot consent to, or refuse, mental health treatment, including admission for in-patient treatment.436 The in-patient pilot programme to develop a youth mental health advocacy service in Merlin Park in Galway is welcome.437 A national steering group led the pilot and are due to make recommendations on the development of a national CAMHS advocacy service in 2019.438 A year on from the publication of the Taskforce Report progress on the recommendations has been slower than anticipated. While the commitment in A Programme for a Partnership Government was to establish the Taskforce to advise on mental health measures for children and young people, a clear implementation plan is necessary to ensure that the commitment will be achieved within the assigned three years.

426 ibid Recommendation 9.
427 ibid Recommendation 8.
428 ibid Recommendation 5.
429 Health Service Executive, National Service Plan 2019, (HSE 2018) 41.
430 ibid.
431 Minister for Education and Skills, Richard Bruton TD, Schools Mental Health Strategies, Dáil Debates, 31 May 2017 [26132/17].
432 Communication received by the Children’s Rights Alliance from the Department of Health, 10 January 2019. Section 12 of the Public Service Management Act 1997 will be used to enable a new collaborative model of working across Government.
433 Minister of State with Special Responsibility for Mental Health and Older People, Jim Daly TD, Written Answers, Mental Health Services, 10 May 2018 (2059/8/18).
434 Communication received by the Children’s Rights Alliance from the HSE Mental Health Services, 4 December 2018.
436 Mental Health Act 2001, s.25.
438 Communication received by the Children’s Rights Alliance from the HSE Mental Health Services, 4 December 2018.
Mental Health
Immediate Actions for 2019

Complete the review of *A Vision for Change* in 2019.
The review of *A Vision for Change* should be delivered in 2019. It is important to build further CAMHS capacity and provide adequate 24/7 services to deal with emergency needs in a revised service. A multi-annual implementation plan is required with the appointment of an independent monitoring group to ensure that the reforms suggested by the review are translated into practice.

Ensure that all children under 18 have access to mental health services in a timely manner.
Achieving this requires ongoing investment in the development of Child and Adolescent Community Mental Health teams. Make greater efforts in 2019 to provide primary care psychology services for children and young people.

Prioritise the establishment of the Youth Mental Health Pathfinder Project.
Ensure the Pathfinder Project is established in early 2019 to drive action on youth mental health including actions in the Report of the Youth Mental Health Taskforce relating to all children. It must be properly funded to achieve the intended outcomes.
‘Physical Health’ receives a ‘B’ grade in Report Card 2019 an improvement on last year’s ‘C-’ grade. The enactment of the Public Health (Alcohol) Act in 2018 is a significant measure for children as it aims to reduce the age at which they start drinking as well as reduce alcohol consumption overall. The commencement of the sugar levy and the funding allocation for a hot meals pilot project in DEIS primary schools are positive developments in combating childhood obesity and food poverty. The major review of Relationships and Sexuality Education in schools is also very welcome.

Every child has the right to enjoyment of the highest attainable standard of physical and mental health\textsuperscript{439} and the right to an adequate standard of living for their physical, mental, spiritual, moral and social development.\textsuperscript{440} This section examines three concrete and measurable commitments in \textit{A Programme for a Partnership Government} which focus on physical health – namely, those relating to alcohol, obesity and sexual health.

\textsuperscript{440} Ibid Art 27.
<p>Public Health (Alcohol) Act 2018:<br/></p>

An estimated 1.34 million people in Ireland drink harmfully and 176,999 are dependent drinkers.441 The 2018 Healthy Ireland Survey found that two thirds of young people aged between 15 and 24 drink alcohol while 40 per cent of them drink one a week.442 A culture of binge drinking persists particularly among boys and young men with 67 per cent drinking six or more drinks on a regular occasion while 35 per cent of girls and young women binge drink.443 Over three quarters of young people aged between 13 and 17 have previously reported exposure to online marketing.444<br/></p>

In October 2018, the Public Health (Alcohol) Act was passed with the aim of reducing Ireland’s overall average alcohol consumption to the OECD average by 2020,445 regulating the supply and price of alcohol to reduce alcohol-related harm, and delay the age at which children first drink alcohol.446 The Act is a key step in tackling Ireland’s high levels of alcohol consumption among children and young people and its long awaited passage into law is extremely welcome. Measures to reduce adult consumption are also beneficial for children where parental alcohol consumption has a negative impact. The Act restricts alcohol advertising at certain events and places where children are often present, for example public transport stops near schools,447 including public transport, sports events or in grounds where the majority of competitors or participants are children.448 It also prohibits alcohol advertising targeted at children in certain circumstances.449 Other positive measures include the introduction of minimum unit pricing,450 mandatory health warnings on labels and structural separation in mixed-trade shops.451<br/></p>

However, the legislation does not address the issue of alcohol sports sponsorship more generally and young people can be exposed to alcohol marketing which encourages, normalises and glamorises alcohol consumption.452 There is still a need to address the digital marketing of alcohol to children and young people.453 A proposed legislative amendment to limit this type of marketing was not passed.454<br/></p>

National Obesity Plan:<br/></p>

Better Outcomes, Brighter Futures, The National Policy Framework for Children and Young People 2014–2020 commits to tackling the issue of childhood obesity through a range of legislative, policy and public awareness initiatives.455 The UN Special
Rapporteur on the Right to Food has highlighted five priority actions to combat obesity: regulating the sale of ‘junk food’; restricting the advertising of ‘junk food’; overhauling agricultural subsidies to make healthier foods cheaper than less healthy alternatives; taxing unhealthy products; and supporting local food production so that consumers have access to healthy, fresh and nutritious food.456

A quarter of children living in Ireland are obese or overweight.457 Childhood obesity has long-term effects on children’s physical and emotional wellbeing.458 A Healthy Weight for Ireland: Obesity Policy and Action Plan 2016–2025 focuses on prevention of obesity to increase the number of people in Ireland with a healthy weight.459 A progress report is currently being prepared for presentation at the next meeting of the Obesity Policy Implementation Oversight Group.460

In December 2017, the Department of Health published the Non-Broadcast Advertising and Marketing of Food and Non-Alcoholic Beverages, including Sponsorship and Retail Product Placement: Voluntary Codes of Practice.461 The voluntary nature of the codes mean that companies have no legal obligations in relation to marketing and advertising and there are no restrictions on how they market their products to children. The Minister for Health has not yet appointed a body to monitor compliance and effectiveness of the codes.462 This means they may have little impact on tackling childhood obesity because they allow for self-regulation and may not sufficiently reduce the advertising of unhealthy foods, nor reduce children’s exposure to this advertising.463 The Joint Oireachtas Committee on Children and Youth Affairs recommended the introduction of a statutory code for the advertising and marketing of food and non-alcoholic beverages in the context of non-broadcast media and called for the independent monitoring body to be established as a matter of priority to monitor compliance and effectiveness of the Voluntary Codes of Practice.464

The Joint Oireachtas Committee on Education and Skills has also recommended that digital marketing aimed at children, by the food and drinks industries, be appropriately regulated to reduce the influence on their eating habits and that advertising on school grounds be banned.465

Sugar Levy:

The levy on sugar-sweetened drinks, committed to in the Obesity Policy,466 commenced on 1 May 2018.467 The levy introduced a rate of 30 cent on any water or juice based drink with over eight milligrams of sugar per litre and 20 cent on the same drinks with five to eight milligrams of sugar per litre.468 The purpose of the levy is to help tackle obesity by encouraging a reduction in the consumption of sugar-sweetened drinks.469 The levy is expected to raise €27 million in 2018 and €40 million in a full year.470 While the introduction of the sugar levy is a public health measure, Minister for Finance, Paschal Donohoe TD has indicated that the revenue raised will not be ring-fenced for investment in obesity reducing initiatives.471
Food poverty:

Clear health inequalities exist between children who live in disadvantaged areas and the general population.\textsuperscript{472} A Healthy Weight for Ireland Strategy recognises this stark inequality and commits to prioritising vulnerable groups, including ‘families, children, low-income groups and people living in deprived areas’.\textsuperscript{473} A needs assessment for resource allocation ‘for preventative and treatment services for children and adults’ was due to take place in the first year of the policy.\textsuperscript{474} The HSE will carry out the needs assessment under the aegis of the Obesity Policy Implementation Oversight Group.\textsuperscript{475}

Food poverty is one of the driving forces behind higher rates of obesity and ill-health in disadvantaged communities.\textsuperscript{476} It is defined as the inability to have an adequate and nutritious diet due to issues of affordability and accessibility.\textsuperscript{477} In 2016, almost 10 per cent of the population experienced food poverty.\textsuperscript{478} Current rates of social welfare payments and earnings based on the minimum wage make it difficult to follow a healthy diet\textsuperscript{479} as nutrient-dense foods such as lean meat, fruit and vegetables are more expensive than energy-dense, cheaper foods.\textsuperscript{480} The age of a child also impacts on the cost of food as infants have specific dietary requirements and teenagers require greater quantities of food.\textsuperscript{481}

While the short-term impact of food poverty is poor diet and lack of nutrients, the long-term effects can lead to diet-related illnesses, including obesity.\textsuperscript{482}

The introduction of hot school meals is an important measure for tackling food poverty experienced by children as it means that they will receive at least one nutritious meal a day in a non-stigmatising manner. In 2018, the Department of Employment Affairs and Social Protection spent €54 million on the School Meals Programme benefitting up to 250,000 children.\textsuperscript{483} Building on the expansion of the Scheme in 2017 to provide breakfast in 175 non-DEIS schools,\textsuperscript{484} an additional €1 million was allocated in Budget 2019 to establish a hot school meals pilot programme for DEIS schools.\textsuperscript{485} The pilot, due to commence in the 2019/2020 academic year, will provide hot dinners for up to 7,200 children, with a possibility of extension if it is successful.\textsuperscript{486} Up to 36 DEIS primary schools are expected to be selected following a process requesting expressions of interest.\textsuperscript{487}

\textsuperscript{473} ibid.
\textsuperscript{474} ibid.
\textsuperscript{475} Communication received by the Children’s Rights Alliance by the Department of Health, 6 December 2018.
\textsuperscript{477} Caroline Carney and Bertrand Maitre, Constructing a Food Poverty Indicator for Ireland using the Survey on Income and Living Conditions, Social Inclusion Technical Paper No. 3 (Department of Social Protection 2012) 7.
\textsuperscript{478} Communication received by the Children’s Rights Alliance by the Department of Employment Affairs and Social Protection, 27 November 2018. The figure is calculate using EU SILC data analysed by the Economic and Social Research Institute.
\textsuperscript{479} Bernadette MacMahon and Noreen Moloney, What is the cost of a healthy food basket in the Republic of Ireland in 2016? (Safefood 2016).

25% of children under 14 in Ireland are obese or overweight

\textsuperscript{482} Irish Heart Foundation & Social Justice Ireland, Reducing Obesity and Future Health Costs, (IHF and SJI 2015) 7.
\textsuperscript{483} Minister for Employment Affairs and Social Protection, Regina Doherty TD, Written Answers, School Meals Programme, 16 October 2018 [42288/18].
\textsuperscript{484} Communication received from the Department of Employment Affairs and Social Protection, 13 November 2017.
\textsuperscript{485} Minister for Employment Affairs and Social Protection, Regina Doherty TD, Written Answers, School Meals Programme, 16 October 2018 [42288/18].
\textsuperscript{486} ibid.
\textsuperscript{487} Communication received by the Children’s Rights Alliance by the Department of Employment Affairs
staff costs are not covered meaning that schools have to meet these costs from their core budget or charge students in order to implement the programme. Project Ireland 2040: The National Development Plan commits to spending €2.5 billion on the refurbishment of existing school stock over the next 10 years.\(^4^{86}\) This presents an opportunity to make funding for the school buildings programme and refurbishment grants contingent upon the inclusion of a school kitchen.

From January 2018, the new Nutrition Standards for the School Meals Programme were applied and all participating schools were required to be fully compliant with the standards from September 2018\(^4^{89}\) and will be monitored through the inspection process from the 2018/2019 academic year.\(^4^{90}\) The Standards aim to ensure that schools provide children and young people with ‘healthy balanced meals that follow the Healthy Eating Guidelines’.\(^4^{91}\) The Joint Oireachtas Committee on Children and Youth Affairs has recommended that Government establish clear targets for reducing socio-economic inequalities in childhood obesity, including food poverty, and implement an evaluation framework to monitor the progress.\(^4^{92}\) The issue of food poverty falls within the remit of several key government departments yet there continues to be a lack of coordination and leadership on the issue. Given the shared responsibility, a single government department should hold primary responsibility for the coordination and centralisation of food poverty measures in Ireland.

In a positive development, the Department of Health under the auspices of the National Advisory Group on Better Outcomes, Brighter Futures will establish a sub-group on food poverty in 2019.\(^4^{93}\) Membership and terms of reference for the group are yet to be agreed.\(^4^{94}\) The aim of the group is to propose measures to reduce food poverty amongst children and young people in Ireland and to establish food poverty measurement mechanisms.\(^4^{95}\) This is an important step in addressing the issue of food insecurity and related issues for children and young people because traditionally this issue has fallen between Departments as no one department has the primary responsibility. Therefore, it is very welcome that the Department of Health will take the lead and bring together other government departments and stakeholders.

**Sexual Health Strategy:**

All children have the right to the highest attainable standard of health, including sexual health.\(^4^{96}\) States have an obligation to take measures to ensure that children and young people have access to education that provides them with a basic knowledge of health in order for them to make informed choices.\(^4^{97}\) The education should be age-appropriate and accessible.\(^4^{98}\) The UN Committee on the Rights of the Child has specified that sexual health education should be ‘based on scientific evidence and human rights standards’\(^4^{99}\) and should be ‘designed in a manner through which children are able to gain knowledge regarding reproductive health and the prevention of gender-based violence, and adopt responsible sexual behaviour’.\(^5^{00}\) In 2016, the UN Committee expressed concern at the ‘lack of access to sexual and reproductive health education’ for young people in Ireland and recommended that it should be included as a mandatory part of the school curriculum as well as the adoption of a sexual and reproductive health policy for young people.\(^5^{01}\)

The National Sexual Health Strategy 2015–2020 aims to improve sexual health and wellbeing and reduce negative sexual health outcomes.\(^5^{02}\) The Strategy

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490 Minister for Employment Affairs and Social Protection, Regina Doherty TD, Written Answers, School Meals Programme, 30 May 2018 [23982/18].
492 Joint Oireachtas Committee on Children and Young Affairs, Report on Tackling Childhood Obesity, (Houses of the Oireachtas, 2018) 4.
493 Communication received by the Children’s Rights Alliance by the Department of Children and Youth Affairs, 21 December 2018.
494 ibid.
495 ibid.
497 ibid Art 24(2)(e).

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Right to Health
Food poverty is one of the driving forces behind higher rates of obesity and ill-health in disadvantaged communities. It is defined as the inability to have an adequate and nutritious diet due to issues of affordability and accessibility.
acknowledges the State’s responsibility to ensure that children and young people receive comprehensive sex education and it recognises the need for a ‘partnership approach between parents, statutory and non-statutory organisations’. It commits to ensuring that children and young people will have access to ‘age-appropriate sources of trustworthy and accurate information and support on relationships and sexual health’ as well as to undertaking an evaluation of the State-funded Relationships and Sexuality Education (RSE) programmes. In April 2018, the HSE launched a new website on sexual wellbeing which includes age-appropriate resources for parents of children aged two to 12 on how to talk to their children about relationships, sexuality and growing up.

Currently, sex and relationship education in schools is conducted as part of the RSE programmes. While the HSE Sexual Health and Crisis Pregnancy Programme has developed materials and programmes (such as b4uDecide.ie), a school’s Board of Management can exercise discretion in how their ‘school’s characteristic spirit will inform the teaching of a programme’. In April 2018, the Minister for Education and Skills announced a major review of the RSE Programme by the National Council on Curriculum and Assessment (NCCA) of both the content of the RSE curriculum as well as the delivery of the curriculum to students. As part of the review, the NCCA will also examine the ‘experience and reality of RSE as delivered in schools.’ The review will encompass consultation with students, teacher, principals and parents on the planning, teaching and standard of the RSE curriculum, the role of teachers and the appropriate level of support provided by external providers, the amount of time dedicated to the subject and the effectiveness of the continuing professional development opportunities for RSE teachers.

The review of the RSE curriculum is timely as a survey published in April 2018 found that young people do not find teachers a useful source of information, with over 90 per cent of young people regarding the internet as their most trusted source of information on health sexual relationships. More than 20 per cent of young people found pornography a useful source of information on health sexual relationships. The review will also specifically consider consent and contraception which is welcome. The review of the RSE curriculum should consider making inclusive sexual health education, based on scientific evidence, a mandatory part of the school curriculum.

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503 ibid 56.
504 ibid action 3.4.
505 ibid action 3.8.
506 Communication received by the Children’s Rights Alliance from the Department of Health, 6 December 2018. The website www.sexualwellbeing.ie aims to be the trusted source of information on sexual health and wellbeing in Ireland. The website speaks to all people living in Ireland, regardless of their sexual orientation or age/ stage of adult life.
Physical Health
Immediate Actions for 2019

Allocate adequate resources to ensure effective implementation of the Public Health Alcohol Act 2018.

Given the relatively high alcohol consumption by young people, the Health Service Executive should continue to allocate resources to promote awareness and education on alcohol through the ‘Ask About Alcohol’ website. This could be updated to include a section specifically for young people.

Conduct the needs assessment of vulnerable groups outlined in Healthy Weight for Ireland.

