Report Card 2015

children's constitutional rights
right to education
ascertainment of an adequate standard of living
protection from abuse and neglect
equality and non-discrimination
health

Is Government keeping its promises to children?
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Acknowledgements

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Furthermore, we extend our thanks to the members of the External Assessment Panel who, by adding their considerable expertise, validate this report. The grades allocated represent the collective views of the Panel rather than the views of any individual. The External Assessment Panel comprised:

- Professor Pat Dolan, UNESCO Chairholder in Children, Youth and Civic Engagement and Director, Child and Family Research Centre, National University of Ireland, Galway.
- Dr Orla Doyle, Lecturer in UCD School of Economics and Research, Fellow in the UCD Geary Institute for Public Policy.
- 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.
- Professor Ursula Kilkelly, Head of College of Business and Law, University College Cork.
- Danny McCoy, Director General, Ibec, represented by Siobhán Masterson, Head of Corporate Affairs.
- Judge Catherine McGuinness, former member of the Supreme Court of Ireland and Member of the Council of State.

The Children’s Rights Alliance thanks the staff of the National Parents Council of Ireland – Primary,雁点 damaged by the recession. The child with a disability, the child in poverty, the sick child, the child in out-of-school education, the child in emergency accommodation, the child in care, the child in the asylum process will finally be protected.

We also saw some action in 2014 to tackle the dreadful impact of direct provision on children. After 14 years of deteriorating conditions, the Minister for Justice and Equality, Frances Fitzgerald, and Minister of State, Aodhán Ó Riordáin, set up a Working Group to examine the direct provision and asylum process in late 2014. The Group’s work has yet to make a meaningful impact for children but we can only hope that with such a high level of scrutiny, and the seal of the Justice Ministers, children in the asylum process will finally be treated with the respect and dignity they deserve.

The Government is in its last year and there are still some very important reforms to be completed. The rollout of free GP care for children under six, the construction of the children’s hospital and the enactment of the Children First and Children and Family Relationships Bills will be important legacies. But we mustn’t forget children left on the margins. The child in poverty, the sick child that can’t get a medical card or who is fearful in an adult psychiatric facility, the child at risk of abuse and crying out for help; the child in an adult psychiatric facility in Oberstown and the transfer of the patronage of schools all suffered.

At the same time, there was significant advancement in the justice portfolio with the passage of the Protection of Children and Family Relationships Bill. Marked by transparency and consultation, both the former Minister for Justice, Equality and Law Reform, Alan Shatter, and current Minister for Justice and Equality, Frances Fitzgerald, showed a real willingness to ensure that children experiencing inequalities in family life would finally be protected.

The Children’s Rights Alliance wishes to thank the following organisations, Departments, and statutory and non-statutory agencies for their assistance, comments and co-operation in preparation of this report: The Children’s Hospital Board, Department of Children and Youth Affairs, Department of Education and Skills, Department of Health, Department of Justice and Equality, Department of Social Protection, National Council for Curriculum and Assessment, National Paediatric Hospital Development Board, Tusla – the Child and Family Agency, Children’s Rights Alliance Board for their oversight. The Children’s Rights Alliance would also like to acknowledge the work of Children Now, based in California, whose annual report card provided the initial inspiration for this series.

Further...
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.

This is the seventh edition of our annual Report Card series, launched in 2009. The Report Card is a tool for identifying serious issues for children and to scrutinise the Government’s own commitments to children flowing from the Programme for Government. Each year, the Children’s Rights Alliance – supported by an independent panel of experts – evaluates Government’s delivery on the promises it made to children and young people in six key areas: the right to education, to health, to an adequate standard of living, to protection from abuse and neglect, to equality and non-discrimination and children’s constitutional rights. Clear, measurable commitments, with a tangible impact on children’s lives are selected and tracked annually through the Report Card.

The Report Card is an established accountability tool for the Children’s Rights Alliance and our 100 plus members, as well as an important information resource for politicians, policy makers, service providers, non-governmental (NGOs) and academics. Since its launch, the Report Card series has drawn back the curtain on policy delivery and tracked not just the calibre of commitments made to children, but each step of their implementation. In doing so, it has played a role in de-mystifying the policy process and exposing the reasons for delay, inaction and policy u-turns. Using the Report Card’s lens helps capture successive Governments’ delivery for children and can zoom in on areas where progress is slack.

Producing the Report Card is a year-round process, rooted in a comprehensive research process followed by impactful and convincing advocacy activities. As with previous years, the research process for Report Card 2015 was robust – involving desk research, semi-structured interviews, statistical analysis, analysis of legal judgments, a wide consultation with member organisations and key stakeholders and engagement with departmental officials who verified data and responded to requests for information. The grading is carried out by a high-level independent panel, comprising some of Ireland’s leading experts in children’s rights, child law, education, early years, and also from the trade unions, business and economic sectors.

The Government is awarded an overall ‘C’ grade in Report Card 2015, reflecting a satisfactory attempt to date, though children remain wanting.

We have been tracking commitments made by Government in its Programme for Government 2011–2016, since its adoption by Fine Gael and the Labour Party in May 2011. In Report Card 2012 – the first year of tracking the Programme for Government commitments – the Government was awarded a ‘C’, the best overall grade in the Report Card series to date. In the three subsequent Report Cards – 2013, 2014 and 2015 – the Government has only achieved an overall ‘C’ grade. The Government has consistently performed well in aspects of the right to education and the right to protection from abuse and neglect. It is clear that ministerial leadership and a clear departmental focus has made the difference to deliver on specific commitments, notably in literacy, school buildings, Child and Family Agency, and Ryan Report Implementation Plan.

Clear, measurable commitments, with a tangible impact on children’s lives are selected and tracked annually through the Report Card.

When looking across the individual grades, it is striking however that since Report Card 2012, the grades for ‘Child Poverty’, ‘Traveller and Roma Children’ and ‘Migrant Children’ has never moved above an ‘E+’ grade. An ‘E’ grade is defined as ‘unacceptable, taking steps in the wrong direction, no positive impact on children’. In addition, a number of commitments are very close to fruition but a final push is needed to achieve an ‘A’ grade, including ‘Children in Detention’ and ‘Inequalities in Family Life’.

A number of changes were made to this year’s edition to improve its flow and readability. These include re-ordering sections within chapters 2 and 3; expanding the section on ‘Travellers Children’ to include Roma children; expanding the title of the section on ‘Alcohol and Drugs’ to include ‘Smoking’, providing a stronger focus on children within homeless families in the section on ‘Youth Homelessness’ and renaming and moving this section to the chapter on the ‘Right to an Adequate Standard of Living’.

Important issues continue to fall outside the remit of the annual Report Card series as it is limited to commitments made under the Programme for Government. In 2014, the Government made a number of important new commitments to children in Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014–2020. These included commitments to lift 70,000 children out of poverty by 2020; tackle food poverty and childhood obesity; provide supports to child victims; and reduce the potentially negative impact of court proceedings on children.
## Comparison Between 2012/2013/2014/2015 Grades

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## Grading for Report Card 2015

### Children’s Constitutional Rights
- **B-** Children’s Referendum
- **B-** Constitutional Convention

**Explanation:** Referendum result stalled due to legal challenge and delays in the Superior Courts.

### Right to Adequate Standard of Living
- **D** Child Poverty
- **F** Children and the Social Welfare System
- **D+** Area Based Approach to Tackling Child Poverty

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

**Explanation:** Positive results in literacy and school buildings. A child rights approach needed in early years and special needs.

### Right to Health
- **D+** Primary Care
- **C** Children’s Hospital
- **E** Mental Health
- **C-** Alcohol, Smoking and Drugs

**Explanation:** Good progress on smoking but alcohol and mental health remain a concern.

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

**Explanation:** Successful first year for Agency. Children still in adult prisons. Slow progress on child protection.

### Right to Equality and Non-Discrimination
- **E+** Traveller and Roma Children
- **E+** Migrant Children
- **B** Inequalities in Family Life

**Explanation:** Progressive draft Child and Family Relationships Bill published. No improvement yet in the lives of migrants and Travellers / Roma.

### Overall Grade: C

**Is Government keeping its promises to children?**
SUMMARY OF IMMEDIATE ACTIONS

CHILDREN’S CONSTITUTIONAL RIGHTS

Children’s Referendum
- Enact comprehensive legislation as required under the Constitutional Amendment.
- Ensure an appropriate plan is in place should the Amendment be struck down by the Supreme Court.
- Support the Committee for Judicial Studies to address the interpretation of the Amendment.
- Support the legal profession to undertake training on the implementation of children’s rights and child-friendly justice.

Constitutional Convention
- Implement the recommendation of the Constitutional Convention to enhance protection of economic, social and cultural rights in the Constitution.
- Engage in a dialogue with the youth sector on the Convention’s recommendation to lower the voting age.

RIGHT TO EDUCATION

School Buildings
- Project funding for the School Buildings Programme and ensure quality is maintained.
- Ensure the child’s right to engage in play is part of the planning and design of school accommodation.
- Take appropriate measures on foot of the inventory of school accommodation and publish key findings.
- Maintain the Minor Works Grant Scheme and the Summer Works Scheme.

Patronage and Pluralism in Education
- Clarify how the devolution process will be progressed in 2015 and beyond.
- Publish the White Paper on Patronage and Pluralism in Primary Education.
- Maintain the momentum to complete the curriculum on Education about Religion and Beliefs (ERR) and Ethics.

RIGHT TO HEALTH

Primary Care
- Commence the introduction of free GP care for children under six.
- Publish a rights-based National Healthcare Charter for Children.
- Ring-fence multi-annual funding for the delivery of Primary Care and reduce waiting times.

Children’s Hospital
- Expedite the process of building the new National Children’s Hospital.
- Extend the services of the hospital to all those under 18 years.
- Ensure the hospital design and operation are grounded in children’s rights.

Mental Health
- Ensure all children have access to mental health services in a timely manner.
- Ensure all children receive age-appropriate mental health treatment.
- Put in place a legislative framework to fulfil the rights of children with mental health difficulties.

Alcohol, Smoking and Drugs
- Enact an ambitious Public Health (Alcohol) Bill as a matter of priority.
- Commence the Protection of Children’s Health Act 2014 and enact legislation on tobacco packaging.

RIGHT TO AN ADEQUATE STANDARD OF LIVING

Child Poverty
- Publish an ambitious rights based implementation plan to achieve the Child Poverty Target.
- Ensure each government department carries out a social impact assessment in advance of budgetary decisions.

Children and the Social Welfare System
- Clarify the Government position in relation to reforming child income supports.

Area Based Approach to Tackling Poverty
- Proof the ABC projects against the UN Convention on the Rights of the Child.

Child and Youth Homelessness
- Invest in appropriate accommodation for homeless families.
- Review rent supplement payments.
- Extend outreach supports available to homeless children.

RIGHT TO EQUALITY AND NON-DISCRIMINATION

Traveller and Roma Children
- Deliver on the Government commitment to grant recognition of Traveller Ethnicity.
- Introduce an ethnic identifier across health and care.
- Re-energise activities to support the participation of Traveller children in education.