The Action Plan, Healthy Weight for Ireland, proposed a needs assessment of vulnerable groups, including families, children, low-income groups and people living in deprived areas which would inform resource allocation for preventative and treatment services. This was an immediate action in Report Card 2018 and should be completed in 2019 as a priority.

Establish the oversight group to monitor compliance with the Voluntary Codes of Practice and consider the introduction of a statutory code for the advertising and marketing of food and non-alcoholic beverages in the context of non-broadcast media.

The oversight group for the current Voluntary Codes of Practice should be established as a matter of priority to establish current practice. Implement the recommendations of the Joint Oireachtas Committees on Children and Youth Affairs, and Education and Skills, to introduce a legal framework to regulate the advertising of junk food and beverages to children and young people.

Complete the review of the implementation of RSE in post-primary schools.

The review should consider making sexual health education, based on scientific evidence, a mandatory part of the school curriculum in line with the recommendations of the UN Convention on the Rights of the Child. The review should include consultation with young people.
Rights in the Family Environment and Alternative Care
Every child has the right to be protected from all forms of abuse, violence, punishment and neglect, whether physical or mental. The State has the responsibility to provide support for children who experience abuse and their carers, as well as mechanisms for prevention, reporting, investigation and treatment.

Summary of Article 19 of the UN Convention on the Rights of the Child

**Chapter Grade:**

B−

ISPCC @ISPCCChildline

ISPCC welcomes significant advance in provision of child protection services with announcement that ‘One House’ model will be implemented in Ireland in 2019.

30 Oct 2018
4.1 Guardian ad Litem Service

‘Guardian ad litem Service’ receives a ‘C+’ grade in Report Card 2019. This is the same grade as last year. Work continued in 2018 on the development of a new Child Care (Amendment) Bill to reform the current Guardian ad litem Service. It is expected to include provision for the new executive office under the Department of Children and Youth Affairs to house the GAL Service independently from Tusla, the Child and Family Agency. A new Bill is expected in 2019.

Every child has the right to have their views heard in any judicial proceedings that affect them. The views of the child should be given due weight in accordance with the age of the child and the child’s maturity.515 The UN Convention on the Rights of the Child makes specific reference to the child being heard in court proceedings either directly or indirectly through a representative body, such as a Guardian ad litem (GAL).517 Under the Convention, the State is obliged to ensure that the child’s best interests are a primary consideration in all actions and decisions that impact on the child, particularly when a decision is being made in proceedings to take a child into care.518

516 Ibid Art 12(2).
517 A Guardian ad litem is a person who facilitates the voice of the child to be heard in care proceedings before a court, and strives to ensure that the child’s views are taken into account when decisions are made by the court in respect of these applications. The Guardian ad litem also gives a professional view on what they believe is in the child’s best interests given all the circumstances.
519 UNCRC ‘General Comment No. 12 on the Right of the Child...
The UN Committee on the Rights of the Child has set out requirements for the appropriate representation of the views of the child. A person who is being appointed as a child’s representative must have sufficient knowledge and understanding of the various aspects of the decision-making process, as well as experience of working with children. The representative must be aware that they represent the interests of the child exclusively and not the interests of other persons (parent(s); institutions or bodies – for example, residential home, administration or society). The Committee is clear that if a representative is used to hear the voice of the child ‘it is of utmost importance that the child’s views are transmitted correctly to the decision maker by the representative’.

In 2016, the UN Committee called on Ireland to take measures to ensure the effective implementation of legislation recognising the right of the child to be heard in relevant legal proceedings, particularly family law proceedings, including by establishing systems and/or procedures for social workers and Courts to comply with the principle. In Better Outcomes, Brighter Futures, The National Policy Framework for Children and Young People 2014–2020, the Government commits to creating mechanisms to provide children with the opportunity to be heard in judicial proceedings affecting them; this includes independent representatives, where appropriate.

Article 42A.4 of the Irish Constitution states that provision shall be made by law for the best interests of the child to be ‘the paramount consideration’ in child protection and care, adoption and family law proceedings, and for the views of the child to be ‘ascertained and given due weight’. This constitutional provision therefore refers to two types of proceedings: (1) public law proceedings – cases involving the State and families and (2) private law proceedings – cases between two private parties. The review of the GAL Service committed to in the Programme for Government relates to public law proceedings only.

The Children and Family Relationships Act 2015 gives effect to Article 42A.4 in certain to private law proceedings. The Act provides that the Court can ‘appoint an expert to determine and convey the child’s views’. The legislation requires that one or both of the parties must pay the fee of the expert appointed, as this will not be covered by the State. The Guardianship of Infants Act 1964 (Child’s Views Expert) Regulations came into operation on 1 January 2019. The regulations specify the necessary qualifications and experience for Child’s Views Experts as well as the fees and expenses that may be charged by such experts. The Regulations also define the minimum standards that a views expert must adhere to, this includes being

526 Guardianship of Infants Act 1964, s 3(1)(a)–(b), as inserted by Children and Family Relationships Act 2015, s 45.
527 Children and Family Relationships Act 2015, s 63 inserts Part V into the Guardianship of Infants Act 1964. This Part outlines the factors to consider in determining the best interests of the child and s 32(1)(b) provides for the appointment of an expert by the Court ‘to determine and convey the child’s views’. This provision was commenced in January 2016. Children and Family Relationships Act 2015 (Commencement of Certain Provisions) Order (SI No. 12/2016).
independent, facilitating the free expression of the views by the child and preparing an accurate report.\textsuperscript{529}

The fact that parents, not the State, will have to cover the fee of the child views expert in private law proceedings means that the availability of this service to children will be dependent on their parents being able to afford, or being willing, to pay for the service. A disparity will therefore remain between provision for hearing the views of children in private law proceedings and public law proceedings. The UN Committee on the Rights of the Child expressed its concern on this issue and has been clear that the approach proposed constitutes a breach of children’s rights. The State should cover the cost of this service.\textsuperscript{530} The reform of the GAL system now under consideration presents an opportunity to adopt a common approach in the mechanisms used to hear the voice of the child in both public and private law proceedings. Dialogue on the potential coordination of arrangements between the services is ongoing between the Department of Justice and Equality, the Department of Children and Youth Affairs, and the Courts Service.\textsuperscript{531}

\subsection*{Reform of the GAL Service:}

The current process of reforming the GAL service is welcome, though long overdue. Reform of legislation in this area has the potential to make a real impact and advance the fulfilment of the constitutional right of the child to have his or her voice heard in child care proceedings. The service has operated without regulation since the commencement of section 26 of the Child Care Act 1991, which provided for a child’s views to be heard through a GAL in child care proceedings.\textsuperscript{532} There are no professional standards or statutory guidance on the eligibility criteria, functions or payment structures for GALs.\textsuperscript{533} The role itself is not defined in legislation and the appointment of a GAL in proceedings is at the discretion of the judge, meaning that access to a GAL for children has been inconsistent, with significant disparity in appointment between court districts within the State.\textsuperscript{534} Currently, there are 76 GALs operating in the State: 32 working with Barnardos,\textsuperscript{535} 18 with the Independent Guardian Ad litem Agency (TIGALA) and 26 GALs working as individuals or in a small group.\textsuperscript{536}

The General Scheme to reform the GAL service was published in January 2017 following a consultation by the Department of Children and Youth Affairs to review the existing service in autumn 2015.\textsuperscript{537} The General Scheme underwent pre-legislative scrutiny in 2017 by the Joint Oireachtas Committee on Children and Youth Affairs. Subsequently, an updated General Scheme of the Child Care (Amendment) Bill was published in February 2018.\textsuperscript{538} The next iteration of the Bill is expected to be published by the end of February 2019.\textsuperscript{539} The General Scheme goes some way towards translating provisions of the Council of Europe’s Guidelines on Child Friendly Justice into national law.\textsuperscript{540} This can be seen for example under Head 4 of the General Scheme which provides that the GAL ensure that the child is ‘informed of matters relevant to the proceedings having regard to the child’s age and maturity including an explanation of how the views of the child were considered’ and ‘that the child be informed of the outcome of proceedings in a language appropriate to their age and maturity.’\textsuperscript{541} These provisions clearly reflect provisions of the Guidelines relating to information and advice.\textsuperscript{542}

Statutory provision for the GAL to be appointed by the Court ‘of its own motion or on the application of any party’\textsuperscript{543} under the General Scheme is intended to

\textsuperscript{529} Guardianship of Infant Act 1964 (Child’s Views Expert) Regulations 2018 (SI No 587 of 2018) s 5.

\textsuperscript{530} UNCRC ‘Concluding Observations: Ireland’ (2016) UN Doc CRC/C/IRL/CO/3-4 para 31(b); para 32 (b).

\textsuperscript{531} Communication received by the Children’s Rights Alliance from the Department of Justice and Equality, 4 January 2019.

\textsuperscript{532} Guardianship of Infant Act 1964 (Child’s Views Expert) Regulations 2018 (SI No 587 of 2018) s 5.

\textsuperscript{533} Communication received by the Children’s Rights Alliance from the Department of Justice and Equality, 4 January 2019.

\textsuperscript{534} Carol Coulter, Interim Report of the Child Care Law Reporting Project (CLRP 2013) 14.

\textsuperscript{535} Communication received by the Children’s Rights Alliance from Barnardos, 2 January 2019.


\textsuperscript{538} Communication received by the Children’s Rights Alliance from the Department of Children and Youth Affairs, 9 January 2019.

\textsuperscript{539} Council of Europe, Guidelines of the Committee of Ministers of the Council of Europe on Child-Friendly Justice (Council of Europe Publishing 2010).


\textsuperscript{542} Carol Coulter, Interim Report of the Child Care Law Reporting Project (CLRP 2013) 14.

\textsuperscript{543} Children’s Rights Alliance Final Report Card 2019.
see the appointment of GALs as ‘the norm’ and this is a significant step in the right direction for children. Other positive amendments in the 2018 General Scheme included clarification on who can act as a GAL, the circumstances when a GAL may be appointed, and the ability of a child who is made a party to the proceedings under section 25 of the Child Care Act 1991 to have both a GAL and legal representation. Statutory recognition of the role of the GAL in making applications for reports relating to the welfare of children under section 47 of the Child Care Act 1991 is also an important inclusion.

Independence of the GAL Service:

The Alliance welcomes the proposed establishment of a new Executive Office in the Department of Children and Youth Affairs to manage the GAL service which is intended to move to the Family Law Courts in the longer-term. This ensures that the service is financially independent of Tusla, the Child and Family Agency, a body that is party to child care cases. This move reflects a recommendation in Report Card 2017 and the stated positions of the Ombudsman for Children and the Comptroller and Auditor General. The Department of Children and Youth Affairs has taken a number of steps to commence the development of the Executive in 2018 including the establishment of a project team and an internal steering committee.

The establishment of an Executive Office also presents an opportunity to make the GAL service responsible for both private and public law proceedings; this would ensure that the right of children to have their voices heard in court is equally enforced in both child care and family law proceedings. Budget 2019 provided an additional €127 million in funding for the Department of Children and Youth Affairs which will allow for the establishment of the Guardian ad Litem Executive Office. The underpinning legislation and the development of the service are taking place in parallel with a view to having the service operational at the earliest opportunity upon enactment of the legislation.

A consultation is to be held with children and young people who are or have been involved in child care proceedings to ensure that the views of young people are heard in the design of the new service. The consultation was being designed and children were being recruited to take part at the end of 2018.

<table>
<thead>
<tr>
<th>GALs appointed to cases</th>
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<tr>
<td><strong>79.8%</strong></td>
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<td><strong>13.3%</strong></td>
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Louth

Galway

The Child Care Law Reporting Project reported considerable variations in the appointment of a GAL to a case in different locations across the country.

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Rights in the Family Environment and Alternative Care

Status of the GAL:

Head 4(1) of the General Scheme sets out the functions of a GAL as being two-fold: firstly to inform the court of the views expressed by the child and secondly to make recommendations to the court on what is in the child’s best interests. The Scheme sets out that the GAL will participate in proceedings as a witness and not as a party. Cross-examination can play an important role in legal proceedings because, for example, it allows a GAL, through a lawyer, to challenge a decision by Tusla in the best interests of the child. However, under the General Scheme, as a witness and not a party, the GAL will have reduced powers to cross-examine and may only do so in limited circumstances. Statutory recognition of the role of the GAL in making applications for reports relating to the welfare of children under section 47 of the Child Care Act 1991 is an important inclusion in the General Scheme. However, as a witness and not, the GAL will not have the legal standing to make oral or written submissions in relation to the evidence or legal issues arising in the case at the conclusion of the hearing. Often such submissions can be critical in convince a judge to make a particular order in the interests of the child.

In addition to the above, there are a number of technical and procedural areas in which the status of the GAL as a non-party could potentially impact the rights of the child. These include the inability to appeal an order of the District Court, even where they deem it to be in the child’s best interests to do so or their inability to interject in order to object to, for example, hearsay evidence. Section 25 of the Child Care Act 1991 provides that the court may order a child to be joined as a party to a case where it is necessary and in the interests of the child and of justice to do so. While this section has been on the legislative books for many years, it is underused. Previously if the child was made a party under section 25, they would not be permitted to retain their GAL but this has been amended under the 2018 Scheme to allow the child to keep the GAL in such circumstances. This is a positive development. Consideration could be given to exploring how section 25 is being used in practice and its impact on children as part of the ongoing review of the Child Care Act 1991. The GAL can play an important role in educating children about their rights and highlighting the opportunity that section 25 provides for their direct participation in proceedings affecting them. However, greater exploration of how the views and wishes of children such as those with learning difficulties could be best ascertained and represented in proceedings, which have an impact on them is also necessary.

Appointment of a GAL:

The General Scheme provides that the court may appoint a GAL ‘of its own motion or on the application of any party’ if a Judge declines to appoint a GAL then they must provide reasons for their decision in open court, and must state how they intend to hear the views of the child. Although it appears the intention behind the legislation is that it will be ‘the norm’ to appoint a GAL in Circuit Court and District Court child care proceedings, it is possible that by providing for judicial discretion within the draft legislation, regional disparities could continue. Between December 2012 and July 2015 GALs were appointed in only 53 per cent of cases attended by the Child Care Law Reporting Project with considerable variations in different locations across the country, ranging from a high of 79.8 per cent of children being appointed a GAL in Louth to a low of 13.3 per cent in Galway.

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555 General Scheme of the Child Care (Amendment) Bill 2018, Head 5.
556 ibid Head 4(3)(d) reads as follows:
   ‘(d) cross-examine only in the following circumstances: (i) where the Guardian ad litem intends to give evidence on a particular matter which may conflict or contradict the evidence being given by a party or witness, s/he shall put such evidence to the witness or party by way of cross-examination; and (ii) where a party or a witness to the proceedings gives evidence that impugns the conduct, reputation or good name of the Guardian ad litem, the Guardian ad litem shall be permitted to cross-examine the party or witness.’
557 ibid Head 15.
558 Child Care Act 1991, s 25(1) provides:
   ‘If in any proceedings under Part IV or VI the child to whom the proceedings relate is not already a party, the court may, where it is satisfied having regard to the age, understanding and wishes of the child and the circumstances of the case that it is necessary in the interests of the child and in the interests of justice to do so, order that the child be joined as a party to, or shall have such of the rights of a party as may be specified by the court in, either the entirety of the proceedings or such issues in the proceedings as the court may direct. The making of any such order shall not require the intervention of a next friend in respect of the child.’
559 General Scheme of the Child Care (Amendment) Bill 2018 Head 7(12).
561 ibid 7(2).
562 ibid Head 7(4).
563 ibid Explanatory Note, 27.
564 Carol Coulter, Final Report (Child Care Law Reporting Project 2015) 80.
Guardian ad Litem Service
Immediate Actions for 2019

Meaningful consultation with children and young people on the reform of the Guardian ad litem service and having their voice heard in court proceedings is recommended.

The outcome of the consultation should inform the development of the service.

Consider whether the new draft legislation on the reform of the Guardian ad litem service resolves the issue of giving effect to the constitutional right of all children to be heard and to ensure that every child is provided with an opportunity to directly participate and/or be represented.

In order to give effect to the constitutional right of the child to be heard, the legislation should ensure the child’s right to be heard along with their rights to fair procedures and redress by providing that every child is represented by an effective advocate in child care proceedings. Ensure that no child is limited in their participation in proceedings compared to other children due to their age or vulnerability so that they do not have lesser rights than a child who is joined to the proceedings in their own right.

Consideration could be given to a joint approach in public and private law proceedings to hearing the views of the child.

The extension of the remit of the new Executive Office under which the reformed Guardian ad litem service will operate, to support the voice of the child in all types of cases, public and private is suggested.
**4.2 Child Protection**

`Child Protection` receives a ‘B’ grade in *Report Card 2019*, the same as last year’s grade. A unit to monitor compliance with Child Safeguarding Statements was established and there was improved processing of vetting applications. In a welcome move, the Government’s *Action Plan for Online Safety* was published. For the first time, it brings government departments together on the issue of online safety, however, it relies on self-regulation of industry which could lead to inconsistent application of standards and inadequate remedies for non-compliance.

Every child has the right to be protected from abuse, including sexual abuse and exploitation. States must take ‘appropriate legislative, administrative’ and other measures to protect children from abuse while in the care of parents, guardians or ‘any other person who has the care of the child’. In 2016, the UN Committee on the Rights of the Child welcomed the enactment of the Children First Act 2015. The Committee recommended that Tusla, the Child and Family Agency, be adequately resourced to enable it to respond to child protection referrals and to address the needs of children at risk in a timely manner.

565 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 19 which places an obligation on state parties to take all ‘appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.’