Migrant Children
- Enact legislation to reform the Protection Process and on immigration issues and proofed it against the UN Convention on the Rights of the Child.
- Take steps to protect the rights of children living in direct provision and opting-in to the EU Recast Reception Conditions Directive.

Inequalities in Family Life
- Enact the Children and Family Relationships Bill ensuring that the provisions on best interests of the child, voice of the child and the right to identity are retained.
- Establish a Central Register for Statutory Declarations for Joint Guardianship.
- Establish a court welfare service to support the roll out of this legislation.

RIGHT TO PROTECTION FROM ABUSE AND NEGLECT

Child and Family Agency
- Ensure the Child and Family Agency is adequately equipped to fulfil its statutory and human rights obligations to children.
- Expand the remit of the Child and Family Agency.
- Introduce a regulation to clarify how the best interests principle should be interpreted.

Ryan Report Implementation Plan
- Enact the Children First Bill, 2014 and provide funds to promote compliance.
- Commence the National Vetting Bureau Act 2012 as a matter of urgency.
- Ratify the Second Optional Protocol to the UNCRC.

Children in Detention
- Transfer all 17 years to the National Children Detention Facility as a matter of urgency.
- Withdraw the reservation to the UN International Covenant on Civil and Political Rights.
- Carry out a review on the use of remand for children.
- Extend the provisions of the Aftercare Bill 2014 to children with experience of detention and track outcomes after detention.
1. CHILDREN’S CONSTITUTIONAL RIGHTS

Chapter Grade

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

Summary of Article 19 of the UNCRC

“A positive decision of the Supreme Court in the Jordan case is eagerly awaited. Training of lawyers and decision-makers at all stages of administrative and legal proceedings will also help to redress the current imbalance and ensure a child-friendly justice system where the voices of children are heard and their rights are protected.”

Catherine Cosgrave, Director/Managing Solicitor, Law Centre for Children & Young People

IN THE NEWS

WOMAN LOSES BID TO CHALLENGE REFERENDUM RESULT

The Irish Examiner 21 June 2014

A woman who campaigned against the Children’s Referendum has lost on all grounds her High Court challenge to the constitutionality of laws governing bringing petitions disputing referendum results.

Joanna Jordan, of Glenageary Rd Upper, Dun Laoghaire, Dublin, previously secured leave to bring a petition aimed at overturning the ‘yes’ result in the November 2012 referendum, achieved by a majority of 58% to 42% based on a turnout of 33.49% [...] After her petition was rejected last year on grounds that she had failed to prove the information campaign materially affected the outcome, a further hearing was held to address her claims the relevant provisions of the 1994 Referendum Act were unconstitutional.

In that challenge, she argued the requirement for a petitioner disputing a referendum result to prove wrongful conduct such as to probably “materially affect” the result of the referendum was unconstitutional as it was impossible to prove. The onus should be on the Government to prove its campaign did not materially affect the result, she said.

Yesterday, Mr Justice McDermott said he did not accept it was impossible to prove material effects based on a balance of probabilities. Ms Jordan is appealing the rejection of her Supreme Court petition and a date for that appeal, and her appeal against yesterday’s judgement, will be fixed later.

By Ann O’Loughlin
The Government held a referendum to strengthen children’s rights in the Constitution on 10 November 2012. The People of Ireland voted 58 per cent to 42 per cent in favour of the Thirty-First Amendment. However, the amendment has not yet been signed into law due to a legal challenge by Joanna Jordan appealed to the Supreme Court on 24 October 2013 and was given a hearing in December 2013 and was given a hearing in December 2014. The Supreme Court has yet to issue a final judgment. Jordan’s appeal, the new Article 42A, which was the subject of the Children’s Referendum, will become part of the Constitution if the Supreme Court finds that the Thirty-First Amendment Bill is unconstitutional and, in doing so, effectively stalls the referendum result.

Despite the fact that the Children’s Referendum was held over two years ago, the judicial challenge to the Thirty-First Amendment Bill, and subsequent delays in the Superior Courts, has effectively stalled the referendum result. Should the Supreme Court find that the Children’s Referendum result is unconstitutional, the Government must ensure that a second referendum is put in place to hold the referendum again. However, it must be stated that there is nothing to stop the Government from introducing a wide range of legal rights and entitlements for children outside and above those flowing from the constitutional referendum. In fact, recent experience regarding the Child and Family Agency Act¹, the Children First Bill² and the heads of the Children and Family Relationships Bill³ demonstrate a greater willingness to translate children’s rights into law.

Comment
Children’s Constitutional Rights gets a B− grade in Report Card 2015, a fall from last year’s ‘B’ grade. This is due to the fact that the Children’s Referendum result is still frozen two years on.

Despite the fact that the Children’s Referendum was held over two years ago, the judicial challenge to the Thirty-First Amendment Bill, and subsequent delays in the Superior Courts, has effectively stalled the referendum result. Should the Supreme Court find that the Children’s Referendum result is unconstitutional, the Government must ensure that a contingency plan is put in place to hold the referendum again. However, it must be stated that there is nothing to stop the Government from introducing a wide range of legal rights and entitlements for children outside and above those flowing from the constitutional referendum. In fact, recent experience regarding the Child and Family Agency Act¹, the Children First Bill² and the heads of the Children and Family Relationships Bill³ demonstrate a greater willingness to translate children’s rights into law.

If the Supreme Court strikes down Joanna Jordan’s appeal, the new Article 42A, which was the subject of the Children’s Referendum, will become part of the Constitution if the Supreme Court finds that the Thirty-First Amendment Bill is unconstitutional and, in doing so, effectively stalls the referendum result.

Despite the fact that the Children’s Referendum was held over two years ago, the judicial challenge to the Thirty-First Amendment Bill, and subsequent delays in the Superior Courts, has effectively stalled the referendum result.

¹ Child and Family Agency Act 2013, No. 40 of 2013, section 9 on best interests and views of the child.
² Children First Bill 2014, No. 35 of 2014, section 6 on best interests of the child.
³ General Scheme of the Children and Family Relationships Bill 2014, section 52 on best interests of the child.
⁴ Thirty-First Amendment of the Constitution (Children) Bill 2012, No. 78 of 2012.
⁵ Communication received by the Children’s Rights Alliance from the Courts Service on 2 February 2015.
⁶ Communication received by the Children’s Rights Alliance from the Courts Service on 2 February 2015.
⁷ To date, the Committee for Judicial Studies has not developed any specific programme in relation to the 2012 Children’s Referendum “but it is always cognizant of this area when arranging conferences and seminars etc.” Best practice in this field involves scenario-based training by experts and judicial peers and would be an important element of such learning if the Irish judiciary chose to undertake it. The Government provides sufficient funding to the Courts to enable judges to undergo judicial studies on child-friendly justice and on substantive children’s rights principles. In addition, the Government and professional legal bodies need to examine more generally how the legal system can implement child-friendly justice at all levels within the courts.

³ McKenna v An Taoiseach (No. 2) [1999] 2 IR 10.
² McCrystal v Minister for Children and Youth Affairs, the Government of Ireland, Ireland and the Attorney General [2012] IESC 53 (18 November 2012). The Court also found that material contained a misstatement as to the effect of the referendum.
To fully realise a commitment to children’s rights, the Courts should be more child-sensitive to those children coming before it. The United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime define the term ‘child-sensitive’ as an approach that balances the child’s right to protection and that takes into account the child’s individual needs and views.

On 17 November 2010, the Committee of Ministers of the Council of Europe adopted new Guidelines on child-friendly justice, based on the fundamental principles of participation, best interests of the child, dignity, protection from discrimination and rule of law. More specifically, these Guidelines define child-friendly justice systems as justice systems which guarantee the respect and the effective implementation of all children’s rights at the highest attainable level. In addition to implementing child-friendly justice, the training of lawyers and the provision of judicial studies for judges in implementing substantive children’s rights will be very important.

THE PEOPLE OF IRELAND VOTED 58 PER CENT TO 42 PER CENT IN FAVOUR OF THE THIRTY-FIRST AMENDMENT.

**CHILDREN’S REFERENDUM**

**Immediate Actions for 2015**

**Enact comprehensive legislation as required under the Constitutional Amendment**

Should the Supreme Court find that the children’s referendum result is constitutional, four provisions of the new article will necessitate the introduction of specific legislation, a failure to legislate would be a constitutional breach. The Oireachtas should use the opportunity when drafting such legislation to address omissions from the Amendment, for example to provide for a broader set of circumstances under Article 42A.4 in the areas of best interests and voice of the child.

**Ensure an appropriate plan is in place should the Constitutional Amendment be struck down by the Supreme Court**

Should the Supreme Court find that the children’s referendum result is unconstitutional, the will of the People to insert a new Article 42A into the Constitution will be frustrated. The Government should ensure that a contingency plan is in place to ensure the will of the people can be implemented, for example by re-holding the referendum.

**Support the Committee for Judicial Studies to address the interpretation of the Amendment**

The Minister for Justice and Equality should provide funding to the Committee for Judicial Studies to enable members of the Bench to undergo judicial studies on the application of children’s rights and on child-friendly justice to advance the interpretation of the children’s Amendment following international best practice in this field. There are many ways in which the Courts can be supported. For example, consideration should also be given to a multi-disciplinary panel of experts from various disciplines, such as social work and psychiatry, that would give a broader, holistic approach to the work of the judiciary, reflecting the various elements that can be involved in the settlement of family law disputes.

**Support the legal profession in undertaking training on the implementation of children’s rights and child-friendly justice**

The Government should provide funding to the legal professional bodies to provide ongoing education to trainee lawyers and qualified practitioners on the UN Convention on the Rights of the Child and children’s rights under the Constitution and more generally in Irish law.

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10 UN Economic and Social Council, Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime, ECOSOC Resolution 2005/20, Article 9(d).
11 Council of Europe, Guidelines of the Committee of Ministers of the Council of Europe on Child-Friendly Justice, ( Adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers’ Deputies) – edited version 31 May 2011, Section II, (c).
12 These are on aspects of adoption (Article 42A.2 and Article 42A.3); best interests of the child (Article 42A.4.1) and hearing the views of the child (Article 42A.4.2).
GOVERNMENT COMMITMENT

The Programme for Government commits to establishing a process to ensure that the Constitution meets the challenges of the 21st century, by addressing a number of specific urgent issues as well as establishing a Constitutional Convention to undertake a wider review. It also promises to give priority to specific constitutional amendments, including:

- Referendum to amend the Constitution to ensure that children’s rights are strengthened, along the lines recommended by the All-Party Oireachtas Committee on the Constitution.

Progress: Slow

WHAT’S HAPPENING?

The Constitutional Convention recommended that economic, social and cultural rights be given enhanced protection in the Irish Constitution. The Government did not respond to the recommendation in 2014.

The Constitutional Convention began its work on 1 December 2012 and comprised 100 members – 66 citizens drawn from the electoral register, 29 Oireachtas members and four from the Northern Ireland Assembly. Under its terms of reference, the Convention was required to consider eight different questions, including whether the voting age should be reduced to 17 years. The Convention also had to the option to consider additional potential constitutional amendments. In December 2013, the Convention chose to consider economic, social and cultural rights. It subsequently recommended to the Government, by an overwhelming majority of 85 per cent, that economic, social and cultural (ESC) rights be given enhanced protection in the Constitution. It held its final session in February 2014. One year later, the Government has yet to formally respond to the recommendation.

COMMENT

The Constitutional Convention gets a B− grade in this year’s Report Card. This reflects that while the Constitutional Convention recommended that economic, social and cultural rights should be included in the Irish Constitution, the Government, in contravention of its own rules, has yet to directly respond to this recommendation. Separately, the Taoiseach has confirmed following the Marriage Equality and Presidential referenda, no further referenda will be called in the life of the current Government.18

The establishment of the Constitutional Convention was a positive development and important in engaging ordinary citizens in the future of the Constitution. The fact that the Constitutional Convention made a decision to consider and recommend that economic and social rights be protected in the Constitution is also a welcome development. Economic and social rights are intrinsically linked to the enjoyment of fundamental human rights but are largely considered to be non-justiciable before the Irish Courts today. This means that these rights are considered to be guidelines only and are not enforceable by law and before the courts. This means that decisions made when implementing laws and policies affecting housing, social security and health for example, are not guaranteed under the Constitution. The UN Convention on the Rights of the Child contains many economic and social rights such as the right to health and health services (Article 24) the right to social security (Article 26) and the right to an adequate standard of living (Article 27).

CONSTITUTIONAL CONVENTION

Immediate Action for 2015

Accept and implement the recommendation of the Constitutional Convention to enhance protection of the on economic, social and cultural rights in the Constitution.

The Government should not delay any further in progressing the Convention’s recommendation on economic, social and cultural rights. Given the importance of this category of rights to the lives of children, priority should be given to progressing this recommendation from the Convention.

Engage in a dialogue with the youth sector on the Convention’s recommendation to lower the voting age

The Constitutional Convention recommended that the voting age be lowered from 18 to 16 years. The Government has indicated that it will not be holding a referendum on this issue. A dialogue is needed between Government and the youth sector in light of this decision.


17 National Youth Council of Ireland (NYCI) has expressed disappointment at this move stating that up to 120,000 sixteen and seventeen year olds will be denied the right to vote in the General Election and other elections and referenda.

2. RIGHT TO EDUCATION

The 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 UNCRC.

“IT is now a decade since the EPSEN Act was penned. That is 10 years of dust-gathering, 10 years of refusal by successive governments to give people with a disability their RIGHT to access appropriate supports... we can find €27 billion for Anglo and its bondholders but can’t find the cash for disability rights – where is our sense of priority?”

Tomás Ó Dúlaing Chairperson, Alliance Against Cutback in Education

Chapters Grade

The Right to Education

B-

IN THE NEWS

MAYO’S FIRST EDUCATE TOGETHER SCHOOL OPENS, TAOISEACH ATTENDS LAUNCH

The Mayo News 2 September 2014

THE PLURALISM of the Educate Together ethos was highlighted by Taoiseach Enda Kenny at the opening yesterday of Mayo’s first such school, at Newtownwhite, near Ballina.

This is the first Church of Ireland School in the country to be divested under a Government scheme which supports the transfer of schools from the patronage of the Catholic Church. [...]

“This is an important day in the education system. It’s very important that our children, the next generation, be raised in an ethos that gives them a sense of values, principles, ethics, environment, of issues about human rights and humanity,” said Mr. Kenny. [...]

Speaking at the Newtownwhite opening yesterday morning (Monday), Catherine Boland, the newly-appointed Principal, said: ‘It is quite clear that Educate Together and Newtownwhite was an ideal marriage, as much of the Educate Together ethos already existed here in the inclusive environment of Newtownwhite. In the diverse society in which our children are now growing up the philosophy of ‘learn together to live together’ is a necessary one.” [...]

Educate Together’s Chief Executive, Paul Rowe, said at yesterday’s opening in Newtownwhite that: “This is a great day for parents in the Ballina area, who finally have the choice of an Educate Together national school.”

By Aíne Ryan
2.1 EARLY CHILDHOOD CARE AND EDUCATION

GOVERNMENT COMMITMENT

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

Progress: Some

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

Progress: Limited (also see Chapter 4.3)

WHAT’S HAPPENING?

The free pre-school year has been maintained. Some limited progress on the Early Years Quality Agenda. The National Early Years Strategy is yet to be published.

In the National Policy Framework on Children and Young People 2014–2020, published in April 2014, the Government reiterates its commitment to produce and implement a National Early Years Strategy for children up to age six. Two years on from the first Government commitment to produce a National Early Years Strategy, no draft has been published. In the National Policy Framework, the Government also commits to develop a plan to include children with disabilities in mainstream pre-school and early years settings; to strengthen the connection between pre-school and infant primary school classes; and to provide continuous professional development to early years practitioners, teachers and educators. During 2014, a fund in the region of €8 million in capital funding for early years was announced, which will be available in 2015.

Free Pre-School Year: The free pre-school year, delivered over 38 weeks from September to June, continued to be available in 2014. Now in its fifth full year, 67,000 pre-school children (94 per cent of eligible children)

availed of the free pre-school year in 2013/14 within 4,200 services. The scheme cost €173.8 million in 2014 – representing 18 per cent of the Department of Children and Youth Affairs overall budget for that year.

In September 2014, the Minister for Children and Youth Affairs, Dr. James Reilly TD, stated that the introduction of a second free pre-school year would require considerable additional funding, broadly in line with the cost of the current one-year provision and that such additional funding was not available in 2014. Reilly Reilly commended that he hoped capitation rates for the free pre-school year could be increased ‘as funding becomes available’ to provide additional support.

Quality: In 2014, €6 million was made available to support the implementation of the Early Years Quality Agenda, which comprises a number of actions aimed at improving quality and enhancing regulation within the early years services. Some progress was made in 2014, including the allocation of €3 million over a two year period to a ‘Learner Fund’ to assist existing childcare staff in realising new qualification requirements. The publication of inspection reports online was continued. The 2,530 inspection reports were published by December 2014. By the end of 2014, 40 Early Years Inspectors (whole time equivalent Public Health Nurses) and three Principal Inspectors had been recruited by the Child and Family Agency. The target of 47 Early Years Inspectors set by the Agency’s target is expected to be met by June of 2015. At the end of September 2014, 987 services (36 per cent of all services) had received a first or annual inspection. In October 2014, a research report commissioned by the Child and Family Agency on quality in early years services was published. It showed that compliance among service providers was high, with 74 per cent in compliance with the 2006 Pre-School Regulations.

The Early Years Quality Agenda further commits to the establishment of a registration system for all pre-school services, these regulations are expected to be published early in 2015. In late 2014 the Better Start – National Early Years Quality Support Service was introduced to create a single approach to quality across the sector through quality mentoring support in early years settings, with start up and operational funding until 2016. Under Better Start, the Early Years Specialist Service recruited and trained 50 graduates in early childhood care and education by end 2014 to work with service providers to improve quality and guide the implementation of Siolta and Aistear.

In September 2014, the Minister for Education and Skills, Jan O’Sullivan TD, announced the first major review of education and training programmes for the early years sector, including the extent to which such programmes are delivered efficiently and by appropriately qualified experts; the quality of work placements; and whether graduates are adequately prepared for workplaces challenges such as...
social diversity. The review will begin with a public consultation.

In December 2014, Minister O’Sullivan established an Early Years Education Advisory Group, comprising statutory and non-citizen representatives, to advise on education issues in the early years sector. 16

Budget 2015 provided €600,000 to the Department of Education and Skills for the recruitment of a dedicated team of Early Years Childhood Curriculum Framework Inspectors, who will be appointed early in 2015.17 The new team will work with the early childhood sector to promote and enhance good educational practice and the quality of the free pre-school year. This initiative is being operated jointly by the departments of Education and Skills, and Children and Youth Affairs.

Affordability: In July 2014, Ireland received its first set of Country-Specific Recommendations from the European Commission, as part of the European Semester 2014.18 The Commission noted that access to and affordability of child-care is a ‘significant barrier to parents finding employment and avoiding the risk of poverty’ and recommended that Ireland improve access to more affordable and full-time childcare, particularly for low income families as a means of reducing income and reducing the risk of poverty for children.19

All children have the right to education under Article 28 of the UN Convention on the Rights of the Child, with the UN Committee on the Rights of the Child interpreting the right to education during early childhood as beginning at birth.20 The right to education is closely linked to a child’s right to maximum development, under Article 6(2) of the Convention.21 In addition, Ireland is under an obligation to provide assistance to parents, which includes ‘institutions, facilities and services’ for the care of children under Article 18(2) and quality childcare services to working parents, under Article 18(3).22 The free pre-school year and the Child Benefit payment are currently the State’s key mechanisms to support children in achieving these rights.

The ongoing delay in the publication of the National Early Years Strategy, announced in 2012, is regrettable. The Expert Advisory Group on the development of the Strategy published its report in September 2013.23 The publication of the national strategy should be accompanied by an implementation plan and associated resource allocation. It should be set out in a children’s rights framework with the UN Convention on the Rights of the Child places an obligation on the State to give ‘appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities’.

The Government commitment in the National Policy Framework for Children and Young People 2014–2020 to develop a high-level policy document on Parenting and Family Support24 should be progressed by the development of a National Parenting Action Plan to ensure that parents can adequately support their children’s development, as recommended by the Expert Advisory Group.25

Free Pre-School Year: It is disappointing that the timeframe for introducing a second free pre-school year has been pushed out. The Government has committed to introduce ‘within the lifetime’ of the National Policy Framework for Children and Young People 2014–2020 which runs to 2020, ‘once the required quality standards are achieved and sufficient resources becoming available’.

The emphasis on getting the quality right before expanding the scheme is in line with the Expert Advisory Group’s recommendation.26 The current scheme only covers the cost of staff for the time they spend directly with the children and does not allow for planning, team-building and support. In addition, while the Learner Fund is welcome, the Fund only supports training providers, early years staff will have to access the training in their own time and at their own expense.

Quality: It is very positive that the Report on the Quality of Pre-School Services shows such a high level of compliance with quality regulations. In addition to the Child and Family Agency Inspectorate, a second set of early years inspectors focused on the education element of early years services is currently being recruited by the Department of Education and Skills. The adoption of a dual approach is a retrograde step. A single inspectorate with the holistic remit would provide a clearer, less onerous inspection process for the services, which is a more effective use of resources.

In June 2014, RTÉ Prime Time broadcast a follow up to its 2013 programme which exposed evidence of bad practice and mal-treatment of children in a number of services and led to the adoption of the Early Years Quality Agenda.27 The 2014 programme found that few of the promised reforms had been implemented – the registration system, tougher sanctions for non-compliance with regulations, and the publication of new national standards. Indeed, the number of complaints made by parents had actually increased and fundamental weaknesses remain.28

The Early Years Quality Agenda sets down a minimum qualification level for staff working at pre-school services. However, there is no indication as to the improvement in standards required to comply. By international standards this is a low level minimum qualification.29 At present, 87 per cent of staff in childcare settings hold the minimum qualification, representing a significant increase in recent years; with just 8.1 per cent having no qualification. A higher capitation rate is payable to services where all pre-school leaders have a qualification at a minimum of FETAC level 6. Pobal’s latest annual survey of the Early Years Sector in 2013 indicates that the number of childcare staff...
The OECD average relates A major concern with the Quality Agenda is that it focuses solely on centre-based services and so fails to address quality concerns and child protection risks and arising from the exemption of most child-minders from regulation and legislative proposals on vetting.