566 Ibid Art 19 (1).

addition, it recommended that long-term programmes for addressing the root causes of violence and abuse be implemented. On protection from online abuse, the UN Committee has recommended that States ‘should address the risks posed by digital media and [information and communication technologies] to the safety of children, including online harassment, sexual exploitation of children, access to violent and sexual content, grooming and self-generated sexual content’ by adopting ‘holistic strategies’. The UN Committee has also highlighted States’ obligations to guarantee the protection of children’s privacy rights in relation to information and communication technology (ICT), as well as their obligation to ‘develop effective safeguards against abuse without unduly restricting the full enjoyment of their rights’.569

- **Child Safeguarding Statements:**

  A Programme for a Partnership Government commits to implementing Child Safeguarding Statements as part of Children First legislation. Better Outcomes Brighter Futures, The National Policy Framework for Children and Young People 2014–2020 commits to giving effect to the Children First: National Guidance for the Protection and Welfare of Children570 in full, including legislating for elements of the guidance, actioning sectoral plans, associated training and ensuring vetting requirements are met.571 The Children First Act 2015, which has been fully commenced, provides that each service falling under its remit572 must publish a Child Safeguarding Statement setting out the organisation’s procedures to manage and reduce risk for children availing of its services.573 The Safeguarding Statement should also include a written risk assessment and specify risk management processes. Procedures to manage allegations against staff and to provide child protection information, as well as instruction and training for staff and volunteers to enable them identify harmful incidents, must also be included.574 In March 2018, Tusla established a new Child Safeguarding Compliance Unit to monitor compliance575 of Statements provided voluntarily by providers referred to it by a regulatory authority or by means of unsolicited information.576 To date just 23 per cent of Statements were fully compliant and all organisations that were found to be non- or partially compliant are now compliant.577 Establishment of the Unit and its guidance and supportive model having led to full compliance to date is a step in the right direction. The Unit is a permanent structure yet to date it only has funding for two temporary appointments for a pilot phase.

  - **Vetting:**

    A Programme for a Partnership Government commits to enforcing robust and efficient vetting procedures for all positions involving substantial access to children. Better Outcomes, Brighter Futures commits to ‘ensuring vetting requirements are met’.578 The National Vetting Bureau (Children and Vulnerable Persons) Acts 2012–2016 were commenced, almost in full, on 29 April 2016.580 The Act provides for the mandatory vetting of those who work or volunteer with children and vulnerable people, where ‘a necessary and regular part [of this work] consists mainly of the person having access to, or contact with, children’.581 In 2018, the

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569 ibid.
572 Schedule 1 of the Act sets out the types of organisations which are deemed to be carrying out ‘Relevant Services’ for the purposes of the Act; these are organisations which have employees or volunteers for whom ‘a necessary and regular part of their work’ consists mainly in ‘having access to or contact with’ children.
573 Children First Act 2015, ss 10–11.
574 ibid. If, upon, request, a relevant organisation fails to supply its Safeguarding Statement to Tusla, the Child and Family Agency, it can be issued with a notice of non-compliance, see s 12, 13.
575 Minister for Children and Youth Affairs, Dr Katherine Zappone TD, Written Answers, Child Protection, 25 September 2018, [38432/18].
576 Communication received by the Children’s Rights Alliance from the Department of Children and Youth Affairs, 9 January 2019.
577 The Minister for Children and Youth Affairs has stated that Tusla aims to support organisations in meeting their statutory obligations, resorting only to the non-compliance register when a service is unwilling to cooperate. Minister for Children and Youth Affairs, Dr Katherine Zappone TD, Written Answers, Child Protection, 25 September 2018, [38432/18]. Communication received by the Children’s Rights Alliance from the Department of Children and Youth Affairs, 9 January 2019.
578 Communication received by the Children’s Rights Alliance from the Department of Children and Youth Affairs, 9 January 2019.
580 The Act was commenced by Statutory Instrument 214/16, apart from section 20 which relates to re-vetting. A number of amendments were made by the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016.
581 Under s 2 of the Act, vulnerable persons are people other than children who suffer from a mental disorder, an intellectual disability, a physical impairment or significant disability. Schedule 1 of the legislation lists ‘relevant persons’ who require vetting if
There is no facility or provision for the National Vetting Bureau to seek information from police authorities abroad when a vetting applicant has spent time living outside Ireland. The Special Rapporteur on Child Protection has suggested that protocols or administrative arrangements with police authorities in foreign jurisdictions could address the issue; another avenue, he suggests, could be the inclusion of a provision for the exchange of information in forthcoming legislation to implement the EU Framework Decision on the exchange of criminal records information.  

Online Protection: Better Outcomes, Brighter Futures commits to support efforts to limit children’s exposure to age-inappropriate material on the internet. It also commits to support all efforts to combat child sexual abuse, exploitation and trafficking, including through support for an online filtering system in relation to blocking online child abuse material.

582 Communication received by the Children’s Rights Alliance from the National Vetting Bureau, 5 December 2017.
584 ibid.
585 However, Childminding Ireland does require its members to be Garda vetted.
589 ibid Commitment 3.13.
A third of children reported rarely or having never spoken to a parent or guardian about online safety. The level of confidence of parents in monitoring and protecting their child's online activity depends on the child's age. Parents of older children (nine to twelve and thirteen to seventeen year olds) felt less confident that they can protect their children online than the parents of under-fives and five to eight year olds. Research commissioned by ISPCC and the Vodafone Foundation found that 73 per cent of parents did not think the Government were doing enough to keep children safe online and 78 per cent felt that the industry were not doing enough.

The enactment of the landmark Criminal Law (Sexual Offences) Act 2017 in February 2017 has closed some significant legislative gaps and loopholes in respect of online sexual offences against children. For example, the Act creates a new offence relating to viewing online child sexual abuse material and, in order to address issues such as grooming and solicitation online, an offence of sexual exploitation using ICT. A number of key sections of the Act relevant to children were commenced in March 2017, including Part 2 relating to the sexual exploitation of children.

The Data Protection Act 2018 was enacted to comply with the EU General Data Protection Regulation which came into force on 25 May 2018. The Act sets the age of digital consent at 16 meaning that children under the age of 16 must have the consent of their parent or guardian in order to access certain online services.

In July, shortly after the publication of the Action Plan, the Council of Europe published Guidelines to respect, protect and fulfil the rights of the child in the digital environment. They provide a pathway for States to ensure that the rights of children are protected online. Key provisions in the guidelines recommend that States should require relevant stakeholders to

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592 ibid. Approximately 26 per cent of parents of children in the older age groups feel confident that they can protect their children online.
implement privacy by design and privacy by default measures taking into account the best interests of the child. It is also recommended that incentives are provided to implement safety by design in addition to privacy by design and privacy by default as guiding principles for products and services addresses to or used by children. Legislating for these principles would ensure that children are protected from the planning stages of technology development.

A Private Members’ Bill on the establishment of an Office of the Digital Safety Commissioner came before the Dáil at Committee stage in February 2018. Establishing an office of a digital safety commissioner would provide the framework to coordinate all activities related to children’s rights and digital media and ICTs and lead on the implementation of key provisions of the Council of Europe guidelines on children in the digital environment. A digital safety commissioner should be granted the legal powers to regulate the sector to provide better protection to children online and ensure that children/young people and their parents are adequately educated in digital media and safety techniques.

In July, the Department of An Taoiseach published an Action Plan for Online Safety. The plan covers an 18 month period to the end of 2019 and sets out actions for six government departments: Children and Youth Affairs; Education and Skills; Communications, Climate Action and Environment; Justice and Equality; Health and Business, Enterprise and Innovation.

In October, a National Advisory Council was established to provide advice to Government on online safety policy issues. The publication of the Action Plan is a welcome development in particular given that it is to be overseen at the political level by a Cabinet Committee chaired by the Taoiseach with a cross-departmental Sponsors Group to drive implementation. The Council of Europe’s guidelines should be considered by the Cabinet Committee, the Advisory Council and the Government to determine how they can be implemented as part of the Action Plan and in all future policy development in this area. The Plan includes positive actions such as a commitment to consult with children and young people and to legislate to create new criminal offences where gaps exist. However, the reliance on a voluntary code of conduct and on self-regulation of the industry has been criticised by child protection organisations such as the ISPCC. Self-regulation could result in inconsistent standards being applied across industry. Sanctions can help when industry fails in its compliance with the standards and adequate remedies are not available to those impacted.

In 2018, the Garda Youth Diversion Programme reported the number of children referred to the programme for possession of child abuse material almost trebled from 21 in 2016 to 59 in 2017. This showed the need not only for educating children about the law in this area but also for legislation which addresses the behaviour [of children being in possession of child abuse material]…rather than children being referred for the offence of possession/distribution of child pornography.

597 ibid. Principles 35 and 53.
605 ibid.
606 ibid.
Consider introducing measures to ensure that the Garda Vetting Bureau can access relevant information on time spent abroad.

The use of protocols or administrative arrangements with police authorities in foreign jurisdictions could address the issue as suggested by the Special Rapporteur on Child Protection.

Implement the Action Plan for Online Safety in full.

Given that the Action Plan for Online Safety is just 18 months in duration, it is important that the focus to implement it is maintained and that a plan is developed for the Government’s approach to online safety at the end of 2019.

Consider the Council of Europe Guidelines on the rights of the child in the digital environment in current and future policy making in this area and introduce legislation for the introduction of safety by design, privacy by design and privacy by default mechanisms by industry.

The Council of Europe’s Guidelines on the rights of the child in the digital environment provide a pathway for the protection of the rights of the child online. They should be considered by the Cabinet Committee that oversee the Action Plan for Online Safety, the National Advisory Council for Online Safety and the Government to determine how they can be implemented as part of the Action Plan and in all future policy development in this area. Specifically the principles of safety by design, privacy by design and privacy by default should be legislated for to require industry to embed the protection for child in the development of new technology.

Work towards the establishment of an office of a digital safety commissioner.

Establishing the role of a digital safety commissioner would provide a necessary framework to coordinate all activities related to children’s rights, digital media and ICTs.
‘Child Victims’ receives a ‘B-’ grade in Report Card 2019. This reflects an increase on last year’s ‘C+’ grade because of the enactment of the Domestic Violence Act 2018 and the commencement of the outstanding provisions of the Criminal Justice (Victims of Crime) Act 2017. Though there are clear areas where investment is required, there has been some increased funding for services and a commitment to pilot the One House model in Galway, which will see all service and supports for child victims of sexual abuse under one roof with the aim of reducing trauma for victims.

The State has a duty to take all appropriate measures to promote physical and psychological recovery and social reintegration of child victims of ‘any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment’. Such recovery and reintegration should take place in an environment that ‘fosters the health, self-respect and dignity of the child’. Ireland continues to be the only European Union (EU) Member State that has not ratified the Second Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography. The Protocol requires States to adopt appropriate measures to protect the rights and interests of child victims at all stages.

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608 Ibid.
of the criminal justice process, including measures recognising their vulnerability, and the adaptation of procedures to recognise their needs.610 Child victims must be informed of their rights and role within proceedings, and they should be provided with information regarding the timing and progress of proceedings.611 Unnecessary processing delays in their cases should be avoided.612 The UN Convention also provides that the best interests of the child shall be a primary consideration in the treatment of child victims by the criminal justice system.613

**Better Outcomes, Brighter Futures, The National Policy Framework for Children and Young People 2014-2020** commits to providing ‘effective and timely protection and support services, including therapeutic services for victims of abuse and crime’.614 It commits to reforming domestic violence legislation, including providing greater protection for victims, and to a legal and policy framework for child victims of trafficking and measures for their identification.615 In 2016, the UN Committee on the Rights of the Child recommended that the State provide redress and rehabilitation to victims of domestic violence.616

### Criminal Justice (Victims of Crime) Act 2017:

The Criminal Justice (Victims of Crime) Act 2017 was signed into law in November 2017.617 The legislation seeks to transpose an EU Directive on the rights of victims of crime into Irish law. The Directive focuses on strengthening ‘the rights of victims and their family members to information, support and protection, and victims’ procedural rights in criminal proceedings’.618 The Directive also requires that officials coming into contact with victims have appropriate training and it seeks to ‘encourage cooperation between Member States and coordination of national services of their actions on victims’ rights’.619 The Criminal Justice (Victims of Crime) Act 2017 is victim-centred in its approach and requires the specific characteristics of the victim to be considered and the views of the victim to be heard. The Act provides for a range of rights for victims including the right to receive information relating to their case and to the criminal justice process in simple and accessible language.620 The Act also provides for a wide definition of the types of offences for which victim impact statements will be heard.621 Supports under the Act could have been strengthened, for example, in relation to the provision of information to parents (who are not accused of wrongdoing) of child victims.622

Following the passing of the 2017 Act, Irish law is broadly in compliance with the Second Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography.623 However, the Protocol is yet to be ratified, and this should happen without further delay.624

### Victim Support Services:

A key provision of the EU Directive requires Member States to make available ‘confidential victim support services, free of charge, acting in the interests of the victims before, during and for an appropriate time after criminal proceedings’.625 Ireland has an obligation to ‘take all appropriate measures’ to promote the recovery of child victims.626 The UN Committee on the Rights of the Child has outlined the supports that child victims may need, including medical

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610 ibid Art B(1) (a).
611 ibid Art B(1)(b).
612 ibid Art B(1)(g).
613 ibid Art B(3).
615 ibid Commitments 3.13, 3.14 and 3.15.
617 Most provisions of the Act commenced on 27 November 2017, with remaining sections commenced on 30 May 2018.
619 ibid
621 ibid s 31.
624 The Department of Children and Youth Affairs has stated that a document that demonstrates Ireland’s compliance with the protocol and which illustrates that there is no need for further measures to be put in place is to be submitted to the Attorney General in early 2019 to lay the groundwork for ratification. Department of Children and Youth Affairs, ‘Ireland joining international stand against sale of children, child pornography and child prostitution, Minister Zappone says all legal requirements now in place’ (DCYA 2 January 2019).
treatment, mental health treatment, social and legal services and long-term follow-up services.627

During her visit to Ireland in May 2018, the UN Special Rapporteur on the Sale and Sexual Exploitation of Children, Maud de Boer-Buquicchio was critical of the absence in Ireland of a dedicated national strategy to prevent or respond to sexual violence against children.628 In addition, she highlighted a lack of national data on reported incidents of child abuse required for policy development and the need for more care services.629

The 24/7 Child Sexual Abuse Reporting Line launched by An Garda Síochána in 2017 received a total of 71 calls in 2018. In 2018 the Victims of Crime Office provided €1.712 million in funding for voluntary sector organisations to support victims of crime.630 This includes provision to expand the CARI accompaniment service which supports and provides advocacy to children and their families where there are prosecution proceedings.631 In addition, €23.8 million was allocated to Tusla in 2018 to support domestic and sexual violence sector organisations, a 17 per cent increase on the amount allocated in 2015. Cosc, the National Office of the Prevention of Domestic, Sexual and Gender-based Violence received €2.684 million and was allocated €2.884 million in Budget 2019.632

The availability of assessment and treatment services for children and young people under the age of 14 is limited, with significant geographic variances in provision. For children in this age category, there are two independent sexual abuse assessment and therapy units, both in Dublin,633 one 24 hour state medical forensic service located in Galway providing forensic examinations and two specialist therapy services provided by CARI in Limerick and Dublin.634

Children have to travel long distances to receive treatments and this can ‘compound the harm’ and increase the risk of forensic evidence of crimes against children being compromised.635 Where services do exist, child victims face significant delays in accessing counselling support – for example, CARI had a waiting list of 88 children from January to December 2018. For survivors aged 14 years and older, there are effectively seven sexual assault treatment units across the country providing specialist care636 and victims also have access to a range of specialist voluntary and statutory therapy services.637 However, the UN Special Rapporteur also noted that specialised and local counselling services are not guaranteed to child victims of sexual violence638 and medium to long term tailored specialised therapeutic services and supports for older children aged 12-18 years of age are required.