Affordability: A major European Commission report on early years published in 2014, found that 9.6 per cent of Ireland’s population is under six years, compared to the EU average of 6.3 per cent. The cost of childcare for this age group to parents and guardians remained high in 2014. The Organisation of Economic Co-operation and Development (OECD) found Ireland’s investment in early care and education to be well below the OECD average of 0.8 per cent, coming in at 0.5 per cent of GDP in 2014. The OECD average relates to spending on pre-school education only, whereas the Irish figure includes spending on four and five-year-old children in primary schools. When adjusted, the percentage of GDP spent on pre-school education in Ireland amounts to less than 0.2 per cent. The OECD recommends that the most effective way to make childcare more affordable is to invest directly in subsidised places resulting in lower or no fees for parents – as is currently the case in primary schooling for example. The provision of tax credits was considered to be less effective and did not help families in greatest need. In addition, subsidised places give governments more control in relation to outcomes than tax credits. 

Children with Special Needs: The number of children with special needs currently availing of pre-school services is not known. However, Minister for Children and Youth Affairs James Reilly TD, Parliamentary Questions: Written Answers 17 July 2014 [32659/14] reported 3,899 children with disabilities. Extrapolating from this across all services would suggest that there are 6,392 children with disabilities across all services. Tracking the numbers and progress of children with special needs availing of the pre-school service would provide the Government with relevant data to develop policies and supports to better respond to their educational and other needs and fulfilling the right of every child to access education. 

Childminders: It is estimated that nearly 50,000 young children are cared for by some 19,000 child-minders of whom are exempt from regulation and operate without supervision or support. A major concern with the Quality Agenda is that it focuses solely on centre-based services and so fails to address quality concerns and child protection risks and arising from the exemption of most child-minders from regulation and legislative proposals on vetting.

Immediate Actions for 2015

Launch and commence the implementation of the National Early Years Strategy

A rights-based National Early Years Strategy should be published and accompanied by an adequately resourced implementation plan. A rights-based Strategy should be grounded in the UN Convention on the Rights of the Child, have the child’s best interests at its core and include the views the child. The Strategy should contain a clear and ambitious vision for early years policy and comprehensive measures to improve the quality of early years services. It should implement the recommendations made by the Expert Advisory Group on the National Early Years Strategy and respond to the EU Country-Specific Recommendation on the affordability of childcare. Further, it should include a plan to increase the level of public investment in this area to the OECD average of 0.8 per cent and should avoid the provision of tax credits which do not help families in the greatest need of childcare support.

Conduct a quality audit across all early years services to provide baseline data for the implementation of the National Early Years Strategy

There is no coherent picture of quality across all early years’ services. To make necessary systemic improvements, baseline disaggregated data is required. This data should be gathered as part of an audit process in the National Early Years Strategy’s first year, as recommended by the Expert Advisory Group on the National Early Years Strategy. An evaluation of the quality and impact of the pre-school year on children’s outcomes should be a core element of this process.

Expand the Learner Fund to provide support to allow childcare workers to progress to FETAC levels 7 and 8

While the upskilling of childcare staff to Levels 5 and 6 of FETAC qualification is very positive, this remains a low level qualification by international standards. Staff should be supported to continue to progress their qualifications to the higher qualification levels. 

Ensure all children can access and participate in early years care and education

To ensure equal access and participate in early years care and education for all children, track access to the Free Pre-School Year by children with special needs and children from minority groups and use this data to enhance the necessary supports, including pre-school special needs assistants and for training in inclusive practice.

holding a Level 6 qualification is in the region of 45 per cent. However, it is not possible to state whether all of these are operating as pre-school leaders.

The introduction in 2014 of the Better Start – National Early Years Quality Support Service is a positive development. However, with only 30 mentors for 4,200 services (approximately 140 services per mentor), it is not yet clear how wide the service will be able to reach, or which services will be prioritised for support.

To have a significant impact on quality nation-wide, it is likely that further resources and staffing will be required.

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2.2 CHILD LITERACY

GOVERNMENT COMMITMENT

The Programme for Government commits to developing a National Literacy Strategy for children and young people as a matter of urgency, with school-level targets that are related to national targets. Every school will be required to have a Literacy Action Plan, with demonstrable outcomes. Responsibility for achieving these outcomes will be vested in the school principals, who will also receive continuing professional development to support the implementation of the strategy.

Progress: On track

The Programme for Government also commits to:

- Improving pre-service and in-service training in the teaching of literacy for all primary and secondary school teachers, with dedicated literacy mentors to work intensively with teachers in the most disadvantaged primary schools.
- Increasing time spent on literacy: Delivering Equality of Opportunity in Schools (DEIS) primary schools will be required to teach literacy for 120 minutes per day; non-DEIS schools to teach literacy for 90 minutes per day. This time includes incorporating structured literacy tuition into the teaching of other subjects.

WHAT’S HAPPENING?

The National Literacy and Numeracy Strategy continues to be rolled out, with improvements exceeding the target set for 2020. Budget 2015 saw further investment in the implementation of the Strategy.

Literacy and Numeracy for Learning and Life: the National Strategy to Improve Literacy and Numeracy among Children and Young People 2011–2020, launched in July 2011, 13 sets out clear targets for children’s literacy performance at primary and post-primary levels, with a view to substantially improving performance by 2020. Test results from 2014 showed that the 2020 targets, set in the Strategy, have already been reached. 14 The interim review of the Strategy, scheduled for 2016, will be brought forward to 2015 to establish new targets, in particular for those pupils who are not doing as well as the general cohort. 15

The 2014 National Assessments carried out by the Educational Research Centre showed an improvement in literacy and numeracy skills, the first significant improvement since 1980 among second and sixth class pupils. The results also show a reduction in the proportion of low achieving pupils which suggests that the Delivering Equality of Opportunity in Schools (DEIS) Programme is yielding results. In 2014, Ireland ranked tenth out of 39 countries in an international education report based partly on literacy.16 The OECD Programme for International Student Assessment—PISA—ranks Ireland fourth out of 34 OECD countries in literacy and 13th in mathematics.17

The Delivering Equality of Opportunity in Schools (DEIS) Programme, introduced in 2006, aims to address the educational needs of children from marginalised communities through lower pupil–teacher ratios and a range of literacy and numeracy programmes.18 All 849 DEIS schools have individual action plans in which literacy is one of the key themes.19

In May 2014, an evaluation report published by the Education Research Centre on DEIS post-primary schools showed that the overall performance on public examinations had improved since the programme’s initiation and that literacy targets had largely been progressed.19 The evaluation follows on from positive results from a similar evaluation of DEIS primary schools published in December 2013, which evidenced that the programme is having a positive effect on combating disadvantage in education and in improving the learning achievements of pupils in DEIS primary schools in urban areas.20 At primary level, scores demonstrated a difference between the level of disadvantage in urban and rural schools. Pupils in rural schools achieved better scores which may be a result of smaller school sizes mitigating the educational disadvantage of poverty.21

It must be noted, however, that while improvements were recorded, the average scores in DEIS schools were still below average when compared to the general population at both primary and post-primary DEIS schools.22 On the back of these reports, the Economic and Social Research Institute was commissioned by the Department of Education and Skills to prepare a report on the Learning from DEIS which examines the老子 main findings of the DEIS evaluations to date, and offer advice to inform future policy to address educational disadvantage.23

Budget 2015 allocated an additional €6 million to that provided under Budget 2014, bringing the total annual budget of the Literacy and Numeracy Strategy to €31.8 million. In April 2014, the Government reiterated its commitment to the implementation of the Strategy in the National Policy Framework for Children and Young People 2014–2020.24 In addition, to further support the implementation of the Strategy, a departmental circular on standardised testing and sharing of school reports on the transfer of a child from primary to post primary school was published in 2014.25


|-------| Ibid.
|-------| Ibid.
|-------| Ibid.
|-------| Ibid.
|-------| Ibid.
|-------| Ibid.
|-------| Ibid.
|-------| Ibid.

19 Ibid.
25 Ibid.
27 Ibid.
28 Ibid.
29 Ibid.
31 Ibid.
32 Ibid.
33 Ibid.
34 Ibid.
35 Ibid.
The Strategy requires all schools to engage in school self-evaluation (SSE) and to produce School Improvement Plans from 2012/2013, with specific targets for the promotion and improvement of literacy and numeracy. While schools were not required to submit SSE reports to the Department of Education and Skills, they were required to provide a summary SSE report and School Improvement Plan to their local community by the end of June 2014.

In addition to the School Self-Evaluation Guidelines published in 2012, further instructions on the process were provided in primary and post-primary SSE newsletters in 2014 as well as on the School Self-Evaluation website.

All schools that requested advisory visits from Department of Education and Skills inspectors to support them to complete the SSE process have been visited by the end of 2014: in total visits took place in 1,321 primary and 667 post-primary schools. To determine the level of engagement of schools in the SSE process, all schools were requested by the inspectorate to complete an online survey by September 2014. The survey’s findings are currently being analysed and are expected to detail the number of schools that have completed their three-year School Improvement Plan by end of the last school year, 2013–2014, which will be used to identify support needs in the further roll out of the SSE process. In October 2014, a seminar was held by the Inspectorate on SSE which provided an opportunity for teachers and principals to assist it and support services to develop material and supports, as well as providing an opportunity for the sharing of SSE practices amongst schools.

Time spent on literacy in schools was not extended during 2014. A 2011 Departmental Circular continues to guide practice that all primary schools are required to spend 8.5 hours a week on literacy for full-day pupils and 6.5 hours for pupils with a shorter day. This time allocation remains below the commitment in the Programme for Government to further roll out of the SSE process. In October 2014, there were 27 primary and 11 post-primary literacy advisors (Irish and English language full-time equivalent posts) and 10 mathematics and numeracy advisors within the Professional Development Service for Teachers.

The Literacy and Numeracy Strategy provides that the duration of Initial Teacher Education (ITE) programmes should be extended and that the content of the programme should be reconfigured and extended to support post-graduate programmes for primary and post-primary teachers commenced at the start of the academic year 2014–2015. In addition, the Teaching Council has now completed the review and accreditation process for all 59 reconfigured ITE programmes, in accordance with ITE Criteria and Guidelines for Programme Providers. This set of criteria includes Literacy and Numeracy as mandatory elements. Training on the roll out of the Strategy was available to all schools in 2014 through a Literacy Link teacher.

School Books: In Budget 2014, the Department of Education and Skills allocated €15 million to the book rental scheme which already operate book rental schemes, complained that they were excluded from accessing this funding and in effect were being punished for having shown initiative and already setting up a book rental scheme. A balance of €6.3 million remained out of the €15 million allotted in Budget 2014 and in April 2014, the Department decided to distribute this balance among schools with existing book rental schemes. In October 2014, Budget 2015 allocated €5 million in capital funding as the second tranche of the three year investment. This investment is in addition to the annual book grant of €15 million paid to all schools on a per pupil basis.