A specific strategy could be put in place for the prevention of sexual violence against children and for the provision of comprehensive services for those who have been victims of such violence. This strategy could include a plan for the development of specialist services to assess and treat child victims of sexual violence either independently of, or within, the services for over 14s, with staffing by trained professionals who are able to respond to the particular needs of child victims. In this context, the joint announcement by the Minister for Children and Youth Affairs, Dr Katherine Zappone TD, the Minister for Justice and Equality, Charlie Flanagan TD and the Minister for Health, Simon Harris TD of their intention to pilot a ‘One House’ centre for children who have been sexually abused in early 2019 is very welcome.639 This was a recommendation in

627 UNCRC, ‘General Comment General comment No. 13 on the right of the child to freedom from all forms of violence’ (2011) UN Doc CRC/C/CG13 para 52.
629 ibid.
630 Communication received by the Children’s Rights Alliance from the Department of Justice and Equality, 20 December 2018.
631 Communication received by the Children’s Rights Alliance from CARI, 7 December 2017.
632 Communication received by the Children’s Rights Alliance from CARI, 7 December 2017.
633 St Clare’s Unit at Temple Street University Hospital and St Louise’s Unit, Our Lady’s Children’s Hospital Crumlin.
636 These are: Cork SATU; Donegal SATU; Dublin SATU; Galway SATU; Mullingar SATU: Mid-West SATU; Waterford SATU.
637 These include the Rape Crisis Network and the Dublin Rape Crisis Centre, which can offer only a limited service to 16 and 17 year olds.
639 Joint Statement by the Minister for Children and Youth Affairs, Dr Katherine Zappone TD, the Minister for Justice and Equality, Charlie Flanagan TD and the Minister for Health, Simon Harris TD, ‘One House’ model to ease trauma for children who have been sexually abused, Ministers announce pilot project
The 24/7 Child Sexual Abuse Reporting Line launched by An Garda Síochána in 2017 received a total of 71 calls in 2018. In 2018 the Victims of Crime Office provided €1,712 million in funding for voluntary sector organisations to support victims of crime.
Report Card 2017[^640] It will see a multi-disciplinary team of Gardaí, social workers, health professionals and lawyers working together in one location in Galway, to carry out interviews and assessments where there are concerns that a child has been sexually abused.[^641]

### Domestic Violence Act 2018:

The Domestic Violence Act 2018 was enacted in April 2018. It includes specific provisions relating to children, such as protection from cross-examination by the applicant or respondent in the course of an application for a domestic violence order.[^642] Most welcome is the fact that, taking account of the age and maturity of a child, a judge may ascertain their views when an order is sought on their behalf, or may appoint an expert to do so[^643] and that the Act repeals legislative provisions which allow children to marry.[^644] However, as highlighted by the Special Rapporteur on Child Protection, the Act does not provide for child-specific services for children who experience domestic violence such as counselling, nor does it make provision to allow children to make court applications in their own right without relying on their parents to do so.[^645] The Act was commenced in full on 1 January 2019.[^646]

[^642]: Domestic Violence Act 2018, s 16.
[^643]: ibid s 27.
[^644]: ibid s 49.
[^646]: Communication received by the Children’s Rights Alliance from the Department of Justice and Equality, 20 December 2018.
Immediate Actions for 2019


We welcome the Government’s intention to ratify the Optional Protocol in 2019 and would encourage them to prioritise this to ensure it happens.

Develop a dedicated strategy for the prevention of sexual violence against children and for the provision of treatment services for children who have been victims of such violence.

A dedicated strategy could be put in place to prevent and respond to sexual violence against children. Such a strategy could include a plan for the development of specialist assessment and treatment services for children and young people who experience sexual violence. Medium to long-term planning for tailored services for older children and a plan to eliminate waiting lists for long-term specialist counselling for child victims of sexual violence would be a valuable part of a strategy.
5

Rights in Early Childhood
The UN Committee on the Rights of the Child encourages States to develop a positive agenda for rights in early childhood. The Convention calls for an understanding that early childhood is not merely preparation for adulthood and requires that children, including the very youngest children, be respected as persons in their own right.

Summary from General Comment 7 of the UN Convention on the Rights of the Child

Chapter Grade:

C

Commenting, our CEO @TeresaHeeney notes #First5 represents the culmination of an important period of research, discussion & cooperation on ensuring the best possible outcomes for children under 5 in Ireland. The focus on children’s rights & increased funding is very positive.

19 Nov 2018
5.1 Quality in Early Childhood Education and Care

Section Grade: C−

Government Commitment

A Programme for a Partnership

Government commits to:

Review and reform the inspection regime in respect of the Early Childhood Care and Education (ECCE) Programme.

Progress: Steady

Assess the quality of the first pre-school scheme, withdrawing funding from providers that do not meet quality standards.

Progress: Stalled

‘Quality in Early Childhood Education and Care’ receives a ‘C-’ grade in Report Card 2019, a slight increase on last year’s ‘D’ grade. The grade reflects steady progress on reforming and strengthening the regulatory inspection regime of Tusla, the Child and Family Agency and introducing the Department of Education and Skills’ early education inspections. However, non-compliance with basic health, safety and welfare standards in regulated childcare settings is of great concern. The continued development of the Department of Education and Skills’ inspections is promising. The commitments to develop an integrated inspection regime presents a once-in-a-lifetime opportunity to improve and track quality standards in ECEC settings. This grade would have been higher had the quality audit been commenced.

647 The term Early Childhood Education and Care (ECEC) is used in Report Card 2019 to denote the care and education of children from birth to six years. ECEC is the term used by the European Commission. ECEC refers to any regulated arrangement that provides education and care for children from birth to primary school – regardless of the setting, funding, opening hours or programme content - and includes centre and family day-care, privately and publicly funded provision; pre-school and pre-primary provision. Working Group on Early Childhood Education and Care, Proposal for key principles of a Quality Framework for Early Childhood Education and Care Report of the Working Group on Early Childhood Education and Care under the auspices of the European Commission (European Commission 2014) 69. First 5 adopts the same definition, but uses the term Early Learning and Care (ELC). Government of Ireland, First 5: A Whole-of-Government Strategy for Babies, Young Children and their Families 2019 – 2028 (Stationary Office 2018) 26.
All children, including those in early childhood, are holders of rights enshrined in the UN Convention on the Rights of the Child. The UN Committee on the Rights of the Child recognises the pivotal role parents play in the early education and care of their children, as well as the State’s key role in providing a legislative framework for the provision of quality, adequately resourced services, and for ensuring that standards are tailored to the circumstances of particular groups and individuals and to the developmental priorities of particular age groups, from infancy through to transition into school.

The Committee points out that early childhood institutions, services and facilities must conform to quality standards such as the requirement that staff are suitable and sufficient in number, use child-centred practices and curricula, hold current understandings of child rights and development theory and practice, and are trained to work with young children.

Every child has the right to development, to care and assistance, to education, and to be protected from any form of harm, abuse or neglect in particular young children. Where a child’s right has been violated, there must be an effective accountability process, including the availability of remedies and sanctions. Regardless of whether early childhood services are supplied by public authorities or by non-state providers, the State is obliged to regulate and monitor the quality of provision to ensure that children’s rights are protected and their best interests served.

First 5: What does it do for quality?

First 5 includes the following Strategic Actions to enable access to early learning and care supports and services:

- Improve initial training and CPD for all early childhood staff.
- Professionalise ELC; support employers to attract and retain a high-quality workforce.
- Develop, enhance and implement national standards for early childhood supports and services.
- Develop mechanisms to raise the professional status of the ELC (and school-age childcare) workforce and support employers to offer more favourable working conditions to attract and retain staff.

Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014 –2020 lists children’s early years as one of seven priorities and aims to raise the quality of early years care and education services. In November 2018, the Government fulfilled its commitment to deliver an early years strategy, with the publication of First 5: A Whole-of-Government Strategy for Babies, Young Children and their Families 2019 – 2028. The content and implementation of the Strategy is vital to the delivery of the Programme for Government commitments to prioritise quality affordable

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649 ibid para 31. Ireland’s ECEC sector is privately provided but receives public funding. In 2017/18, 68 per cent of services were private and 32 per cent were community providers. Pobal, Early Years Sector Profile Report 2017–2018 (Pobal 2018) 8-9.
650 ibid para 23.
651 ibid.
653 UNCRC, ‘General Comment No.7: Implementing child rights in early childhood’ (2006) UN Doc CRC/C/G/GC/7/Rev.1 para 3; para 36 (a). Young children are least able to defend themselves against any infringement of their rights, to comprehend what may be happening in the case of abuse or neglect, or to seek the protection of others.
children’s early learning and care, frameworks play a central role in assuring appropriate 
conditions for children’s early learning and care, and in informing how early years educators work 
with children. Monitoring and inspection systems are essential to a regulatory framework that can 
enhance the level of quality in ECEC settings to improve child outcomes. These systems can also 
hold the State accountable for the establishment and maintenance of proper standards. There are 
currently two separate inspection regimes for ECEC services. They are run by Tusla, the Child and Family 
Agency and the Department of Education and Skills.

**Tusla Inspections: The Child Care Act 1991 (Early Years Services) Regulations 2016 (the Regulations)**

The Child Care Act 1991 (Early Childhood Education and Care (ECEC), Research Brief: Minimum Standards Matter


**Department of Children and Youth Affairs, ‘Minister Zappone announces supports for quality improvements in the childcare sector, including €1.2m First Aid training fund’ (DCYA, 5 September 2018) <https://bit.ly/2NsGqDn> accessed 2 October 2018; Tusla, Child and Family Agency v Irish Nurses and Midwives Organisation, Workplace Relations Commissions, LRC 21641, December 2017. Traditionally, only Public Health Nurses were eligible to be Early Years Inspectors but concerns were raised about whether Public Health Nurses had the necessary expertise in ECEC to adequately carry out the role. Nine early years inspectors will be recruited in 2019, in addition to the existing 50 inspectors. Communication received by the Children’s Rights Alliance from Tusla’s Early Years Inspectorate, 3 January 2019.

The Regulations introduced vital legal reform to safeguard babies and young children in childcare services, making non-compliance an automatic offence and providing Tusla with enforcement powers to amend a service’s registration or to deregister and close services. Previously, Tusla will also regulate the school-age childcare sector. In 2018, relevant reforms included:

- The further development of the Inspectorate’s governance structure and the development of a policy document to support the Inspectorate’s registration, operation and quality functions.
- The launch of the first Quality and Regulatory Framework (QRF) to support compliance with the Regulations.
- The reform of the eligibility criteria to apply to be a Tusla Early Years Inspector to include a wider range of disciplines, including, for the first time, ECEC graduates.
- The review of the inspection report template with the aim of supporting parents to understand inspection outcomes.

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658 Government of Ireland, Programme for Partnership Government (Stationery Office 2016) 75.
659 ibid 78.
661 For a description of what quality looks like in ECEC services and our analysis on the extent of quality in Irish services, see our submission on the Early Years Strategy. Children’s Rights Alliance, Submission on the Early Years Strategy (Children’s Rights Alliance 2018).
666 From 2019, Tusla will also regulate the school-age childcare sector.
668 Communication received by the Children’s Rights Alliance from Tusla’s Early Years Inspectorate, 3 January 2019.
669 The QRF provides separate guidance to five different types of childcare services, outlines Tusla’s interpretation of the Regulations, and sets out the parameters against which services are inspected. It will be piloted in the first quarter of 2019. Tusla, ‘Tusla Launches Quality and Regulatory Framework for the Early Years Sector’ <https://bit.ly/2UBHq8y> accessed 2 October 2018; Communication received by the Children’s Rights Alliance from Tusla’s Early Years Inspectorate, 3 January 2019.
670 Department of Children and Youth Affairs, ‘Minister Zappone announces supports for quality improvements in the childcare sector, including €1.2m First Aid training fund’ (DCYA, 5 September 2018) <https://bit.ly/2NsGqDn> accessed 2 October 2018; Tusla, Child and Family Agency v Irish Nurses and Midwives Organisation, Workplace Relations Commissions, LRC 21641, December 2017. Traditionally, only Public Health Nurses were eligible to be Early Years Inspectors but concerns were raised about whether Public Health Nurses had the necessary expertise in ECEC to adequately carry out the role. Nine early years inspectors will be recruited in 2019, in addition to the existing 50 inspectors. Communication received by the Children’s Rights Alliance from Tusla’s Early Years Inspectorate, 3 January 2019.
671 Communication received by the Children’s Rights Alliance from Tusla’s Early Years Inspectorate, 3 January 2019.
enforcement required recourse to the courts.672

In 2018, two services were deregistered and closed by Tusla, the first closures since the Regulations came into force on 30 June 2016.673

An analysis of 2017 inspection reports under the Regulations found high levels of compliance with the standards relating to premises, insurance, and staffing levels, while the lowest levels of compliance were with the standards safeguarding the health, safety and welfare of the child; management and recruitment, and record keeping.674 Tusla’s Early Years Inspectorate Annual Report contained a number of serious findings in relation to non-compliance with regulations and serious injury to children675 and showed that staff in almost 10 per cent of the services inspected under the Regulations did not have the required first aid training.676 It is welcome that the DCYA allocated €1.2m to a first aid training fund for Tusla-registered providers in 2018.677

Pobal data indicates that in May 2018, 309 staff members working directly with children did not meet the minimum qualification requirement.678 This must be addressed as minimum qualification levels are a foundation for children being provided with a quality service. First 5 commits that by 2028, the early learning and care centre-based workforce will be graduate-led, with at least 50 per cent of staff working directly with children holding an appropriate degree-level qualification.679 This has the potential to improve the quality of the wider ECEC system.

The Regulations require childcare providers to have a comprehensive complaints management process in place and, in addition, anyone can provide unsolicited information to Tusla’s Early Years Inspectorate if they have a concern about a setting. A national standardised child risk assessment process was established in 2017 to determine the management plan for dealing with concerns.680

Department of Education and Skills’ Inspections: In 2016, the Inspectorate of the DES introduced Early Years Education Inspections (EYEIs) to provide ‘evaluative information, advice and support regarding the quality of education provision’ in services participating in the Free Pre-school Scheme (FPSS).681

The EYEIs are part of the Department of Education and Skills’ Inspectorate division and they evaluate the nature, range and appropriateness of children’s early educational experiences in the FPSS.682 Educational provision in other rooms in childcare settings that are not operating the FPSS is not subject to inspection, however First 5 commits to extending EYEIs to younger children to complement the work of the Tusla Early Years Inspectorate.683 This is very positive – every child has a right to a quality service and the State remains accountable to young children of all ages for levels of quality. The DES is currently reviewing the EYEI model in order to amend it to facilitate its extension to all ECEC provision to children from birth to six years/primary school entry.684 The DES anticipates that an extensive consultation process and trial of this revised inspection framework will occur in 2019.685

The Education Action Plan 2016–2019 commits to 1,200 EYEIs over the period of the Plan;686

673 Communication received by the Children’s Rights Alliance from Tusla’s Early Years Inspectorate, 3 January 2019.
674 Tusla, Annual Report 2017 of Tusla Child and Family Agency’s Early Years Inspectorate (Tusla 2018) 22; Communication received by the Children’s Rights Alliance from Tusla’s Early Years Inspectorate, 3 January 2019.
675 Tusla, Annual Report 2017 of Tusla Child and Family Agency’s Early Years Inspectorate (Tusla 2018) 22.
676 ibid.
678 Pobal, Early Years Sector Profile Report 2017–2018 (Pobal 2018) 101. None of these staff were students or volunteers, had Grandparent Declarations, or were in the process of gaining a qualification of NFQ Level 5, as of May 2018. They were also not solely employed in SAC services and were obliged to have a minimum NFQ level 5 qualification under the Regulations.
681 Department of Education and Skills Inspectorate, A Review of the Early-Years Education-Focused Inspection April 2016–June 2017, Insights and Future Developments, (DES 2018) 7. Introduced in January 2010, the FPSS aims to provide early learning in a formal setting for children before they commence primary school. All children from two years eight months to five years six months/primary school entry, are now eligible for two full academic (78 weeks) years under the scheme. Early years inspections are carried out in accordance with the Education Act 1998 and are funded by the Department of Children and Youth Affairs.
682 ibid.
683 Communication received by the Children’s Rights Alliance from the Department of Children and Youth Affairs, 21 December 2018.
684 Communication received by the Children’s Rights Alliance from the Department of Education and Skills, 20 December 2018.
685 ibid.
1,889 had been conducted by 15 December 2018, 691 of these in 2018. 687 There are 1,248 inspection reports available online. 688

Early years education inspections are based on a quality assessment framework that incorporates the key elements of best practice in early education and care under four broad areas of quality: context and processes to support learning and development; children’s learning experiences and achievements; and management and leadership for learning. 689 The first national report of the inspections from the first full year of implementation was published in 2018. 688 The report expressed the view that settings provide a rich range of learning experiences and enjoyable, play-based opportunities, but recognised challenges such as the need for providers to work closely with parents and the potential for improving how providers use the national curriculum and quality frameworks, Aistear and Síolta. 691

A 2018 report, collating the findings of the 2017/2018 inspection reports, found that three quarters of settings provide a ‘very good’ or ‘excellent’ context for learning, less than half ‘excellent’ or ‘very good’ processes to support learning, two thirds were evaluated as having ‘very good’ or ‘excellent’ management and leadership; and the children in another two thirds of settings had ‘very good’ or ‘excellent’ quality learning experiences and achievements. 692 These findings suggest that the implementation of First 5’s quality improvement and assurance actions should be a priority in its first implementation plan due in 2019.

A revised Guide to Early Years Education Inspection (EYEI) was published in June 2018. 693 It includes a welcome improvement - the introduction of a Follow-Through Inspection model. This model evaluates how settings have implemented the actions advised in previous inspection reports. 694 In 2018, 35 EYEI ‘Follow Through Reports’ were published. 695

**Coordinating inspections:**

There are concerns that having two separate Inspectorates intensifies the ‘split’ within the ECEC system where services for three to six year olds are considered ‘early education’ and are subject to both Tusla and Department of Education and Skills inspections, while services for children under three are considered ‘childcare’ and are subject only to Tusla inspection. 696 Children under three also benefit from learning and development; the split means that the incentivisation and evaluation of educational quality is weaker for children under three. This creates the need for a transparent, two-way referral procedure between the two Inspectorates. 697

First 5 contains a necessary commitment to recognise ECEC provision on an equal footing and to ‘addressing the current disparity in approaches between provision for 0-3 and 3-6 year olds’. 698 It specifies steps to ‘integrate and coordinate inspection and quality supports … building on existing practice between the Inspectorates and Better Start National Quality Development Service’. 699 First 5 also commits to establishing formal mechanisms to align and coordinate the policy, practice and implementation work of the Departments of Children and Youth Affairs, and Education and Skills, in respect of early learning and care, commencing with a joint Memorandum of Understanding. 700

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687 Communication received by the Children’s Rights Alliance from the Department of Education and Skills, 20 December 2018. There are 17 full-time equivalent early education inspectors.

688 ibid.