Communication received by the Children’s Rights Alliance from the Department of Education and Skills, 9 February 2015.

[96] Department of Education and Skills Inspectorate (2012) Circular 0035 (20 November). DEIS is the important that the DEIS programme is maintained and monitored to ensure that children from disadvantaged areas have the same opportunities to progress in the educational system as other children given that only 12 per cent of children from DEIS schools go onto third level education. The commissioning of research by the Economic and Social Research Institute to inform a renewed policy to tackle educational illiteracy.


102. Ibid.


104. Ibid.


108. Department of Education and Skills (2013) Circular 0035 (20 November). DEIS is maintained and monitored to ensure that children from disadvantaged areas have the same opportunities to progress in the educational system as other children given that only 12 per cent of children from DEIS schools go onto third level education. The commissioning of research by the Economic and Social Research Institute to inform a renewed policy to tackle educational illiteracy.

109. Communication received by the Children’s Rights Alliance from the Department of Education and Skills, 9 February 2015. Reports outlining this process and the outcomes for each programme i.e. commendations, recommendations and stipulations, are available on www.teachingcouncil.ie.

110. Communication received by the Children’s Rights Alliance from the Department of Education and Skills on 11 November 2014.


112. Ibid.

113. Ibid.

114. Ibid.

115. Ibid.

116. Ibid.

117. Ibid.


disadvantage, including DEIS, is welcome.\(^\text{102}\) This is particularly important given the dispersed nature of educational disadvantage.\(^\text{103}\) For example, in 2009 ESRI research found that 61 per cent of students from disadvantaged backgrounds did not attend DEIS schools.\(^\text{104}\) Literacy and numeracy is not just about disadvantage: children with special educational needs and those with speech and language difficulties often have specific literacy and numeracy needs that must be addressed.\(^\text{105}\)

While the School Self-Evaluation process is welcome, there is no obligation that the evaluation should relate to literacy or numeracy thus heavily diluting its potential impact in this area.\(^\text{106}\)

Despite the commitment in the Programme for Government to provide dedicated literacy mentors to the most disadvantaged schools, DEIS advisors\(^\text{107}\) (formerly ‘Cuiditheoirí’) who were dedicated to DEIS schools have been replaced by literacy and numeracy advisors who are shared amongst the general population of schools. While DEIS schools are said to be prioritised in the provision of support,\(^\text{108}\) there are just 38 literacy advisors and 13 numeracy advisors for the entire country to serve all schools. Support is provided through one Literacy Link Teacher in each school with in-school visits available on request from the Professional Development Service for Teachers (PDST).\(^\text{109}\) A number of seminars and workshops were available to Principals and Link Teachers over the school year 2014–15 under the School Self Evaluation process and in the Education Centres for example.\(^\text{110}\) These trainings contribute to the 20 hour Continuing Professional Development (CPD) training required under the Strategy. There are concerns that the impact of the support is being lost without a whole-school holistic approach, without standardised and tailored structures or systems within the school for information and trainings to be shared with colleagues.

The Government decision to invest in supporting the Book Rental Scheme in all schools is to be warmly welcomed as such schemes make a significant contribution to helping reduce the cost of school books on families. In 2014, the average costs of school books remains steady year on year, ranging from €76 to €100 for primary school books.\(^\text{111}\) The figure rose significantly to up to €300 for a first year pupil in secondary school.\(^\text{112}\)


\(^{103}\) Communication to the Children’s Rights Alliance from the Department of Education and Skills, 9 February 2015.


\(^{105}\) 61 per cent of young people from semi/unskilled manual backgrounds and 56 per cent of those from non-employed households attend non DEIS schools (School Leavers Survey, 2007).


\(^{107}\) Dáil Debate, Minister for Education and Skills, Jan O’Sullivan T.D., 17 September 2014, 33687/14; Department of Education and Skills Inspectorate, Plan to Improve Literacy and Numeracy in Schools, (formerly ‘Cuiditheoirí’) who were dedicated to DEIS schools have been replaced by literacy and numeracy advisors who are shared amongst the general population of schools. While DEIS schools are said to be prioritised in the provision of support, there are just 38 literacy advisors and 13 numeracy advisors for the entire country to serve all schools. Support is provided through one Literacy Link Teacher in each school with in-school visits available on request from the Professional Development Service for Teachers (PDST). A number of seminars and workshops were available to Principals and Link Teachers over the school year 2014–15 under the School Self Evaluation process and in the Education Centres for example. These trainings contribute to the 20 hour Continuing Professional Development (CPD) training required under the Strategy. There are concerns that the impact of the support is being lost without a whole-school holistic approach, without standardised and tailored structures or systems within the school for information and trainings to be shared with colleagues.

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\(^{108}\) Ibid.

\(^{109}\) Ibid.

\(^{110}\) Principals also receive training through their existing leadership programmes. Communication to the Children’s Rights Alliance from the Department of Education and Skills, 9 February 2015.

2.3

CHILDBREN WITH SPECIAL EDUCATIONAL NEEDS

GOVERNMENT COMMITMENT

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

Progress: Limited

WHAT’S HAPPENING?

No progress was made on further implementation of the EPSEN Act 2004. The number of Special Needs Assistants was increased. The National Council for Special Education published a report on a proposed new model for allocating resource teachers to special education needs students.

Budget 2015 saw an increase in funding of Special Education Measures from €1.3 billion in Budget 2014 to €1.37 billion or 16 per cent of the Education Budget.

Commencement of the outstanding provisions of the Education for Persons with Special Educational Needs (EPSEN) Act 2004 and progress on the 2006 Implementation Plan for the Act remained on hold in 2014. The Department of Education and Skills has received legal opinion that it is not possible to implement the outstanding individual sections of the Act independently of other sections.

In April 2014, the Government under the National Policy Framework for Children and Young People 2014–2020 committed to prepare and implement a plan, guided by the National Council for Special Education (NCSE), to achieve greater integration of special needs-related services.

In April 2014, a new circular which ‘clarifies the purpose of the SNA scheme’ was published by the Department of Education and Skills. The Circular does not change the means by which the NCSE allocates SNAs, rather it provides clarification on the role of SNAs and Resource Teachers. The NCSE allocation process and the appeals mechanisms for allocations.

In September 2014, the NCSE launched a national initiative to provide information sessions to parents and guardians of children with special educational needs. These information sessions were informed by the recently completed publication of eight new information leaflets explaining how the education system supports students with different types of disabilities.

The sessions, which commenced in October 2014, will be delivered by SENOs throughout the country. They are aimed at parents whose children will start school in September 2015 and will provide information on what educational services and supports are available in local areas and how to access them.

24 Communication received by the Children’s Rights Alliance from the Department of Education and Skills, 11 November 2014.
26 The need for such a model was identified in National Council for Special Education (2013) Supporting Children with Special Educational Needs in Schools: NCSE Policy Advice Paper No. 4, Kildare: NCSE, p. 5.
27 Communication received by the Children’s Rights Alliance from the Department of Education and Skills, 11 November 2014.

of Education and Skills, of information required to support the roll out of the new model.23

In light of the report’s publication, the Department has initiated a consultation process.24

The 2013 NCSE report, Supporting Children with Special Educational Needs in Schools, recommended a review be undertaken of the Visiting Teacher Service which provides support for children who are deaf/hard of hearing and for children who are blind/visually impaired.25 This review was completed in 2014 and is currently being examined by the Department.26

The number of resource teaching posts was increased by 480 under Budget 2014. In Budget 2015, a further 480 resource teaching posts were announced which will bring the total to 6,705 by end of 2015, an increase of 21 per cent from 2013.27 In 2014, some 42,250 students received resource teaching for low incidence special needs, not including students receiving supports under the General Allocation Model.28

Under Budget 2015, the existing cap for Special Needs Assistants (SNA) posts was increased by 365 to 11,330. This amounts to an additional 145 posts by the end of 2014 and an additional 220 posts in 2015, an increase of 7 per cent on 2013.29 In 2014, approximately 24,000 students had access to SNA support.

A DECADE ON FROM THE PASSING OF THE EPSEN ACT: A NEW DIALOGUE ON THE LEGISLATION IS URGENTLY NEEDED.

In 2014, approximately 24,000 students had access to SNA support.
Children with Special Educational Needs gets a GCSE grade this year the same as last year’s grade. There was an increase in the number of SNAs and Resource Teachers, the NCSE report on the new allocation model for teaching resources was published and the review of the Visiting Teacher Service was concluded. However, the failure to implement the outstanding provisions of the EPSEN Act 2004 remains a cause for concern.

An estimated 25 per cent of children in Ireland have special educational needs. Children with special educational needs can thrive in a mainstream education environment, once they are properly supported. Indeed their presence has been shown to have a positive impact on the classmates and the school as a whole. A 2013 report by the National Council for Special Education (NCSE) found that, while most schools welcome and enrol children with special educational needs, some erect overt and/or soft barriers to prevent or discourage parents from enrolling their children in these schools. These exclusionary practices cannot be permitted in any publicly funded education system.

The right to education under Article 28 of the UN Convention on the Rights of the Child extends to all children. Children have the basic right to development and the State must ensure that every child’s right is vindicated to the maximum extent possible, regardless of ability. One of the aims of education under the Convention is the development of the child’s personality, talents and mental and physical abilities to their fullest potential. Children with special educational needs are appropriate to the child’s condition, designed to ensure that the child has effective access to education and receives that education in a manner conducive to the child achieving the fullest possible social integration and individual development.

The EPSEN Act 2004 provides the legislative framework for the assessment of need for children with special educational needs, the preparation and implementation of individual education plans, and the delivery of some of the supports by special needs students. It is this process that has been the determining factor in the failure to commence the legislation in full and so children with special needs have been left without a clear right to educational supports.

A decade on from the passing of the EPSEN Act a new dialogue on the legislation is urgently needed. The NCSE believes that the EPSEN Act 2004 continues to offer the most effective route to assessment and educational planning for children with special educational needs. The National Council for Special Education and Skills to implement the Act in full, as soon as resources become available. An audit of the legislation should be carried out by the Department of Education and Skills to update or enhance, removed or prioritised given the substantial passage of time since its enactment.

The National Policy Framework for Children and Young People 2014–2020 commits to building on the cross-cutting arrangements in place between the Departments of Health, Education and Skills, Children and Youth Affairs to enhance collaboration across these three sectors on children’s disability issues.

This is an important and welcome commitment given the concerns expressed by the NCSE about the lack of a joined-up approach across education and health services leading to duplication in assessment.

The National Policy Framework further commits to providing timely access to educational and therapeutic supports for children who are identified as having special needs.

Exceptionally able or ‘gifted’ children may also have special educational needs, but they are not included in the 25 per cent figure; these children can become bored and frustrated in school and are often uncomfortable or self-conscious about their ability.

Gill and MacMillan, p. 76.


A child is deemed to have a special educational need if he or she requires substantial additional educational provision in comparison with his/her peers (definition in S. Griffin and M. Shevlin (2007) Responding to Special Educational Needs: an Irish Perspective, Dublin: Gill and MacMillan, p. 76.