689 Department of Education and Skills, Guide To Early Years Education Inspection (EYEI) (DES 2018) 16.

690 Department of Education and Skills Inspectorate, A Review of the Early-Years Education-Focused Inspection April 2016–June 2017, Insights and Future Developments, (DES 2018). The report aims to provide composite findings from an analysis of inspection reports prepared by the DES Inspectorate under the four areas of quality. The report does not provide any quantitative data on levels of quality as assessed using the five quality grades, instead providing a general overview of findings.

691 ibid 14.

692 Prevention and Early Intervention Unit, Early Learning and Childcare – Focused Policy Assessment No. 5 (Department of Public Expenditure and Reform 2018) 34-35. The EYEIs do not include a quality threshold, therefore the Prevention and Early Intervention Unit in the Department of Public Expenditure and Reform adopted a threshold of at least ‘very good’.

693 Department of Education and Skills, Guide To Early Years Education Inspection (EYEI) (DES 2018).

694 ibid 8. The model supports the State’s accountability for quality achievement by services and supports quality improvement and the recognition of quality educational practice.

695 Communication received by the Children’s Rights Alliance from the Department of Education and Skills, 20 December 2018.


699 ibid 108.

700 ibid 154.
Pobal data indicates that in May 2018, 309 staff members working directly with children did not meet the minimum qualification requirement. This must be addressed as minimum qualification levels are a foundation for children being provided with a quality service.
In the meantime, the DCYA and the DES are working to coordinate the development and delivery of ECEC inspection, audit and mentoring functions through a high-level Operations and Systems Alignment Group (OSAG) and memoranda of understanding. The MoU will also provide for communication and collaboration in relation to inspection planning and is expected to be in place in early 2019.

Quality Audit of Free Pre-school Scheme and Funding Withdrawal:

A Programme for a Partnership Government included a commitment to develop and implement a single ECEC quality audit tool. Periodic quality audits of ECEC provision were first recommended in 2015 and funding was allocated in Budget 2016. The proposed audit was due to develop and implement measurement instruments to assess the quality of a representative sample of Tusla-registered ECEC services to provide a baseline for the subsequent assessment of the impact of quality-raising measures. A procurement process did not result in the award of a tender as no bids met the Department’s requirements.

First 5 recommits to develop measurement tools to assess the quality of early childhood services commencing with a tool to measure and monitor the quality of practice in ECEC settings. First 5 also commits to develop ‘a compliance framework and financial guidelines to underpin public funding in ECEC and school-age childcare, with an agreed mechanism to withdraw funding from settings that do not meet contractual requirements’ such as quality. These commitments are welcome because no child should be in a low quality service, and such services should not receive public funding.

701 Communication received by the Children’s Rights Alliance from the Department of Children and Youth Affairs, 1 December 2017. The OSAG is led by the Department of Children and Youth Affairs and comprises representatives from the Department of Education and Skills Inspectorate, Tusla’s Early Years Inspectorate, Pobal, and the Better Start National Quality Development Service, managed by Pobal on behalf of the Department of Children and Youth Affairs.

702 Memoranda of Understanding (MoU) were signed in 2018 to support coordination between the DES Inspectorate and Tusla’s Early Years Inspectorate, as well as between Tusla’s Inspectorate and Better Start Quality Development Service. Communication received by the Children’s Rights Alliance from the Department of Children and Youth Affairs, 21 December 2018.

703 Communication received by the Children’s Rights Alliance from the Department of Education and Skills, 20 December 2018 and Communication received by the Children’s Rights Alliance from the Department of Children and Youth Affairs, 21 December 2018. The first event to encourage integrated working between the inspectorates occurred in 2018. This MoU, which is expected to be signed in early 2019, will clarify the roles and responsibilities of both the DES and the DCYA in relation to early learning and care.

704 The Programme for Partnership Government commits to ‘review and assess the quality of the first pre-school year’.

705 Children’s Rights Alliance, Report Card 2018 (Children’s Rights Alliance 2018) 95. The Programme for a Partnership Government commitment states that the audit was of services for children in the FPSS only, but the DCYA extended its remit to include all registered ECEC settings.


707 ibid.

708 Communication received by the Children’s Rights Alliance from the Department of Children and Youth Affairs, 21 December 2018.

Quality in Early Childhood Education and Care
Immediate Actions for 2019

Tusla’s Early Years Inspectorate could continue to focus on inspecting and demanding improvements on the standards in relation to the health, safety and welfare of children.

To ensure that Tusla can complete its inspection work, the Department of Children and Youth Affairs should fund and support improvements to services in 2019.

Prioritise the procurement of the ECEC quality audit tool and its implementation in 2019.

A quality audit would help to provide a picture of the quality of children’s experiences in ECEC settings which is not afforded by the current dual inspection regime. The audit should be progressed in 2019.

Prioritise First 5 actions that improve the integration and coordination of inspection regimes and quality supports for ECEC for all children from birth to primary school entry, alongside actions that improve the quality of services.

These actions should be prioritised under the forthcoming three-year First 5 implementation plan.
5.2 Subsidised and School-Age Childcare

Government Commitment

A Programme for a Partnership
Government commits to:
Introduce subsidised high-quality childcare for children aged nine to 36 months, continue to support subsidised childcare places, and streamline existing schemes to make them more accessible.  
Progress: Steady

Introduce a new system to support and expand quality after-school care for school-age children.  
Progress: Steady

'Subsidised and School-Age Childcare' receives a ‘C+’ grade in Report Card 2019, up from last year’s ‘C’ grade. The grade reflects the progress that has been made in delivering the legislative framework for the Affordable Childcare Scheme and the success of the interim September Measures in distributing larger sums of public subsidies to an increasing number of children. However, the Affordable Care Scheme has yet to be implemented and there is insufficient evidence of improved childcare service affordability for parents and access to services for children. The grade also reflects continued steady implementation of the School-Age Childcare Action Plan, particularly the speedy development of a regulatory framework.

The UN Convention on the Rights of the Child requires States to provide appropriate assistance to parents and guardians in relation to their child-rearing responsibilities.711 Children of working parents have the right to benefit from childcare services and facilities for which they are eligible.712 The UN Committee on the Rights of the Child calls on States to ensure that all young children are guaranteed access to appropriate and effective services, including programmes of health, care and education specifically designed to promote their well-being, paying particular attention to the most vulnerable groups of young children, including those experiencing poverty and those at risk of discrimination.713

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711 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 18(2) and (3).
712 Ibid Art 18(3).
Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014 – 2020 commits to remove barriers to employment through increasing the affordability of quality and accessible childcare and after-school services. It commits to improving children’s learning and development outcomes through increasing access to high-quality, affordable early years education, acknowledging the link between service affordability for parents and access for children. It further commits to lifting approximately 100,000 children out of consistent poverty by 2020. In 2018, almost 200,000 children accessed free or subsidised early years and school-age childcare.

Affordable Childcare Scheme:

In October 2016, the Minister for Children and Youth Affairs announced the establishment of the Affordable Childcare Scheme (ACS). The ACS will replace existing targeted subsidy schemes with a streamlined single subsidy scheme (excluding the Free Pre-School Scheme (FPSS)) and aims to provide a system of progressive financial support towards the cost of childcare. This subsidy is needed in Ireland because inequality of access to childcare is particularly pronounced. The participation rate for children in low-income families is just 12 per cent, less than a quarter of the participation rate for children from high-income families (57 per cent). In 2016, almost 40 per cent of parents that did not use formal childcare services for pre-school children cited financial reasons, the third highest rate in the EU. Almost 13 per cent of parents had ‘great difficulty’ affording formal childcare services, the fourth highest in the EU, while less than half found it ‘fairly easy’, ‘easy’, or ‘very easy’. Budget 2019 allocated €574 million to childcare, an 18 per cent increase on the previous year. Alongside funding the FPSS, Better Start Quality Development Service and the inspection regimes, the allocation will fund the introduction of the ACS. In addition, it would fund the increased income thresholds for high earners and the lower threshold which was increased from the original threshold of €22,700 to €26,000 net annual household income. These increases will mean that four out of five eligible families with children will benefit financially from the scheme. This is very welcome as it will allow more low-income families to benefit from the highest subsidy rates under the ACS, although it is notable that the original income threshold of €22,000 was never implemented.

The Childcare Support Act 2018 places the ACS on a statutory footing and was enacted in July 2018 and partially commenced by year’s end. The Act has a number of positive provisions, including a limit on

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715 ibid xiv.
717 Department of Children and Youth Affairs, ‘Budget 2017: Department of Children and Youth Affairs Statement by Dr Katherine Zappone, Minister for Children and Youth Affairs’ (DCYA, 11 October 2016) <http://bit.ly/2AuJbsl> accessed 24 January 2019. The new scheme will provide a universal childcare subsidy to parents of children between the ages of 24 weeks and 36 months (or up until the child qualifies for the ECEC programme, if later) and an income-related subsidy for children from 24 weeks to 15 years of age. The scheme will allow for childcare during term-time and holidays.
720 ibid.
721 ibid 18.
722 ibid 19.
724 ibid.
725 Minister for Children and Youth Affairs, Dr Katherine Zappone TD, Written Answers, Affordable Childcare Scheme, 20 September 2018 [37902/18].
participation in the Scheme to childcare providers that are registered with Tusla, the Child and Family Agency.\textsuperscript{726} This ensures that only regulated services subject to inspection under national regulations are included in the Scheme and there is a legal basis for sanctions, or even closure, should a service not meet minimum regulatory standards. The Act also includes quality enhancement through more rigorous contractual quality conditions and financial quality incentives,\textsuperscript{727} providing the Department of Children and Youth Affairs (DCYA) with a mechanism to make multi-annual investments to improve and maintain the quality of services.

The extent to which children will benefit from the targeted subsidy under the ACS will depend on their parents’ engagement in training and work. Parents in work or training could qualify for up to 40 hours targeted subsidy per week, compared with up to 15 hours per week for those who are not.\textsuperscript{728} The linking of the targeted subsidy to parental hours of work or training could potentially limit the benefits of early childhood care and education (ECEC) and school-age childcare services for children if they cannot access the level of subsidy they need. However, the Act provides a flexible access route to subsidies for named groups of vulnerable children by permitting the Minister for Children and Youth Affairs to enter agreements with five named statutory agencies to refer and sponsor children for subsidies on, for example, child welfare or family support grounds, or to support homeless or asylum-seeking families to access education and integration supports.\textsuperscript{729} It is important that these agreements are flexible and child- and family-centred, and that the Department and the agencies are allocated the necessary funding to deliver on the ACS’s objectives to reduce child poverty and improve child outcomes.

It is expected that the regulations underpinning the operation of the ACS will be published and applications for the Scheme will open in October 2019.\textsuperscript{730} To counter the delay in implementing the ACS, the Government introduced the ‘September Measures’, to provide a ‘level of subsidy’ to make childcare ‘more affordable’ for parents.\textsuperscript{731} 72,546 children benefitted from universal

\begin{footnotesize}
\begin{enumerate}
\item Childcare Support Act 2018, s 1.
\item Minister for Children and Youth Affairs, Dr Katherine Zappone TD, Seanad Éireann debate, Childcare Support Bill 2017: Second Stage, 18 April 2018.
\item Childcare Support Act 2018, s 14 and Schedule 2.
\item Communication received by the Children’s Rights Alliance from the Department of Children and Youth Affairs, 20 December 2018.
\item Department of Children and Youth Affairs, ‘Government announces plans for the delivery of more affordable childcare
\end{enumerate}
\end{footnotesize}
universal subsidy in 2017/2018. This disparity may reflect that a substantial number of childcare services do not offer services to babies and young children despite the availability of the universal subsidy. The extent to which the subsidies have reduced childcare costs for parents may vary based on a variety of factors such as the rising costs in childcare fees and the fact that the fees charged by childcare providers vary by service type, level of area deprivation and by location (county and rural/urban). The Department of Children and Youth Affairs has indicated that an expected reduction in childcare costs for parents.

More than 29,000 children of less than three years of age attended ECEC settings and benefited from the Universal Childcare Subsidy from January to December 2018, an increase on the previous year. However, eligibility for subsidies does not guarantee access to services because only half of the 4,435 Tusla registered nationally services operated the

and targeted subsidies through these measures in the programme year from January to December 2018. An additional allocation of €34 million was made available in Budget 2019 to respond to the increased demand for the interim schemes. The September Measures will remain in place until the end of the next programme year. At the end of 2018, there was not one single streamlined childcare subsidy programme.

Funding on Childcare Subsidies by Department of Children and Youth Affairs

<table>
<thead>
<tr>
<th>Allocated</th>
<th>2016</th>
<th>2017</th>
<th>2018</th>
<th>2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Funding to childcare subsidies (millions)</td>
<td>€86.8m</td>
<td>€91m</td>
<td>€90m</td>
<td>€121.1m</td>
</tr>
<tr>
<td>Number of children</td>
<td>31,000</td>
<td>65,000</td>
<td>72,546</td>
<td>72,500</td>
</tr>
</tbody>
</table>


In 2018, the average cost of childcare services for parents rose for the second time in six years. The total average increase over 2016/2017 and 2017/2018 is €10.89 per week. Published administrative data provides average fees, and does not capture variations in fees or outlier fees – having this data would provide a more rounded picture of the extent to which the September Measures have met the goal of reducing childcare costs for parents. Second, fees charged by childcare providers vary by service type, level of area deprivation and by location (county and rural/urban). The Department of Children and Youth Affairs has indicated that an


732 Communication received by the Children’s Rights Alliance from Pobal, 24 January 2019.

733 Communication to the Children’s Rights Alliance from the Department of Children and Youth Affairs, 6 February 2019.

734 Communication received by the Children’s Rights Alliance from the Department of Children and Youth Affairs, 20 December 2018.

735 Communication received by the Children’s Rights Alliance from Pobal, 24 January 2019.


737 Communication received by the Children’s Rights Alliance from the Tusla Early Years Inspectorate, 24 January 2019. Only 2,202 services operate the Universal Childcare Subsidy compared with 3,417 operating the income-based Community Childcare Subvention Programme in private and community childcare services in 2017/2018.


739 In 2018, the average cost of childcare services for parents rose for the second time in six years. The total average increase over 2016/2017 and 2017/2018 is €10.89 per week. Published administrative data provides average fees, and does not capture variations in fees or outlier fees – having this data would provide a more rounded picture of the extent to which the September Measures have met the goal of reducing childcare costs for parents. Second, fees charged by childcare providers vary by service type, level of area deprivation and by location (county and rural/urban). Pobal, Early Years Sector Profile Report 2017/2018 (Pobal 2018) 78.

in payments has been allocated to support childcare providers to undertake this extra work in administering public childcare subsidies for 2017, 2018 and 2019.

School-Age Childcare:

This Report Card series analyses the Government commitment to develop a school-age childcare system because four- and five-year-olds in primary school use these services. Ireland has the highest proportion of four-year-olds in primary school in the OECD at 31 per cent. The main purpose of school-age services is to care for children outside normal school hours, whereas the purpose of ECEC is primarily educational and developmental. The overall number of children availing of school-age childcare (SAC) and the number of schools, community or youth services offering SAC is unknown. In 2017/18, 25,290 children availed of a DCYA-subsidised SAC place.

In line with its commitment in A Programme for a Partnership Government to introduce a new system of quality afterschool care for SAC, the DCYA and the Department of Education and Skills (DES) jointly published the Action Plan on School-Age Childcare in March 2017. The Action Plan is Ireland’s first policy on...
The Government will need to make significant year-on-year investments directly into services to ensure that introducing fee control does not lead to low quality services for children.
services during term-time and during school holiday periods. It commits to the development of quality standards and a quality assurance system for SAC services and the development of a SAC qualification for practitioners. It considers the issue of capital grants to expand the supply of SAC places and the funding of transport from schools to SAC services and recommends maximising the use of schools and other existing community facilities for the provision of SAC services ‘where demand exists and where it can be facilitated by the school patron/ trustees’.

The Action Plan anticipated that the development and implementation of non-regulatory SAC quality standards would precede regulations. However, in order to provide a legal basis for SAC settings to operate the ACS, regulations are being introduced in a two-stage process. Initial regulations, the Child Care Act 1991 (Early Years Services) (Registration of School Age Services) Regulations 2018, were published in December 2018, and will be commenced on 18 February 2019, allowing services to apply to register with Tusla from this date. Comprehensive SAC regulations are expected to replace these initial regulations and will be developed over 2019. The draft quality standards developed by the DCYA’s Working Group on Quality Standards over 2017/2018 will be finalised in 2019, and include standards on include leadership, governance and service management as well as a programme of activities for SAC settings. In Budget 2019, €0.45m was allocated to the Tusla Early Years Inspectorate to begin registration which is a good strategy to mainstream, regulate and support these services. Non-regulatory quality standards developed in 2017/2018 by a DCYA Working Group will be progressed in 2019.

The additional SAC funding, announced by the Minister for Children and Youth Affairs in June 2018, is welcome. The funding aims to increase capacity for SAC provision, through the establishment of new services and the expansion or improvement of existing services. It provided €0.76m for new places and €0.25m for essential maintenance and repair. Through this funding, 807 new SAC places were created.

The National Development Plan 2018-2027 allocated €156 million to the DCYA in capital investment from 2018 to 2022 including €32 million for 2019. This investment provides the Government with an opportunity to assess and forecast the demand for quality SAC and ECEC services and the capacity in these sectors to meet demand. It also serves to address under- and over-supply in communities around the country through existing public and private facilities and new builds. To provide truly accessible ECEC and SAC for children, along with childcare subsidies, places must be available in high-quality services close to families’ home or within easy access of transport links.