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For full details see: Department of Education and Skills (2002) Circular SP ED 07/02, Applications for full or part-time Special Needs Assistant support to address the special care needs of children with disabilities.
SCHOOL BUILDINGS

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

- To progressively phase-out the inefficient renting of school prefabs. In the interim, negotiation of prefab rental contracts will be part of a reformed public procurement policy to encourage value for money, transparency and reduce dependency on temporary accommodation.
- To overhaul the Department of Education and Skills’ central database of school accommodation to ensure a complete inventory of school buildings and associated structures is maintained so deficiencies are easily identifiable.

Progress: Good

WHAT’S HAPPENING?

Work continues on the major capital investment programme to build new schools and replace rented prefabs. €28 million was allocated for a Minor Works Grant Scheme for primary schools and over €70 million for the Summer Works Scheme in 2014.

Budget 2015 provided €350 million in capital expenditure in the area of education, with €450 million to be spent on the Schools Building Programme. Under the National Policy Framework for Children and Young People 2014–2020, published in April 2014, the Government committed to ensuring ‘quality learning environments for all’ children through the school building programme. In March 2012, a €2 billion five-year capital investment programme was launched by the then Minister for Education and Skills, Ruairí Quinn TD, involving over 275 new major school projects. In 2014, 42 large-scale schools, comprising 15 large-scale school extensions and 27 new school buildings were completed. Building has begun on over 50 schools. A 2015 School Building Programme was published in December 2014, with a follow-on plan to be published in 2015. The building programme aims to provide 100,000 additional permanent school places, over 80,000 of which will be new school places with the remainder replacing temporary

Immediate Actions for 2015

Roll out the new resource allocation model as proposed by the National Council for Special Education (NCSE)

An implementation plan for the introduction of the resource allocation model as proposed by the 2014 NCSE report should be developed and rolled out in 2015. The plan should be rights-based and take into account the findings of the Department of Education and Skills’ data collection project and consultation process.

Publish and begin action on a plan to fully implement the EPSEN Act 2004

The 2013 NCSE policy advice is clear; the EPSEN Act 2004 continues to offer the most effective route to assessment and educational planning for children with special educational needs. It is unacceptable to have a policy vacuum in this vital area of children’s rights. Progress should begin immediately on implementing the interim proposals outlined by the NCSE in its policy advice. A review and audit of Act may also be useful, given that it is now over a decade since its enactment and other policy measures have been introduced during this time period.

Publish the review of the Visiting Teacher Service and implement its recommendations

The review of the visiting teacher service, for children who are deaf/hard of hearing and for children who are blind/visually impaired, should be published and its recommendations implemented to ensure these children’s right to receive the best possible education and develop opportunities.

144 Communication received by the Children’s Rights Alliance from the Department of Education and Skills, 10 February 2015.
In 2015, 772 schools benefited from the funding for school improvements. The grants were extended to primary schools with temporary recognition, in addition to those with permanent status, due to the increased demographic demand and enrolment projections. This means that every primary school in the country received the investment in 2014.142 The Summer Works Scheme 2014 saw over €70 million invested in two phases,143 the first (worth €36 million) to undertake general mechanical and electrical works,144 and the second (worth €35 million) to repair toilets and roofs for both primary and post primary schools.145 In total, 772 schools benefited from the scheme over the summer months.146 The Scheme provides a mechanism for schools to make improvements over the summer months and was expected to benefit 101,000 pupils at 386 schools across the country.147

The Department of Education and Skills had developed an online inventory to school accommodation, accessible through its Esnet portal. This online facility provides key data and statistics on existing school building nationwide at both primary and post-primary levels. Over 80 per cent of schools have completed or are in the process of completing the inventory.148 In order to determine where new or additional new school accommodation is required across the country, the Department uses a Geographical Information System to analyse demographic data. The system uses a range of data sources such as census data, school enrolment data, and child benefit data obtained from the Department of Social Protection. The school inventory data feeds into this process by assisting in an analysis of existing educational provision in an area. Between 2011 and 2016, approximately 46 new schools will have been established as a result of this process and numerous extensions to existing school accommodation.149

School Buildings gets an A+ grade in Report Card 2015, a rise from last year’s B+ grade. This reflects the ongoing capital investment in school building announced in Budget 2015. The Government is to be praised for its sustained work on school accommodation, particularly in light of the 2006 recommendation by the UN Committee on the Rights of the Child that the State ensure that budgetary allocations are directed at improving and upgrading school buildings, recreational equipment and facilities, and the sanitary conditions in schools.150 The allocation of funding to the Summer Works Scheme and the Minor Works Grant Scheme for the 2014 (5 school year is most well-received: both programmes were not proceeded with in 2012 in a round of budget cutbacks.151

The inclusion of the commitment to providing ‘quality learning environments for all children’ in the new National Policy Framework for Children and Young People 2014–2020 consolidates the Government’s ongoing commitment in this area up to 2020.152 Under the National Policy Framework, the Government also expressed its intention to continue, and explore the potential to expand its current practice of clustering schools to ‘encourage greater connections between schools and community and State services, including sharing infrastructure’.153

The ongoing works and commitment to improving school accommodation in 2014 is critical given the forecast increase in the number of school enrolments at primary and post-primary levels in the coming years. Having already seen a substantial rise in recent years, primary schools are expected to see an increase of over 26,500 by 2016. This will continue to rise to a peak of almost 575,000 pupils in 2018 before declining. At post-primary level, enrolments are expected to increase by slightly less than 13,500 by 2016 before hitting a record of over 400,000 by 2025.154


Communication received from the Children’s Rights Alliance from the Department of Education and Skills, 30 January 2015.


Ibid.


Communication received from the Children’s Rights Alliance from the Department of Education and Skills, 2 February 2015.
Immediate Actions for 2015

Ensure that the promised funding for the remainder of the School Buildings Programme is protected and that quality is maintained.

The investments made as part of the five-year building programme to build new classrooms and to replace unsatisfactory or prefab accommodation are significant. Funding for this multi-annual programme should be maintained and protected. The quality of design should also be a priority in the selection of firms bidding for contracts for school building design contracts to ensure that the designs can adapt to the changing nature of teaching and learning.

Ensure that the child’s right to engage in play and recreational activities is part of planning and design of school accommodation.

Children have a right to play and leisure under Article 30 of the UN Convention on the Rights of the Child: the Convention also states that one aim of education is the development of respect for the natural environment. These should be factored into the planning and design of school buildings, exercise areas and other internal and external education accommodation.

Take appropriate measures on foot of the inventory of school accommodation and publish key findings.

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

Ensure that the Minor Works Grant Scheme and the Summer Works Scheme are maintained.

Investment in the Minor Works Grant Scheme and the re-introduction of the Summer Works Scheme are very welcome as a means of repairing and maintaining school accommodation and should be protected into the future.

GOVERNMENT COMMITMENT

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

Progress: Completed

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

Progress: Delayed

WHAT’S HAPPENING?

In March 2014, the General Scheme of an Education (Admission to Schools) Bill 2013 was approved by Government and the Bill is part of the Statement of Government Priorities 2014–2016 and is on the Government Legislation programme for the Spring/Summer session in 2015.154 The Bill aims to provide the framework for greater confidence in the admissions criteria for schools.155

The Forum on Patronage and Pluralism in the Primary Sector156 published its final report in 2012.157 While the White Paper on the Forum’s recommendations has not yet been published, the then Minister for Education and Skills, Ruairi Quinn TD did publish an update on the implementation of the Forum’s recommendations in July 2014.158 In April 2014, the Government committed to continuing

155 Communication received by the Children’s Rights Alliance from the Department of Education and Skills, 11 November 2014.
156 Patronage refers to the ownership and management of schools. In Ireland, the vast majority of primary schools are privately owned and supported by different churches. The State pays the bulk of the building and running costs and a local contribution is made towards the running costs.
157 The Forum comprised Professor John Cooaghan (Chair), Dr Caroline Hussey and Fionnuala Kilfeather.
its work ‘to expand the provision of multi-denominational schools where parental demand exists’ in the new National Policy Framework for Children and Young People 2014–2020.179

The first group of schools under the patronage divestment process opened in September 2014. Four new primary schools opened under Educate Together180 patronage in Malahide/Portmarnock, Co. Dublin; Ballina, Co. Mayo; Trim, Co. Meath; and Tralee, Co. Kerry.181 The patronage of the school in Ballina was transferred from an existing Church of Ireland school. Work is ongoing with Catholic patron representatives to identify options for divestment in 2015 and beyond.182 Between 2011 and 2016, 20 new multi-denominational primary schools will have been established or will be in the process of being established of which five will be all-Irish Gaelscoilanna under the patronage of An Foras Patrúntachta. Twenty-two new multi-denominational post-primary schools will open in the same period, between 2011 and 2016.

The National Council for Curriculum and Assessment (NCCA) continued to work on developing a curriculum for the Education about Religions and Beliefs (ERB) and Ethics provision for all primary schools. The NCCA has developed a Discussion Paper that will inform consultations183 with patrons, educators, parents, practitioners, children, ethnic and religious groups and persons of indigenous origin called for in Article 29 (1) (b) and (d).184

Patronage and Pluralism in Primary Education

Each child’s right to education is guaranteed by the UN Convention on the Rights of the Child (Article 28(1)), as a ‘fundamental freedom, thought, conscience and religion’ (Article 14). Of specific relevance to the issue of patronage is Article 2, which states that ‘State Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, 

The Committee continues by stating that the school environment itself must thus reflect the freedom and the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples. It must thus reflect the freedom and the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples. It must thus reflect the freedom and the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples. It must thus reflect the freedom and the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples. It must thus reflect the freedom and the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples. It must thus reflect the freedom and the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples. It must thus reflect the freedom and the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples. It must thus reflect the freedom and the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples. It must thus reflect the freedom and the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples. It must thus reflect the freedom and the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples. It must thus reflect the freedom and the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples. It must thus reflect the freedom and the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples. It must thus reflect the freedom and the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples. It must thus reflect the freedom and the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples. It must thus reflect the freedom and the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples. It must thus reflect the freedom and the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples. It must thus reflect the freedom and the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples. It must thus reflect the freedom and the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples. It must thus reflect the freedom and the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples. It must thus reflect the freedom and the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples.