First commits to a new funding model for ECEC and SAC which will result in a rise in quality over the lifetime of the Strategy as investment increases, meaning that how the State subsidises and invests in ECEC and SAC services will enter a new phase of development, beyond that initially envisaged in A Programme for a Partnership Government.

excluding the weekends. The same children attend the service on a regular basis and access to the service is clearly defined by agreement with parents/guardians. The main purpose of the service is to promote children’s holistic development and to care for children where their parents are unavailable.’

754 Department of Children and Youth Affairs and Department of Education and Skills, Action Plan on School-Age Childcare (DCYA/DES 2017) 4.
755 ibid. 6-9.
757 Toby Wolfe, Presentation to the National Childhood Network, Seminar on School-Age Childcare 17 November 2018, Unpublished.
758 Child Care Act 1991 (Early Years Services) (Registration of School Age Services) Regulations 2018 (S.I. No. 575/2018).
761 Toby Wolfe, Presentation to the National Childhood Network, Seminar on School-Age Childcare 17 November 2018, Unpublished.
762 ibid.
Subsidised and School-Age Childcare Immediate Actions for 2019

Continue to increase investment in high quality ECEC and SAC services in 2019, through the Affordable Childcare Scheme and the National Development Plan.

There should be a clear funding line to implement provisions in the Childcare Support Act 2018 relating to vulnerable children to deliver its potential as a prevention and early intervention measure.

Using the revised funding model promised under First 5, evaluate the current funding model and develop a model that adequately recognises the costs of providing high-quality, accessible services to children and young people, that are affordable to and valued by parents and communities.

The funding model should also invest in a professional, socially-valued early years workforce and develop well-planned, sustainable ECEC and SAC services.

Develop more comprehensive SAC regulatory standards in 2019.

The second set of school-age regulatory standards should support SAC services and improve their quality.
‘Childminding’ receives a ‘C’ grade in Report Card 2019, an improvement on last year’s ‘D’ grade. The increase in the grade reflects the publication of the report and recommendations of the Working Group on Reforms and Supports for the Childminding Sector and the fact that only Tusla-registered childminders can participate in the Affordable Childcare Scheme. However, the childminding action plan was not delivered in 2018 as promised and the sector remains largely unchanged with the vast majority of childminders unregistered and unregulated.

Young children receiving care and education services in the homes of childminders have the same rights under the UN Convention on the Rights of the Child as children receiving centre-based services, including the right to services that conform to quality standards.770 Noting that young children form strong emotional attachments to their parents or other caregivers from whom they seek and require nurturance, care, guidance and protection,771 the UN Committee calls on all non-state providers of services (whether for-profit and non-profit) to respect the principles and provisions of the UN Convention. The Committee reminds States of their primary obligation to ensure implementation of the Convention, their responsibility for service

771 ibid para 5.
provision for early childhood development,772 and their obligation to monitor and regulate the quality of non-state provision to ensure that children’s rights are protected and their best interests served.773

Reforming Childminding:

A childminder is a self-employed person who provides a childminding service.774 The Child Care Act 1991 (Early Years Services) Regulations 2016 and the Child Care 1991 (Early Years Services) (Registration of School Age Services) Regulations 2018 define a childminding service as a pre-school service/school-age service offered by a person who single-handedly takes care of pre-school/school-age children775 in the childminder’s home, for more than two hours per day, except where exemptions apply.776 Only childminding services catering for four or more pre-school children, who are unrelated to each other are subject to the 2016 Regulations and are required to register with Tusla.777 In 2018, to avoid the premature registration of childminding services that are currently exempt, the Child Care Act 1991 was amended to ensure that childminders caring for a specific number of school-age children do not fall within the scope of new school-age childcare regulations.778 In order to be exempt from registration with Tusla, the maximum number of children a childminder can care for at any one time is six (other than their own children) with no more than three children of pre-school age.779 The exemptions mean that children are receiving a service in private homes, paid for by their parents, and child safety and the quality of the service is neither regulated nor monitored.

The exemptions and the overall lack of regulation and state oversight of the sector also mean that there are no accurate data, only estimates, on the numbers of childminding services in Ireland and of children availing of services. The Department of Children and Youth Affairs estimates that there are 35,000 childminding services caring for an estimated 88,000 children.780 In a 2016 survey, parents indicated that 10 per cent of children aged 12 years and under were cared for by childminder, au pair or nanny services.781 At the end of 2018, 106 childminders were Tusla-registered782 and Tusla is of the view that a significant number of paid childminders who are not exempt from regulation remain unregistered.783

To date, there has not been a national strategy dedicated to the development of these services to children and families. In September 2016, the Department of Children and Youth Affairs established a Working Group on Reforms and Supports for the Childminding Sector, ‘Pathway to a quality support and assurance system for childminding, Volume 1: Summary report of the Working Group on reforms and supports for the childminding sector’ <https://bit.ly/2sHd56f> accessed 29 November 2018, 16.

772 ibid para 32.
773 ibid.
775 A pre-school child is defined in the Child Care Act 1991 (Early Years Services) Regulations 2016 (SI No. 221/2016) as a child who is under six years of age and who is not attending primary school. The childminder’s own children may be included.
776 Section 58 of the Child Care Act 1991 exempts childminders taking care of one or more pre-school child who is related to the child or the spouse of a relative; where the child or children being cared for are in the same family other than the childminder’s own children and a childminder taking care of not more than three pre-school children from different families other than their own children. The Child Care 1991 (Early Years Services) (Registration of School Age Services) Regulations 2018 exempts childminders caring for not more than six children (other than childminder’s own children) at the same time and not more than three of these children can be of pre-school age. For example, a childminder can care for three pre-school and three school-age children at the same time, or five school-age and one pre-school child at the same time, without having to register with Tusla. Department of Children and Youth Affairs, ‘Child Care 1991 (Early Years Services) (Registration of School Age Services) Regulations 2018 – Frequently Asked Questions’ <https://bit.ly/2Tbr5Ay> accessed 7 January 2019.
777 Child Care Act 1991 (Early Years Services) Regulations 2016, Statutory Instrument (SI No 221) Regulation 12.
778 Select Committee on Children and Youth Affairs, Childcare Support Bill: Minister for Children and Youth Affairs, 27 February 2018.
Children’s Rights Alliance, Report Card 2019

784 The Working Group was chaired by Childminding Ireland, a membership-based organisation representing childminders and comprised Tusla, Pobal, Department of Children and Youth Affairs, Childcare Committees Ireland, Children’s Rights Alliance, the National Childcare Voluntary Collaborative and Better Start.
788 Communication received by the Children’s Rights Alliance from the Department of Children and Youth Affairs, 21 December 2018.

In Budget 2019, the Minister for Children and Youth Affairs allocated €0.5m to develop a team of Childminding Support Officers to support the registration of childminders with Tusla and to help them upskill to meet required regulatory standards, which will be introduced in the coming years. All of these commitments are positive: they potentially support the implementation of the Working Group recommendations on the initial minimum regulatory standards for childminders under a reformed model. Further investment and resources are required to fully deliver reform.

First 5: A Whole-of-Government Strategy for Babies, Young Children and their Families 2019-2028 was published in November 2018. Childminding is central to the reform of the Early Childhood Education and Care (ECEC) system under the Strategy, specifically the extension of regulations and supports to all paid childminders. Publication of the proposed Action Plan for Childminding is expected in early 2019 with the aim of progressing wider regulation and support for childminders.

Parents may only use Tusla-registered services to avail of the childcare subsidies provided under the ‘September Measures’ or interim measures in place since September 2017 in advance of the full implementation of the Affordable Childcare Scheme (ACS). The Childcare Support Act 2018 also limits participation in the ACS to childcare services - both ECEC and school-age - that are registered with Tusla. This policy is welcome from a child’s rights perspective. Public monies should not be used to fund childcare that is of unknown quality and is not subject to regulation and inspection. The ACS offers a significant incentive to encourage childminders to register and the opportunity to receive support to improve the quality of their services.

By registering with Tusla, childminders are open to periodic inspection by Tusla’s Early Years Inspectorate.

791 ibid 11.
792 Communication received by the Children’s Rights Alliance from the Department of Children and Youth Affairs, 20 December 2018.
794 Childcare Support Act 2018, s 1.
2016 data on the childcare use and preferences of parents in Ireland show that 10% of children aged 12 years and under were cared for by childminder, au pair or nanny services. This equates to approximately 88,000 children.
In Tusla’s analysis of 1,563 inspections carried out in 2017, only 40 were registered childminding services. Of these, 83 per cent were found to comply with the regulations assessed, however the report acknowledged the very low level of data relating to childminding services. Notably childminders are not named as mandated persons with a legal obligation to report child protection concerns to Tusla under the Children First Act 2015. However, registered childminders are required to have a Child Safeguarding Statement. While some unregistered childminders voluntarily undertake Children First child protection training there is no onus on them to do so.

Childminders have highlighted that key components in the national regulatory standards for ECEC services are not suitable to a home-based environment as they were designed for centre-based childcare services. For example standards relating to premises and space, and to nappy changing and sleeping requirements are very different in both settings. In a consultation to inform the work of the Childminding Working Group, childminders cited the inappropriateness of the regulations as a disincentive to register with Tusla, and expressed a wish for specific childminding standards regulations tailored to the home-based context.

The Department of Children and Youth Affairs has committed to develop appropriate regulatory standards, with the Tusla’s Early Years Inspectorate as regulator, on foot of the Childminding Working Group’s recommendation. In September 2018, Tusla’s Early Years Inspectorate published a document outlining its interpretation of the requirements for childminders’ compliance with the Child Care Act 1991 (Early Years Services) Regulations 2016 for pre-school children as part of the new Quality and Regulatory Framework (QRF) with input from Childminding Ireland. The accessible interpretation of the 2016 Regulations specifically for childminding services, coupled with the dedicated funding in Budget 2019 to support the registration of childminders with Tusla, are two positive steps to encourage childminding services to register with Tusla. Furthermore, the commitment in First 5 to conduct a review of the 2016 Regulations and the accompanying QRF in light of different settings including home-based settings, to ensure proportionate regulation, is welcome.

The Working Group on Childminding identified an insufficiency of national supports for childminders to improve the quality of their services. The childminding sector requires radical reform and State recognition to ensure that it is properly regulated and supported. The childminding action plan should recognise, support and promote the important contributions that childminders can make to children’s learning and development outcomes.

The action plan on childminding is due to be published in early 2019. This plan is essential to ensure progress in terms of regulating the childminding sector and providing the supports necessary to improve and assure quality services for children.

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796 ibid 23.
799 ibid, 26.
Childminding
Immediate Actions for 2019

Publish the action plan on childminding as a matter of urgency in 2019 to ensure the gradual reform and support of the childminding sector.

The Government should publish the proposed action plan on childminding to reform and support the sector. The plan must address issues of investment, quality, regulation and inspection. The plan should also address the issue of supporting childminders to improve their facilities and practices to meet appropriate minimum regulatory standards and quality standards.

Prioritise the regulation and registration of childminding services in the First 5 implementation plan due by May 2019.

The amendment made to the Child Care Act 1991 exempting many childminders from regulation and registration could further weaken children’s right to safe, quality services if childminding regulation is not prioritised.

Provide adequate resources to Tusla’s Early Years Inspectorate to support the registration of childminders and conduct early years inspections.

To ensure that Tusla can manage any increase in childminding registrations, financial and personnel resources should be made available. The Early Years Inspectorate will also require adequate resources to meet demand and ensure oversight of the services.
6
Right to Equality
Every child has the right to equal treatment, without discrimination of any kind, irrespective of the race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status of the child or the child’s parents or guardian.

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

Chapter Grade:

C

BeLonG To @BeLonG_To

“When I came out, I didn’t envision that 2 years later I would be sitting at a table drafting Government policy that will have a profound impact on the lives of young LGBT people across the country.” Ayrton Kelly talks his involvement as a Youth Advisor with the #LGBTYouthStrat
6.1 Traveller and Roma Children

Government Commitment

A Programme for a Partnership

Government commits to:

- Publish a revised National Traveller and Roma Inclusion Strategy.

Progress: Published

“Traveller and Roma Children” is awarded a ‘D-’ grade in Report Card 2019, a slight decrease on last year’s ‘D+’ grade. This grade reflects serious concerns regarding the continued underspend of local authorities on Traveller specific accommodation in light of the increased number of Traveller families experiencing homelessness and overcrowding. There has been welcome progress on a number of actions contained in the National Traveller and Roma Inclusion Strategy but the absence of an implementation plan remains a concern. The publication of the National Roma Needs Assessment is a very welcome development however given the serious poverty and marginalisation depicted in the assessment, it is important that the recommendations are resourced and implemented as a matter of priority.

Every child has the right to live free from discrimination on any ground irrespective of the race, ethnic or social origin or other status of the child or their parent or guardian806 and they have the right to life, survival and development.807 In addition, children in ethnic, religious or linguistic minorities or of indigenous origin must not be denied the right to enjoy their own culture, religion or language.808 All children have the right to an adequate standard of living which allows them to develop fully – physically, mentally, spiritually, morally and socially.809 The State must take

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807 ibid Art 6.
808 ibid Art 30.
809 ibid Art 27.
measures, using its maximum available resources, to ensure this adequate standard of living for all children\textsuperscript{810}, including children from ethnic minorities.

The State must identify gaps and barriers and take positive measures, through legislation, resource allocation, policies and programmes, to address existing and potential discrimination against indigenous children.\textsuperscript{811} In 2016, the UN Committee on the Rights of the Child made particular recommendations to Ireland in relation to Traveller and Roma children across a range of areas including discrimination,\textsuperscript{812} adequate standard of living\textsuperscript{813} and health.\textsuperscript{814} The Committee also highlighted the lack of a human rights basis for the implementation of the former National Traveller and Roma Integration Strategy and inadequate consultations with the Traveller and Roma community in relation to the strategy.\textsuperscript{815}

\textit{Better Outcomes, Brighter Futures, The National Policy Framework for Children and Young people (2014-2020)} recognises the particular challenges and obstacles faced by Traveller and Roma children and young people.\textsuperscript{816} Through \textit{Better Outcomes, Brighter Futures}, the Government commits to implement and monitor the former National Traveller and Roma Integration Strategy, with a particular focus on Traveller accommodation and the engagement of Roma children in education.\textsuperscript{817} It also commits to tackle health inequalities,\textsuperscript{818} strengthen social inclusion measures,\textsuperscript{819} renew efforts towards improving educational outcomes for Travellers and Roma\textsuperscript{820} and reduce discrimination and intolerance experienced by marginalised groups.\textsuperscript{821}

Census 2016 indicated that 30,987 people identified as Irish Travellers representing a five per cent increase since 2011.\textsuperscript{822} In 2016 half of the Traveller population were under the age of 19.\textsuperscript{823} There is limited data available on the size of the

\begin{table}[h]
\centering
\begin{tabular}{ccccc}
\hline
 & \textbf{0-4 years} & \textbf{5-9 years} & \textbf{10-14 years} & \textbf{15-19 years} & \textbf{Traveller population over 19 years} \\
\hline
\textbf{2016} & 4317 & 4318 & 3678 & 3074 & 15600 \\
\textbf{2011} & 4676 & 3095 & 3554 & 3279 & 14891 \\
\hline
\end{tabular}
\caption{Irish Traveller Population Census 2011 and 2016}
\end{table}

\textsuperscript{810} ibid Art 4.
\textsuperscript{811} UNCRC ‘General Comment No. 11 Indigenous children and their rights under the Convention’ (2009) UN Doc CRC/C/GC/11 para 26.
\textsuperscript{812} UNCRC ‘Concluding Observations: Ireland’ (2016) UN Doc CRC/C/IRL/CO/3-4 para 28(a).
\textsuperscript{813} ibid para 60.
\textsuperscript{814} ibid para 50, 52(a).
\textsuperscript{815} ibid para 69.
\textsuperscript{817} ibid Commitment 4.19.
\textsuperscript{818} ibid Commitment 1.4.
\textsuperscript{819} ibid Commitment 2.22.
\textsuperscript{820} ibid.
\textsuperscript{821} ibid Commitment 5.6.
\textsuperscript{823} ibid.
Roma population in Ireland but it is estimated to be around 5,000. The National Roma Needs Assessment, commissioned by the Department of Justice and Equality (DJE) in 2015, on foot of a Logan Report recommendation, was published in 2018. The Needs Assessment found that members of the Roma community face high levels of discrimination, marginalisation, extreme poverty and social exclusion.

It also found that some Roma children live in overcrowded housing with rats, damp and sewerage. Respondents reported that they did not have basic supplies for new-born babies and that children are going to school hungry and without lunch. Almost 18 per cent of respondents reported begging as their main source of income while 14 per cent had no income at all. Fifty per cent of households with children reported that they did not always have enough food. The Needs Assessment noted that living in poverty often gave rise to mistrust of service providers as Roma families fear that their children may be taken into state care.

It is welcome that the DJE has prioritised the areas of social inclusion and employment in the Needs Assessment. Six Roma Inclusion projects have been awarded total annual funding of €200,000 from 2018 to 2020. In 2019 and 2020, the Department will award funding of €500,000 for seven projects to generate employment for the Roma community.

The updated NTRIS was published in June 2017. It is organised under 10 strategic themes including a specific theme on children and young people. It contains 149 actions that have ‘the potential to improve the situation of Travellers and Roma in Ireland, if implemented’. The NTRIS Steering Group is tasked with the development and oversight of the implementation of the actions outlined in the Strategy. In 2018, progress was made on 140 of the actions. However, to effectively monitor and evaluate the implementation of the Strategy, impact indicators and consultation with Traveller and Roma representatives on the Steering Group are required. Three sub-committees have been tasked with examining and reporting on the need for the collection of data disaggregated by ethnicity across services; the use of mediation in relation to feuds; and the retention of Traveller and Roma children in the education system. Traveller and Roma representatives on the Steering group have requested government departments and agencies to identify three to five key priorities for 2019 and these will make up the 2019 implementation plan.