The Committee’s 2006 Concluding Observations on Ireland called for the establishment of multi-denominational and non-denominational schools and recommended that the existing legislative framework be amended to eliminate discrimination in school admissions.185 According to their Concluding Observations on Ireland in 2011, the UN Committee for the Elimination of Racial Discrimination (CERD) recommended that the State ‘accelerate its efforts to establish alternative, non-denominational or multi-denominational schools and to amend the existing legislation that inhibits students from enrolling in a school because of their faith or belief’.186 In March 2013, Government accepted a recommendation made during the Universal Periodic Review process requesting that efforts be accelerated to establish a national network of schools to ensure equal access to children irrespective of their religious, cultural or social background.187 In July 2014, the UN Human Rights Committee expressed its concern about the ‘slow progress in increasing access to secular education’ and recommended that the State ‘ensure that there are diverse school types and curriculum options available throughout the State […] to meet the needs of minority faith or non-faith children’.188 Moreover, the Committee went a step further and highlighted that while some provision was made for multi-denominational schools, there were no plans to introduce non-denominational schools for children and families who would choose a secular education.189

Comprehensive reform of the 180-year-old primary education system to accommodate the diversity now present within Irish society is clearly needed given that 96 per cent of all schools were found to have a religious patron, with 89.6 per cent under the patronage of the Catholic Church.190 According to the Irish Human Rights Commission (now the Irish Human Rights and Equality Commission) for the first time, the State is no longer to design the primary system, but to adapt it to be more inclusive and to devise new forms of patronage.191

In 2010, the Roman Catholic Church authorities, as part of the process to meet the need for change and endorse the principle of parental choice in education,192 however, in 2014 while one school transitioned from the Catholic Church to another patron,193 no school transferred from the Catholic Church to another patron. In July 2014, the Department noted that ‘engagement with patrons has so far been positive and it is expected that further progress can be achieved for new schools in 2015 and onwards’.194 However, the report suggests that the process has effectively stalled. The Department of Education and Skills should clarify its intentions in driving this process forward in terms of the pace of divestment and the nature of reform needed. Educate Together believes that a national network of 300 primary schools operating

180 Educate Together is an independent NGO and management group that runs a network of schools across Ireland which guarantee equal access of children regardless ‘irrespective of their social, cultural or religious background’.
181 Caroline O’Hegarty was received by the Children’s Rights Alliance from the Department of Education and Skills, 11 November 2014.
182 Communication was received by the Children’s Rights Alliance from the Department of Education and Skills, 11 November 2014.
184 Communication received by the Children’s Rights Alliance from the National Council for Curriculum and Assessment, 10 February 2015.
190 See transcript of discussion on issue of religion in schools during Ireland’s examination by the UN Human Rights Committee in July 2014 at: http://bit.ly/1h0s5Ie (accessed 9 September 2014).
198 Comprehensive reform of the 180-year-old primary education system to accommodate the diversity now present within Irish society is clearly needed given that 96 per cent of all schools were found to have a religious patron, with 89.6 per cent under the patronage of the Catholic Church. According to the Irish Human Rights Commission (now the Irish Human Rights and Equality Commission) for the first time, the State is no longer to design the primary system, but to adapt it to be more inclusive and to devise new forms of patronage.
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The development of the curriculum by the National Council for Curriculum and Assessment (NCCA) in this area is the fulfilment of a recommendation of the Ombudsman for Patronage and Pluralism and of Report Card 2014 and is a very positive initiative.

Under the General Scheme, while school admissions policies must not discriminate under the grounds set out under the Bill, they can continue to give preference to students of a particular religious denomination or can refuse to admit a student not from that denomination, provided the school can prove that this refusal is ‘essential to maintain the ethos of the school’, as provided for under Section 7 of the Equal Status Acts 2000–2012. The Ombudsman for Children has advised that Section 7 should be amended to provide that ‘no child should in general be given preferential access to publicly-funded education on the basis of their religion’. An exception for denominational schools should be allowed where this would lead to a situation where the student body would no longer reflect the school’s denominational character.

While the remit of the Forum on Patronage and Pluralism and the focus of divestment have been on primary schools to date, the Department of Education and Skills considers that the opportunity to address diversity at post-primary level is likely to arise organically to meet the demographic spike in demand currently being experienced at primary level. A national demographic study is currently ongoing by the Department to determine the need for additional school accommodation at post-primary level from 2015 onwards; any new schools will be subject to the new procedures for determining the patronage of schools.

Under the same human rights and equality standards is necessary to address the human rights deficit in this area of Irish education.

While the publication of the update on the implementation of the recommendations of the Forum on Patronage and Pluralism is welcome, we are still awaiting the production of the White Paper. Informed by consultations with parents in autumn 2013, the update is an informational piece and outlines examples of where good practice on inclusivity exists. Rather than mandate measures to be taken by schools, it encourages school authorities to engage in consultation with stakeholders and to review their policies and practices on an ongoing basis to ensure that they remain suitable for the school population that they serve.

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Recalibrate Section 7 of the Equal Status Acts 2000–2012 to ensure that no child in general is given preferential access to publicly-funded education on the basis of their religion.

Section 7 of the Equal Status Acts 2000–2012 should be amended to reflect the recommendation of the Ombudsman for Children, to ensure that a child of minority or no religious beliefs is not discriminated against in admission to a publicly funded school. It should at the same time allow an exemption for a denominational school where the section would result in the student population of the school no longer being reflective of the school’s ethos.

Immediate Actions for 2015

Clarity how the divestment process will be progressed in 2015 and beyond.

Given the importance of the divestment to fulfil a child’s fundamental right to access education and offer families seeking choice in the ethos of their child’s education, it is imperative that the process is given new impetus in 2015. Review mechanisms of the divestment process to ensure they are the most appropriate and likely to yield results.

Publish the White Paper on Patronage and Pluralism in Primary Education.

It is important that the White Paper is published as promised as a follow on to the Update on Forum on Patronage and Pluralism in Primary Sector. This will constitute an important component of future government policy in an area that will require sustained political attention over the coming year.

Recalibrate Section 7 of the Equal Status Acts 2000–2012 to ensure that no child in general is given preferential access to publicly-funded education on the basis of their religion.

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Maintain the momentum to complete the curriculum on Education about Religion and Beliefs (ERB) and Ethics as soon as possible.

The work of the National Council for Curriculum and Assessment in developing an ERB curriculum for primary schools must be adequately supported to ensure its timely completion. Such a curriculum will ensure that children have right to receive education ‘about religions’, as opposed to faith formation.

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26 Communication received by the Children’s Rights Alliance from Educate Together, 30 January 2015.
264 Ibid. 434 submissions were made.
266 Communication received by the Children’s Rights Alliance from the Department of Education and Skills, 11 November 2014.
267 Ibid.
274 Draft General Scheme of an Education (Admission to Schools) Bill 2013, Head 3, Requirement that an educational establishment must not discriminate under the grounds set out under the Bill, they can continue to give preference to students of a particular religious denomination or can refuse to admit a student not from that denomination, provided the school can prove that this refusal is ‘essential to maintain the ethos of the school’, as provided for under Section 7 of the Equal Status Acts 2000–2012. The Ombudsman for Children has advised that Section 7 should be amended to provide that ‘no child should in general be given preferential access to publicly-funded education on the basis of their religion’. An exception for denominational schools should be allowed where this would lead to a situation where the student body would no longer reflect the school’s denominational character.
280 Communication received by the Children’s Rights Alliance from the Department of Education and Skills, 11 November 2014.
281 Ibid.
282 Ibid.
3. **RIGHT TO HEALTH**

**The Right to Health**

Every child has the right to life and development, to enjoy of 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 UNCRC.

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*A Galway mother has spoken of her worry for her child’s future as uncertainty persists over the allocation of discretionary medical cards to those who are disabled or have a serious medical need.*

Corrib Park resident Christina Webster’s seven-year-old daughter Ava has Down syndrome and her discretionary medical card, which had been under review, was due to expire on Saturday last. When Ms Webster heard that Junior Minister Alex White had announced the cessation of all reviews of discretionary medical cards, she called the HSE to enquire as to the status of Ava’s medical card. She was told that Ava’s card had been extended by a further month, but that the review would still take place.

“We’re none the wiser, really,” said Ms Webster. Ms Webster said that Ava’s medical needs were “way above other children” and that she needed a special CPAP respiratory machine to help her breathe properly at night, which would be a serious financial burden on the family, were it not covered by a medical card. […]

Ms Webster said the family was concerned at how they would manage to cope with Ava’s medical needs without the help of a medical card. “We cannot take her off this machine, she has to be on it for her lifetime,” she said. […]

“When Ava was born, I automatically assumed, ‘OK, it won’t be too bad. Everything will be sorted for us, we won’t have to be fighting for this, that and the other’, but to be honest, since the day she was born, I have spent my time writing letters looking for this, looking for that. We don’t get anything.” […]

By Conor Harrington

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“Tobacco companies work hard to attract new smokers and the vast majority of these new recruits are children. Standardised tobacco packaging will make it illegal for tobacco companies to use colour, text and packet size to market cigarettes. To protect children from Big Tobacco’s marketing tactics it is vitally important that the Government’s Public Health (Standardised Packaging of Tobacco) Bill is enacted as soon as possible in 2015.”

Chris Macey, Head of Advocacy, Irish Heart Foundation
The legislative basis for Universal Primary Care will be established under Universal Primary Care will be introduced in phases so that additional doctors, nurses and other primary care professionals can be recruited.

Budget 2015 allocated €726 million for the provision of primary care services, similar to the 2014 allocation.208 Primary Care Teams and Centres: At the end of 2013, 419 Primary Care Teams209 at different levels of development were in operation across the country.210 This represents 86 per cent of the promised 485 teams. The teams comprise nearly 3,000 nursing, therapy and support staff providing services to almost four million people. As of December 2014, there were 85 Primary Care Centres in operation,211 and 37 additional centres are due to be completed by late 2016 or first half of 2017.212 In October 2014, the Health Service Executive (HSE) published Community Healthcare Organisations – Report and Recommendations of the Integrated Service Area Review Group, which sets out how health services, outside of acute hospitals, will be organised and managed.213 The report recommends the establishment of nine Community Healthcare Organisations (CHOs) to replace the existing 17 Integrated Service Areas. Resources will be reorganised into 90 Primary Care Networks; each network will serve approximately 50,000 people and be headed up by an identified accountable individual. In addition, the enactment of the Health Identifiers Bill 2013 is to be welcomed, as it will provide for the introduction of a national system of unique Individual Health Identifiers (IHIs).