The NTRIS and the Roma Needs Assessment identify a number of challenges facing Traveller and Roma children and young people including in the areas of discrimination, education and health. This year’s Report Card will focus on education and housing.

Education:

Travellers and Roma experience high levels of educational disadvantage and the focus on school completion in NTRIS is important. It includes 31

824 Hilary Harmon, Irish Traveller and Roma Children, Shadow Report, A response to Ireland’s Consolidated Third and Fourth Report to the UN Committee on the Rights of the Child (Pavee Point 2015) 22; Pavee Point, Roma Communities in Ireland: Child Protection Considerations (Pavee Point, 2014) 11. No separate question exists on the Census form to capture this cohort of the population.


828 ibid 10.

829 ibid 62.

830 ibid.

831 ibid.

832 ibid.

833 Communication received by the Children’s Rights Alliance from the Department of Justice and Equality (DJE), 10 January 2019 and 4 February 2019.

834 ibid.

835 ibid and 4 February 2019.


838 Minister of State with responsibility for Equality, Integration and Immigration, David Stanton TD, Written Answers, National Traveller-Roma Integration Strategy, 5 July 2018 [29665/18].

839 Communication received by the Children’s Rights Alliance from the DJE, 10 January 2018.


841 Traveller and Roma representatives on the Steering Group have requested government departments and agencies to identify three to five key priorities for 2019 and these will make up the 2019 implementation plan.

842 Communications received by the Children’s Rights Alliance from the DJE, 10 January 2019 and 4 February 2019.
education-related actions for Traveller and Roma children. School completion rates have significantly improved for Traveller children but remain significantly lower than the general population, as Traveller boys are four times as likely to leave school at primary level as the general population. The Needs Assessment found that respondents viewed education as a positive opportunity for their children and parents placed value on their child’s education. 78 per cent of Roma children attended primary school, while 37 per cent of children were in secondary school. Roma children face significant barriers in education including financial constraints yet many Roma families are not deemed eligible for Back to School Footwear and Clothing Allowance. The NTRIS commits to implement community-based supports to assist in the retention of Traveller and Roma children in the education system.

In March 2018, the sub-group on the retention of Traveller and Roma children in education proposed a pilot project to improve school attendance, participation and retention among children and young people in the Traveller and Roma communities. There has been significant and welcome progress on this cross-departmental pilot. Since March, the sub-group has met eight times and identified four pilot sites. Each pilot site will undertake a local needs assessment and subsequently develop an action plan to address need with departmental commitments made to appoint 16 dedicated staff members. All pilot sites are expected to be fully operational by quarter three of 2019.

Roma and Traveller children are significantly more likely to report being bullied and many report hiding their identity. Research on the effectiveness of anti-bullying procedures and guidelines, in consultation with Traveller and Roma representative groups, has been commissioned. The National Council for Curriculum and Assessment (NCCA) is reviewing the intercultural education guidelines in light of the recent recognition of Travellers as an ethnic minority, as well as conducting an audit of the place of Traveller culture and history in the current school curriculum.

In 2017 local authorities only spent €4.5 million out of a total budget of €9 million on Traveller accommodation.

In 2017 local authorities only spent €4.5 million out of a total budget of €9 million on Traveller accommodation.

Housing:

The number of Travellers living in temporary accommodation increased between 2011 and 2016 from 3,560 to 3,718 accounting for 12.2 per cent of all Travellers. The vast majority of Travellers live in local authority accommodation, with an increase of

845 ibid 83.
846 ibid 110 - 111.
847 ibid 111.
850 ibid. The pilot sites are Enniscorthy/Bunclody in Wexford; Tuam in Galway; North Dublin (Coolock, Ballymun, Finglas) and; South Dublin (Clondalkin, Tallaght).
851 Communication received by the Children’s Rights Alliance from Tusla, 24 December 2018.
852 ibid. These will include four Educational Welfare Officers, four Home School Community Liaison Officers and eight Education Workers from the Traveller and Roma communities.
853 ibid.
854 DCYA, State of the Nation’s Children.
856 Communication received by the Children’s Rights Alliance from the DES, 1 February 2019.
858 ibid.
93 families being accommodated by voluntary bodies with local authority assistance from 2016 to 2017.\textsuperscript{860} In 2017, 585 Traveller families lived in unauthorised halting sites, an increase of 49 families on the previous year.\textsuperscript{864} Overcrowding remains an issue for Irish Traveller households; 40 per cent live in overcrowded accommodation compared to less than six per cent of all households in the general population.\textsuperscript{862} Traveller families are more at risk of homelessness - while they make up less than one per cent of the population they make up nine per cent of the homeless population.\textsuperscript{863} They also face the highest levels of discrimination when accessing housing.\textsuperscript{864} It is estimated that half of the families referred to Garda stations where no emergency overnight accommodation is available are Travellers.\textsuperscript{865} Forced evictions over fire safety concerns, from both authorised and unauthorised halting sites, continue to be a threat.\textsuperscript{866}

Budget 2019 allocated €13 million to Traveller-specific accommodation, an increase of €1 million on the previous year.\textsuperscript{867} While the increase in funding for Traveller specific accommodation is welcome, in 2017 local authorities only spent half of the €9 million allocated to Traveller accommodation.\textsuperscript{868} Sanctions must be put in place for a failure to address the accommodation needs of Travellers.\textsuperscript{869}

The NTRIS highlights the role of the National Traveller Accommodation Consultative Committee (NTACC) in monitoring delivery of the commitments on accommodation informed by the \textit{Review of Funding}. The Minister of State with special responsibility for Housing and Urban Development, Damien English TD established the Traveller Accommodation Expert Group on foot of a recommendation by the NTACC. The group, chaired by David Joyce,\textsuperscript{870} will review the Traveller Accommodation Act 1998 and other relevant legislation which impacts the provision and delivery of accommodation to Travellers.\textsuperscript{871} The group met for the first time in October 2018 and has been asked to examine the best way of delivering Traveller accommodation and to develop key actions in the next six months.\textsuperscript{872}

The \textit{Needs Assessment} found that Roma face significant discrimination in accessing accommodation. The majority of interviewees lived in private rented accommodation while 13 per cent were renting from a local authority and six per cent were homeless.\textsuperscript{873} The living conditions for Roma were found to be very poor with many families living in overcrowded accommodation often without a tenancy agreement.\textsuperscript{874} Many Roma live in accommodation without basic facilities such as a kitchen, cooker, running water or heat.\textsuperscript{875} The \textit{Needs Assessment} reported that some families had their water turned off or fuses removed by landlords when their rent was overdue.\textsuperscript{876} The NTRIS does not include any objectives which specifically support the Roma community in relation to accommodation. Further research should be carried out to ascertain the housing situation of the Roma community.\textsuperscript{877}

\begin{itemize}
  \item \textsuperscript{861} ibid.
  \item \textsuperscript{863} Raffaele Grotti, Helen Russell, Eamonn Fahey & Bertrand Maître, \textit{Discrimination and Inequality in Housing in Ireland} (IHREC 2018) ix.
  \item \textsuperscript{864} ibid.
  \item \textsuperscript{865} Jack Power, ‘Half of families sleeping in Garda Stations are Travellers or Romanian’, The Irish Times, 13 August 2018.
  \item \textsuperscript{867} DHPLG, ‘Murphy welcomes increase of €725m in Housing, Planning and Local Government funding (+22%) under Budget 2019’, 9 October 2018 <https://bit.ly/2FYEH3> accessed 24 November 2018.
  \item \textsuperscript{868} Minister of State with special responsibility for Housing and Urban Development, Damien English TD, Dáil Debate, Traveller Accommodation, [26818/18], 20 June 2018.
  \item \textsuperscript{869} Representative groups consulted in the Independent Review stated that the Housing (Traveller Accommodation) Act 1998 should be reviewed to provide for sanctions, penalties or other measures of enforcement for local authorities who do not implement their own targets.
  \item \textsuperscript{870} David Joyce is a member of the Irish Human Rights and Equality Commission and a solicitor at Mercy Law Resource Centre.
  \item \textsuperscript{871} Joint Committee on Housing, Planning and Local Government Debate, Traveller Accommodation: Traveller Accommodation Expert Group, 6 November 2018.
  \item \textsuperscript{872} ibid.
  \item \textsuperscript{873} Pavee Point & DJE, \textit{Roma in Ireland: A National Needs Assessment} (Pavee Point 2018) 85 - 87.
  \item \textsuperscript{874} ibid 88-89.
  \item \textsuperscript{875} ibid 88.
  \item \textsuperscript{876} ibid.
  \item \textsuperscript{877} ibid 92.
\end{itemize}
Traveller and Roma Children
Immediate Actions for 2019

Develop and publish an implementation plan for the NTRIS and allocate the necessary resources for its implementation.

There has been some progress on the NTRIS actions in 2018. However, a clear implementation plan with indicators is required as a matter of urgency to ensure all of the Strategy’s objectives are fully implemented within the given timeframe. Traveller and Roma children should be consulted as part of the development of the implementation plan to ensure that their voices as ethnic minority groups are heard.

Review the NTRIS to incorporate the recommendations from the National Roma Needs Assessment.

Given the concerning levels of discrimination, poverty and marginalisation detailed in the Needs Assessment, the planned midterm review of the NTRIS, due to take place in 2019, provides an ideal opportunity for its recommendations to be incorporated into the wider Strategy.

Ensure the research commissioned on the effectiveness of anti-bullying procedures and guidelines is completed in 2019.

It is important that this research informs further actions to address identity bullying experienced by Traveller and Roma children and young people. They should be consulted as part of the research.

Publish the report of the Traveller Accommodation Expert Group as a matter of urgency.

To address the significant accommodation issues faced by Traveller families, the report and recommendations of the Expert Group should be published as a priority. A clear plan should be published detailing timelines and actions for implementation.
Refugee and Asylum-Seeking Children

Government Commitment

A Programme for a Partnership

Government commits to:

Offer safe haven for refugees under EU and UN resettlement and relocation programmes, while promoting the integration of refugees in our communities.

Progress: Some

Reform of the Direct Provision system, with particular focus on families and children.

Progress: Steady

‘Refugee and Asylum-Seeking Children’ receives a ‘C’ grade in Report Card 2019, an increase from last year’s ‘D+’ grade. While the Government has met its relocation target for Greece, it has not met resettlement commitments. The consultation on National Standards for the Direct Provision system is positive but the standards have not been published. From a children’s rights perspective, the transposition of the EU Recast Reception Conditions Directive into Irish law is a significant development ensuring that a child’s best interests is a primary consideration in relevant decisions on their accommodation and situation while in the protection process. A third increase in the Direct Provision payment to children is also positive.

Every child should be free to enjoy their rights without facing discrimination of any kind irrespective of their race, national or ethnic origin or other status. Children outside their country of origin seeking refugee protection are entitled to appropriate protection regardless of whether or not they are accompanied by their parents/guardians. The State must take steps

878 Under the EU’s emergency relocation scheme, asylum seekers with a high chance of a successful application are relocated from Greece and Italy to other Member States to have their applications processed and if successful, they will be granted refugee status in those Member States. The resettlement scheme provides legal and safe pathways for displaced persons in need of protection. The European Commission, ‘Relocation and Resettlement 13 June 2017’ <https://bit.ly/2tn3YG1> accessed 25 January 2019.


880 Ibid Art 22(1).
to facilitate family reunification where possible,881 but in cases where this is not possible, the State must give the same protection to the unaccompanied minor as it would to other children who are separated from their family882 or who are placed in state care.883 The child’s ethnic, religious, cultural and linguistic background must be considered when deciding what is best for that child.884 In 2016, the UN Committee on the Rights of the Child called on the State to bring its ‘asylum policy, procedures and practices into line with its international obligations’ and ensure asylum seeking and refugee children have the ‘same standards and access to support services as Irish children’.885

In December 2018, Ireland along with other world leaders adopted the UN Global Compact for Safe, Orderly and Regular Migration, the first global agreement on a common approach to international migration in all its forms.886 It recognises the need for a cooperative approach to optimise the benefits of migration, alongside addressing the risks and challenges of migration for individuals, communities and states.887

In July 2018, Minister for Justice and Equality, Charlie Flanagan TD, signed regulations888 transposing the EU Recast Reception Conditions Directive into Irish law.889 The Directive seeks to harmonise standards of reception conditions across the EU. The introduction of the right to work through the 2018 Regulations should have a positive effect on children living in Direct Provision as parental access to the labour market is a critical route out of poverty. A Direct Provision resident who has worked for a total of 12 weeks will have their income assessed, and dependent on the level of income their Direct Provision payment may be reduced or stopped890 and they may have to pay a contribution towards accommodation costs.891 However, children under the age of 18 will retain their Direct Provision payment even if their parents are working.892 Similarly no contribution from parents towards the costs of Direct Provision accommodation is required in respect of children living in Direct Provision.893

In addition, the regulations require that the best interests of the child is the primary consideration in decisions that impact on children including those made in relation to their accommodation and family situation.894 This means that the possibility of family unity, the child’s well-being and social development, safety and security considerations, including the risk of human trafficking, and their views in accordance with their age and maturity must be considered when making decisions about them.895

Irish Refugee Protection Programme (IRPP):

The latest figures show that there are 25.4 million refugees worldwide, 52 per cent of whom are...

881 ibid Art 22(2).
882 ibid.
883 ibid.
884 ibid Art 20(3).
887 ibid.
888 European Communities (Reception Conditions) Regulations 2018, SI 230/2018
890 European Communities (Reception Conditions) Regulations 2018, SI 230/2018, s 5(1).
891 ibid s 5(2).
892 ibid s 5(1).
894 ibid s 9(1).
895 ibid s 9(2).
Resettlement of Refugees in Ireland

<table>
<thead>
<tr>
<th>Commitment</th>
<th>2015-2017</th>
<th>2018</th>
<th>2019</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Actual number of people arrived</td>
<td>792</td>
<td>338</td>
<td>855</td>
<td>1,985</td>
</tr>
</tbody>
</table>

Source: Information received from the Department of Justice and Equality, 14 January 2019.

Despite a global increase in the numbers of people seeking international protection in 2017, the number of applications for international protection in the EU almost halved, falling from 1.3 million in 2016 to 650,000 in 2017. The UN High Commissioner for Refugees has calculated that the number of children seeking protection in Europe also decreased by 67 per cent in 2017. This is a result of an agreement between the EU and Turkey which reduced the number of refugees arriving in Greece by 96 per cent. An EU action plan to support Italy and reduce the number of refugees crossing the Central Mediterranean has resulted in a decrease in people entering the EU through that route.

As part of its IRPP resettlement commitments, the Government pledged to accept 1,040 programme refugees by 2017. The Government made subsequent commitments to resettle a further 600 refugees in 2018 and 2019 respectively. The 2018 resettlement figure of 338 includes 255 people who were selected as part of the initial pledge but whose arrival was delayed due to Ireland’s commitment to the EU Relocation mechanism from Greece. In light of this delay the Government has revised its overall resettlement commitment from 2,240 to 1,985. Ireland has fulfilled its relocation commitment. However, it has not met its resettlement commitments and the overall commitment has been revised downwards. The 2019 target to resettle 855 refugees must be met.

Unaccompanied Minors: In 2018, 5,400 unaccompanied children arrived by sea in Italy and Greece. Approximately 5,500 unaccompanied children are thought to have reached Spain in 2018. Children and young people travelling on their own are extremely vulnerable, many fall victim to abuse and violence, or are trafficked into sexual exploitation or forced labour. The Government committed to prioritise unaccompanied minors through the IRPP by relocating 20 unaccompanied minors from Greece and up to 200 unaccompanied minors from

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903 Communication received by the Children’s Rights Alliance from the DJE, 14 January 2019.
904 ibid.
905 ibid.
906 ibid.
907 ibid.
909 ibid. 26.
911 Minister for Children and Youth Affairs, Dr Katherine Zappone TD, Written Answers: Unaccompanied Minors and
France following the dismantling of the unofficial refugee camp in Calais in 2017.912 In a welcome development, Ireland committed to extending the unaccompanied minors programme in Greece and including Italy with the aim of accepting 60 unaccompanied minors in 2018/2019.913

Ireland was unable to meet its commitment to relocate 200 unaccompanied minors from France due to administrative difficulties on the French side and based on a lack of interest expressed by young people in being relocated to Ireland. Irish authorities identified 41 young people who have since been resettled in Ireland from France.914 The Calais Special Project finished its operations in 2018.915

Refugees accepted through the IRPP are accommodated in three Emergency Reception and Orientation Centres (EROC)916 where they spend an average of 10 months.917 The initial resettlement timescale anticipated by the Department of Justice and Equality (DJE) was three to four months.918

› Children in Direct Provision:

The 2015 Final Report of the Working Group on Improvements to the Protection Process including Direct Provision and Supports to Asylum Seekers, also known as the McMahon report, made 173 recommendations.919

In 2018, there were 38 Direct Provision accommodation centres nationwide. Of the 5,997 people in Direct Provision, 1,724 are under 18.920 The number of available spaces in the Direct Provision system has steadily decreased resulting in the accommodation of 300 asylum seekers including 44 children, in commercial hotels outside of the Direct Provision system.921 Six Direct Provision centres are accommodating more residents than their contracted capacity,922 reflective of the significant strain placed on the system. In December 2018, 12 per cent of the people residing in Direct Provision, over 700 people,

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### Unaccompanied Minors Arrived in Ireland

<table>
<thead>
<tr>
<th></th>
<th>Actual number of arrivals 2015-2017</th>
<th>Actual number of arrivals in 2018</th>
<th>Number of people due to arrive in 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Greece</td>
<td>6</td>
<td>0</td>
<td>36</td>
</tr>
<tr>
<td>Calais</td>
<td>30</td>
<td>11</td>
<td>0</td>
</tr>
<tr>
<td>Malta</td>
<td>0</td>
<td>0</td>
<td>5</td>
</tr>
</tbody>
</table>

Source: Information received from the Department of Justice and Equality. 14 January 2019.

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918 Minister for Education and Skills, Richard Bruton TD, Written Answers, Education Schemes, 21 November 2017 [48910/17].
919 DJE, Working Group to Report to Government Working Group on the Protection Process on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers (2015). The Working Group was established by the Government in October 2014 and was chaired by former High Court Judge, Dr Bryan McMahon. It comprised a number of representatives from government departments, agencies and non-governmental organisations.
920 Communication received by the Children’s Rights Alliance from the DJE, 24 January 2018
921 ibid
922 ibid
have permission to remain in Ireland but cannot move out due to challenges in accessing accommodation.923

Budget 2019 increased the rate of the weekly Direct Provision allowance for children, increasing it from €21.60 to €29.80 in line with the McMahon Report recommendation.924 This is a positive measure and was the third increase in less than three years to the payment. A review should be conducted to assess the additional social protection needs of children in the Direct Provision system.

National Standards for Direct Provision Centres: National standards are essential to ensure that asylum seeking and refugee children receive a consistent standard of high quality care in all centres and to facilitate open discussion, improve quality, challenge under-performance and provide oversight.925 In August 2018, the DJE published draft National Standards and opened a five-week public consultation period.926 The Standards aim to improve the quality of care and to ensure consistency across all Direct Provision accommodation centres.

The draft Standards are encouraging and include a number of child-specific provisions. They require families to be provided with child-friendly accommodation that ‘respects and promotes family life and is informed by the best interests of the child’.927 Service providers will be required to accommodate families in centres with own-door accommodation with access to the families own private living space, alongside additional sleeping quarters and a family bathroom. The draft Standards require that each Centre provides access to cooking and storage facilities either in a self-contained unit or communal kitchen in tandem with catering options.928 In 2016, the UN Committee on the Rights of the Child called on the State to ‘allow for residents [of Direct Provision] to store and cook their own food’ as far as possible.929 At the beginning of 2019, 3,232 residents in 18 centres had access to cooking facilities.930 Service providers are required to respect children’s rights by explaining their rights in an age-appropriate way, hearing and taking into consideration the views of the child in relation to services provided, including through consultation,931 and facilitating and supporting children to exercise their rights.932

The development of standards is a positive step but to have a real impact on the families and children living in Direct Provision they must be published and an implementation process initiated without delay. It is vital that they inform contractual obligations between the service provider and the Department. A robust monitoring system will be crucial to ensure compliance with the Standards. The draft Standards propose that an independent inspectorate will be put in place to conduct inspections in line with the National Standards.933 Without an independent inspectorate undertaking

923 Minister of State for Immigration, Integration and Equality, David Stanton TD, Parliamentary Questions, Written Answers, 19 December 2018 [53868/18].
924 At the time of the McMahon report, the recommendation equated to the rate of Qualified Child Increase (QCI). Notably, Budget 2019 increased the Qualified Child Increase rate to €34 (children under the age of 12) and €37 (children over the age of 12) for children of other social welfare recipients. Department of Employment Affairs and Social Protection, ‘Budget 2019’ <https://bit.ly/2RDolxJ> accessed 27 November 2018.
926 Minister for Justice and Equality, Charlie Flanagan TD, Parliamentary Questions, Written Answers, EU Directives [39045/18].
928 ibid.
930 Communication received by the Children’s Rights Alliance from the DJE, 25 January 2019.
932 ibid Standard 6.1.9.
933 ibid 4.
National standards are essential to ensure that asylum seeking and refugee children receive a consistent standard of high quality care in all centres and to facilitate open discussion, improve quality, challenge under-performance and provide oversight.
unannounced inspections, they will lack the necessary oversight to achieve meaningful change. The Health Information and Quality Authority (HIQA) would appear to be the obvious body to undertake such independent inspections.

**Child Protection and Welfare Strategy:** The UN Convention notes that measures to protect children should, as appropriate, ‘include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment’.934

The DJE published its child safeguarding statement in May 2018935 and the new Child Protection and Welfare Policy and Practice Document for Direct Provision accommodation centres and EROCs, which supplements the safeguarding statement, was published in July.936

Both the Child Protection and Welfare Policy and Practice Document for Direct Provision are positive steps to ensure the safety of children in Direct Provision. However, more than half of the referrals to Tusla about children in Direct Provision relate to child welfare rather than child protection concerns as highlighted by HIQA in its 2015 report.937 Prevention and early intervention measures are essential to ensure that welfare concerns are addressed in a timely manner and do not escalate.

Families from a refugee background often need support to deal with trauma, to adapt to unfamiliar parenting styles, to find new supports in place of their traditional community and family supports, adjust to new family roles and the influences of a new culture.938

It is important that a Child Welfare and Protection Strategy is developed to complement the existing child protection policies already in place. The new strategy should incorporate the Signs of Safety approach as outlined in Tusla’s Child Protection and Welfare Strategy939 and focus on prevention and early intervention measures to support families. The Child and Family Unit within RIA usually consists of a child and family services manager seconded from Tusla and two administrative staff. However, the manager role has been vacant since November 2018, which is a concern.940

Developing and implementing a strategy with a preventative focus will require a greater compliment of staff with child protection and welfare expertise in the Child and Family Unit. Consideration should be given to providing the unit with additional resources to support the development of a child welfare and protection strategy.

Tusla is currently aligning the Area Based Childhood (ABC) programme with its Prevention, Partnership and Family Support (PPFS) Programme to help embed and enhance the Agency’s Prevention and Early Intervention work.941 An action plan will be developed for the next phase of the ABC Programme as part of the PPFS from 2019 onwards.942 The redeveloped PPFS could pay particular attention to the needs of children and parents living in EROCs and Direct Provision accommodation in terms of both universal and targeted services and supports that may be required.

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935 DJE, ‘Child Safeguarding Statement’ (DJE, 2018) 2, 46-49. The safeguarding statement sets out the principles and procedures that staff should follow if they become aware of harm, risk or suspicion of harm to a child.
936 DJE, Child Protection and Welfare Policy and Practice Document for Reception and Integration Agency (RIA), Irish Refugee Protection Programme (IRPP) and Accommodation Centres for persons in the International Protection process under contract to the Department of Justice and Equality (DJE, 2018). The policy aims to guide the Designated Liaison Person (DLP) on dealing with child welfare and protection concerns specifically arising in accommodation for refugee and asylum seekers. The policy requires two DLPs: one in RIA’s Child and Family Services Unit to ensure that child protection and welfare procedures are followed and to keep appropriate records; and a DLP in the accommodation centre responsible for reporting child protection or welfare concerns to Tusla and to the DJE.
940 Communication received by the Children’s Rights Alliance from the DJE, 24 January 2018.
941 Minister for Children and Youth Affairs, Katherine Zappone TD, Written Answers, Area Based Childhood Programme, 18 October 2018 [43119/18].
942 Communication received by the Children’s Rights Alliance from the Department of Children and Youth Affairs, 20 December 2018.
Refugee and Asylum-Seeking Children
Immediate Actions for 2019

Fulfil commitments under the Irish Refugee Protection Programme.
Ensure the resettlement of 1,985 programme refugees and 60 unaccompanied minors by the end of 2019.

Implement without delay measures to transform the Direct Provision system and end the institutionalisation of children and families. In order to transform the Direct Provision system, as we know it, the Government should:

• Publish and implement the National Standards for reception accommodation centres for people seeking protection as a priority. The standards should inform contractual obligations between the service provider and the Department of Justice and Equality.

• Identify an independent inspectorate to support the implementation of the National Standards, monitor compliance and, ensure that refugee children receive a consistent quality of care in reception accommodation centres for people seeking protection.

• Provide ‘own-door’ accommodation with private living space for families.

• Given the increase in the Direct Provision allowance for children to the level in the McMahon recommendation, conduct a review to assess the specific social protection needs of children in the Direct Provision system.

• Develop and implement a child welfare and protection strategy with a prevention and early intervention focus to address the particular needs of families living in reception accommodation and in Direct Provision centres. Ensure that the redeveloped Prevention, Partnership and Family Support pays particular attention to the needs of children and parents living in emergency Reception and Orientation Centres and Direct Provision accommodation. Tusla should appoint a child and family services manager for the Child and Family Unit as a priority.
6.3 LGBTI+ Children and Young People

A Programme for a Partnership Government commits to:

Develop an LGBT Youth Strategy that will encompass education, youth services, mental health and other issues, and to review implementation of the National Action Plan on Bullying as part of this process.

Progress: Delivered

‘LGBTI+943 Children and Young People’ receives an ‘A-’ in Report Card 2019. This grade reflects the publication of the cross-departmental LGBTI+ Youth Strategy 2018-2020. Almost 4,000 young people participated in the consultation process for the strategy. However, the National Action Plan on Bullying has not yet been reviewed.

Every child has the right to enjoy their rights without discrimination of any kind.944 While the UN Convention on the Rights of the Child does not specifically refer to discrimination on the grounds of sexual orientation or gender identity, the UN Committee on the Rights of the Child has clarified that sexual orientation is included in these grounds.945 The UN Committee called on States, when implementing children’s rights during adolescence, to ‘repeal all laws criminalizing or otherwise discriminating against individuals on the basis of their sexual orientation, gender identity or intersex’.

943 The term LGBTI+ is used to denote Lesbian, Gay, Bisexual, Transgender and all other individuals who may identify as intersex etc. The term is inclusive of all sexual orientations and gender identities. This is the preferred term used throughout the section and this has changed from Report Card 2017 to reflect the official title of the National LGBTI+ Youth Strategy.


946 Intersex is ‘a term used to describe individuals who are born with sex characteristics (chromosomes, genitals, and/or hormonal structure) that do not belong strictly to male or female categories, or that belong to both at the same time.’ See Agnes Higgins et al The LGBTIreland Report: National study of the mental health and wellbeing of lesbian, gay, bisexual, transgender and
The Strategy contains three overarching goals: to create a safe supportive and inclusive environment for LGBTI+ young people; to improve the physical, mental and sexual health of LGBTI+ young people; and to develop the research and data environment to better understand the lives of LGBTI+ young people.953 There are 15 objectives with 59 actions outlined to help implement these goals with clear responsibility under each action.954 The Strategy is aligned to the five national outcomes of Better Outcomes, Brighter Futures, The National Policy Framework for Children and Young People 2014-2020955 and will feed into that framework’s implementation structures.956 Actions in the Strategy also align with a number of other policies including the National Youth Mental Health Task Force Report 2017 and the National Sexual Health Strategy 2015 – 2020.957

The LGBTI+ National Youth Strategy was developed by the Department of Children and Youth Affairs (DCYA) in the context of the overall Better Outcomes, Brighter Futures Framework. Reflecting the cross-governmental remit of the Framework, comprehensive structures have been established to drive implementation. These 958

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The LGBTI+ National Youth Strategy was developed by the Department of Children and Youth Affairs (DCYA) in the context of the overall Better Outcomes, Brighter Futures Framework. Reflecting the cross-governmental remit of the Framework, comprehensive structures have been established to drive implementation. These 958
oversight and the development of clear timelines and indicators are key to its successful implementation.

A key theme in the Strategy relates to LGBTI+ young people and educational settings. In consultations, young people highlighted the impact of bullying and harassment, a lack of education on gender, sex and LGBTI+ issues, poor school policies and a lack of gender-neutral bathrooms and uniforms as issues that continue to present challenges.962 The Strategy includes welcome actions including the requirement for schools to develop whole-school policies to ensure the inclusion of LGBTI+ young people and explore opportunities for the appropriate inclusion of LGBTI+ lives as part of the curriculum review at both primary and senior-cycle levels.963 Schools will be required to consult with parents and students on all school policies, including on school uniform policies. These actions could help to build a more inclusive environment in formal education settings. However, given the autonomous nature of school governance, the Department of Education and Skills should provide clear guidance and oversight to schools on how to implement these actions in school settings.


959 ibid.


961 ibid.


963 ibid 19.
An estimated 29,000 young people identify as LGBTI+ representing a sizeable minority of the school population in Ireland. Homophobic bullying is ‘directly related to poorer mental health outcomes and higher levels of reported self-harm and suicidal behaviour’.
The Strategy includes a number of actions to address the mental health needs of LGBTI+ young people, including the development of targeted early intervention initiatives and services to reduce the risk of self-harm and suicide. This is a necessary inclusion because an LGBTIreland Report found that 35 per cent of the LGBTI+ young people they surveyed experienced severe or extremely severe depression and that young LGBTI+ people self-harm at a rate of more than six times that of LGBTI+ people over the age of 46. In addition, the Strategy commits to advancing the recommendations from the review of the Gender Recognition Act 2015 as quickly as possible. These include the introduction of a system of gender recognition for children of any age subject to parental consent, or a legal process where consent from both parents is not given.

In launching the Strategy, the Minister for Children and Youth Affairs, Dr Katherine Zappone TD pledged an annual €400,000 to improve youth services, making them more LGBTI+ aware. As part of the annual allocation for 2018, the Minister announced a €100,000 grant scheme aimed at making local services more accessible to young LGBTI+ people. The grant scheme aimed to provide funding to ‘implement evidence-based training, mentoring, coaching, Continuous Professional Development initiatives’ and the development of guidelines for youth services. A total of €156,388 was distributed for capacity building measures across 39 organisations for youth, health and social service professional groups and organisations. A further €20,000 was allocated to conduct a landscape analysis of existing research and data. The annual funding for implementation of the Strategy is important. However, a clear process and timeline for applications for funding or grants would ensure that there is adequate time for relevant organisations to plan their applications and ensure that they can deliver their projects on time.

### Review of the Action Plan on Bullying:

An estimated 29,000 young people identify as LGBTI+ representing a sizeable minority of the school population in Ireland. Homophobic bullying is ‘directly related to poorer mental health outcomes and higher levels of reported self-harm and suicidal behaviour’. While initiatives to address homophobic and transphobic bullying in schools exist and are supported by the Department of Education and Skills, almost half of the 416 LGBTIreland Report participants aged between 14 and 18 years had experienced anti-LGBTI+ bullying, while 67 per cent had witnessed an incident of anti-LGBTI+ bullying. In relation to LGBTI+ young people, international human rights experts have explicitly stated that ‘States must act to overcome prejudice and stereotypes through anti-discrimination initiatives in schools and public education campaigns’.

The review of the Action Plan on Bullying is focused on the LGBTI+ specific actions but the Department of Education and Skills should build on this review and consider other forms of bullying and harassment against other children and young people in relation to gender, race, religion or other grounds.

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964 Agnes Higgins et al. The LGBTIreland Report: national study of the mental health and wellbeing of lesbian, gay, bisexual, transgender and intersex people in Ireland (Glen & BeLonGTo 2016) 107, 110.
965 Department of Children and Youth Affairs, National LGBTI+ Youth Strategy 2018-2020: LGBTI+ young people: visible, valued and included (DCYA 2018) Goal 1, Objective 1, 2, 5, 6.
969 ibid.
970 ibid.
971 Communication received by the Children’s Rights Alliance from the DCYA, 5 February 2019.
972 ibid.
974 Agnes Higgins et al. The LGBTIreland Report: national study of the mental health and wellbeing of lesbian, gay, bisexual, transgender and intersex people in Ireland (GLEN and BeLonG To 2016) 8.
975 The Stand Up! campaign, run annually by BeLonG To, is a programme aimed at tackling homophobic and transphobic bullying in schools. This campaign has been endorsed in the current national Action Plan on Bullying, which recommended that the project be supported by the Department of Education and Skills. BeLonG To ‘Stand Up Campaign’ <https://bit.ly/2RGUzJ7> accessed 25 January 2019.
976 Gay and Lesbian Equality Network, ‘Being LGBT in School: A Resource for Post-Primary Schools to Prevent Homophobic and Transphobic Bullying and Support LGBT Students’ <http://bit.ly/1Sxsxub> accessed 3 February 2017. The Department has also provided funding to BeLonG To to explore the ways in which Stand Up! can be adapted for use in primary schools.
977 Agnes Higgins et al. The LGBTIreland Report: national study of the mental health and wellbeing of lesbian, gay, bisexual, transgender and intersex people in Ireland (GLEN and BeLonG To 2016) 82.
Publish timelines and Key Performance Indicators online in the first quarter of 2019 for the actions contained in the LGBTI+ Youth Strategy.

The LGBTI+ Youth Strategy is a world first and has the potential to significantly tackle the inequality and discrimination faced by LGBTI+ children and young people within a clear policy framework. To effectively implement the Strategy, clear timeframes, accountability measures and adequate funding are required.
Thank you to our partners in helping to produce *Report Card 2019* including The Community Foundation for Ireland, the Tomar Trust, Pobal, the Department of Rural and Community Development and the Katharine Howard Foundation.
Founded in 1995, the Children’s Rights Alliance unites over 100 members working together to make Ireland one of the best places in the world to be a child. We change the lives of all children in Ireland by making sure that their rights are respected and protected in our laws, policies and services.

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