Universal Healthcare: In April 2014, a White Paper on Universal Healthcare (UHI) was published which sets out Government’s proposals for a universal, single-tier health service.214 A large scale consultation on the White Paper took place in May 2014 and an independent analysis has been submitted to the Minister for Health. In addition, a major costing exercise is currently underway to establish the cost to the individual/household and to the State of the introduction of UHI.215 It is expected that initial results will be available in April 2015,216 after which the Minister will revert to Government with a revised roadmap for delivering UHI.217 The target date for the introduction of UHI was originally 2019,218 however, upon taking up office the Minister for Health, Leo Varadkar, said this date was too ambitious and will not be reached.219 Free GP Care and Medical Cards: The 2014 National Policy Framework for Children and Young People reiterated the Government’s commitment to introduce universal GP services,220 first articulated in the 2012 Future Health Framework.221 In Budget 2014, the Government announced the first step towards universal free GP care,222 by allocating €37 million to meet the full year cost of free GP care to 420,000 children under the age of six years.223 This measure will benefit an additional quarter of a million children on top of those already covered by existing card holders,224 meaning almost half the population will have free GP care at point of access.225 In July 2014, legislation was passed to allow for the extension of free GP care for all children under six years of age.226 The commencement of the scheme is subject to the conclusion of discussions with the Irish Medical Organisation227 and the completion of a fee-setting process.228 Medical Card Probsy: A review of the eligibility of current medical card holders (medical card probity) was announced in Budget 2014. It was expected to result in €113 million in savings for the Department of Health but this has been revised down to €23 million.229 From January to April 2014, approximately 97,000 cards were withdrawn of which 11,900 were discretionary medical cards, while 49,184 new cards were added in the same period of which 5,478 were discretionary cards.230 Criticism of the impact of the probity review231 led to a Government decision in May 2014 to suspend the review.232 Furthermore, in June 2014, the Government agreed to return medical and GP visit discretionary cards to an estimated 15,000 people due to the ‘unintended consequences’ of removing cards
since July 2011 from people with chronic illnesses or with a disability. 222

In June 2014, the Minister for Health, Dr James Reilly TD, asked the HSE to establish an Expert Panel to examine eligibility for medical cards based on medical rather than financial need. Following a public consultation in the summer, the Expert Panel’s report was published in November 2014. At the same time, the HSE also published the Medical Card Process Review which recommended a number of changes to the process of applying for medical cards. 223 The expert panel report acknowledged that the eligibility criteria for a medical card, as well as other Primary Care Schemes and their application processes, have evolved over time in a fragmented manner and have become complex and poorly understood by patients, medical staff and administrators alike. 224 Many submissions to the Expert Panel noted that the current system did not consider the true cost of chronic, long term illness. 225

The Expert Panel concluded that it was not feasible, desirable, nor ethically justifiable to list medical conditions in priority order for medical card eligibility and concluded that a person’s means should remain the main qualifier for a medical card. 226 The Panel also recommended that the medical card system should be simplified and that non-medical benefits, such as lower rates of Universal Social Charge, reduced childcare rates, should be un-coupled from medical cards. 227 Following on from the publication of the Report of the Expert Group, in November 2014 the Minister for Health with the Minister for Primary Care and the HSE announced a ten point action plan to reform the medical card system. 228 Under the reform plans, means will continue to be the main qualifying factor for a medical card. However, a number of changes were announced. These include an enhanced assessment process for discretionary cards which, among other things, will allow the HSE to take into account medical hardship and the burden of illness in assessing certain cases; mean those who are terminally ill will not have their medical card reviewed and those with discretionary medical cards will retain the cards until the scheme is improved. 229 Under this Plan, a clinical advisory group is to be established by the HSE to develop guidelines on assessing applications involving significant medical conditions. 230 It is hoped the guidelines will ensure a fair system and reduce geographical variations in how discretionary medical cards are issued. 231

National Healthcare Charter for Children: The HSE is developing a National Healthcare Charter for Children in consultation with children, parents and healthcare workers. The Charter aims to ensure that children receive quality healthcare which is both appropriate to their needs and circumstances. 232 The Charter was expected in 2014 but has yet to be published.

Primary care gets a C grade in Report Card 2015 as same as in Report Card 2014. This grade reflects the speed at which the Government has worked to secure the introduction of free GP care for children under the age of six and acknowledges the untold stress and uncertainty caused by the removal of discretionary medical cards from families of children with high level health needs. The continued efforts to improve primary health care is also reflected in the unchanged grade.

Primary Care: Primary care is the most basic building block of a successful health service that responds to children’s needs; 233 its importance to health promotion and the prevention of illness is recognised in Healthy Ireland. 234 As a child’s first point of contact with the health system, a well-resourced, responsive and effective primary care service has the potential to prevent the development of conditions that may require intensive treatment or hospitalisation, at greater cost to the child’s health and State finances. The UN Committee on the Rights of the Child has emphasised that primary care services should be accessible by self-referral and have a strong focus on working with communities and individuals to improve their health and social wellbeing. 235 The announcement of the intention to establish nine Community Healthcare Organisations (CHOs) and 90 Primary Care Networks are welcome as further steps to strengthen the emphasis within the health system on primary care. Also welcome is the setting of targets within the HSE National Service Plan for 2015 for the reduction of waiting lists for referrals for physiotherapy, occupational therapy and orthodontics. The HSE also set a target to reduce the proportion of patients on the orthodontic treatment waiting list for longer than four years to less than 5 percent. 236 It is essential that these targets are met and that real action is taken to reduce the waiting times for children and young people. Inclusion Ireland published a report in September 2014 which highlighted extensive waiting lists for speech and language therapy and concluded that access to speech therapy services depends on a ‘postcode lottery’. 237


225 Ibid, p. 5.


229 Ibid

230 Ibid

231 The Charter will be based primarily on: You and Your Health Service Ireland; the UN Convention on the Rights of the Child; and the Charter of the European Association for Children in Hospital. The Charter supports the implementation of the forthcoming National Policy on Children’s Participation in Decision-Making.


234 UN Committee on the Rights of the Child (2013) General Comment No.15: the right of the child to the enjoyment of the highest attainable standard of health CRC/C/GC/15.

235 UN Committee on the Rights of the Child calls on States to provide primary health care to all children. It places particular emphasis on the development of primary care services and through General Comment 15, the UN Committee on the Rights of the Child have stressed that primary care services should include the provision of information, services and commodities as well as prevention of illness and injury. 236 The child’s right to health was further elaborated upon in the Irish context by the Special Rapporteur Report for Child Protection, Dr. Geoffrey Shannon in his 2014 Report. 237 The UN Committee on the Rights of the Child in its Concluding Observations on Ireland in 2006 expressed concern about the lack of guidelines safeguarding access to healthcare. It also stated that Ireland should ensure that availability and quality of health care services are maintained throughout the country by providing targeted resources and by establishing statutory guidelines for the quality of these services. 238


237 UN Committee on the Rights of the Child (2013) General Comment No.15: the right of the child to the enjoyment of the highest attainable standard of health CRC/C/GC/15, para 26.


239 UN Committee on the Rights of the Child (2013) General Comment No.15: the right of the child to the enjoyment of the highest attainable standard of health CRC/C/GC/15.


242 UN Committee on the Rights of the Child, CRC/C/IRL/CO/2, para 45(a).


246 UN Committee on the Rights of the Child (2013) General Comment No.15: the right of the child to the enjoyment of the highest attainable standard of health CRC/C/GC/15.
Free GP Care: The consultation on the White Paper on the Universal Health Insurance is to be welcomed. Also welcome is the passage of legislation to enable the introduction of free GP care for children under the age of six and the allocation of €37 million. This development will greatly benefit children’s right to access healthcare and supports an early intervention and prevention approach to health, in line with General Comment No. 15 of the Committee on the Rights of the Child which calls for ‘universal coverage of quality primary health services’. The World Health Organisation has identified that the aim of ‘universal health coverage is to ensure that everyone can use the health services they need without risk of financial ruin or impoverishment’. The UN General Assembly unanimously passed a draft resolution supporting universal healthcare in December 2012. It is hoped that discussions with the Irish Medical Organisation will be concluded promptly to allow the scheme to commence.

The draft contract for provision of the free GP service to children under the age of six indicated that parents will need to register their child with a GP to avail of the scheme. Consideration will need to be given as to how the scheme can be promoted among families who have weak links to the health services, for example Travellers, Roma and migrants. Consideration will also need to be given as to how the scheme can be promoted among families who have weak links to the health services, for example Travellers, Roma and migrants. To ensure access by such families the possibility of low threshold clinic should be explored to enable children to benefit from the scheme without needing to go through the registration process.

Medical Card Proby: The speed at which the Government has worked to secure the introduction of free GP care for children under six is to be commended. However, the removal of discretionary medical cards in the earlier part of 2014 from families of children with high level health needs was to be strongly condemned. Families with serious or terminal ill children and families of children with profound disabilities were left distraught, angry and frightened. Accessing medical cards was, and in some cases continues to be, a hugely stressful experience for many families.

In light of this, the halting of the review of medical cards in May 2014 was a positive development, as was the work of the Expert Group on Medical Cards and the ten point plan announced in November 2014. Future decisions on medical card eligibility must be guided by the child’s right to health under Article 24 of the UN Convention on the Rights of the Child and Article 2 under which no child should be discriminated against in accessing his or her rights.

National Healthcare Charter for Children: The delayed publication of final draft of the National Healthcare Charter for Children by the HSE is disappointing, especially given that a draft was published in 2012. Health policy in relation to children in Ireland is weak. It is essential that the Charter adopts a rights-based approach, including the child’s right to participation and that decisions be made in the best interests of the child. The Ombudsman for Children’s study on child-friendly health care states that this approach requires identifiable champions and advocates in order to succeed including healthcare professionals and children themselves.

243 UN Committee on the Rights of the Child (2013) General Comment No. 15: the right of the child to the enjoyment of the highest attainable standard of health CRC/C/GC/15, para. 73.
247 The Children’s Rights Alliance, Submission to Department of Health on the Provision of a GP Service Without Fees for Children under Six Years February 2014.
249 For example, see http://www.jackandjill.ie/tag/medical-cards/ and Our Children’s Health http://www.ourchildrenshealth.ie/ (accessed 6 January 2015).
The new National Children’s Hospital is intended to be a core component of an integrated healthcare system, by amalgamating acute paediatric services in Dublin into a single hospital, located alongside a leading adult teaching Hospital. Better Outcomes Brighter Futures: The National Policy Framework for Children and Young People 2014–2020 commits to implementing a new National Model of Paediatric Care and complete rebuilding of the new National Children’s Hospital.

An initial decision was made to build the children’s hospital on the site of the Mater Hospital in Dublin but in February 2012 An Bord Pleanála refused planning permission for the project by reason of its height and scale. So the project had to start over again. Following this setback, in November 2012 the Government decided to co-locate the children’s hospital with St James’s Hospital in Dublin. In addition, satellite centres, which will share governance and staffing with the new children’s hospital, will be built on the campuses of Tallaght and Connolly Hospitals.

The development of the children’s hospital is being overseen by two boards, established in August 2013 by the then Minister for Health, Dr. James Reilly TD, the Children’s Hospital Group Board and the Naional Paediatric Hospital Development Board. The Children’s Hospital Group Board, chaired by Dr. Jim Browne, comprises ten board members and is the end-user and client for the building project. It will oversee the operational integration of the three hospitals in advance of the move to the new hospital – Our Lady’s Children’s Hospital Crumlin, Children’s University Hospital Temple Street and the paediatric service at Tallaght Hospital.

The Group Board will also play a key role in ensuring that the hospital is optimally designed and completed as quickly as possible. There’s no update publicly available on the work of the Children’s Hospital Group Board.

The second board in operation is the National Paediatric Hospital Development Board which is responsible for the design, planning, building and equipping of the new children’s hospital, in other words the building ‘board’. There is no update publicly available on the work of the Development Board. The Government has indicated its intention to bring forward a legislative amendment to ‘provide for an amendment to the functions and membership of the National Paediatric Hospital Development Board’. However, as of end 2014, the Heads of the Bill have yet to be approved by Government and no date has been given for the publication of the National Paediatric Hospital Development Board (Amendment) Bill.

In July 2014, a Project Brief for the new children’s hospital was approved by the HSE. It details that the hospital and its satellite centres will have 384 in-patient beds, 85 day-care beds, 111 outpatient consulting examination rooms. The new hospital will treat children up until the eve of their sixteenth birthday, with children who are currently within the system being treated up until the eve of their eighteenth birthday. The transition to adult services will commence early and be completed by the 18th birthday unless in specific circumstances where clinical outcomes are better under paediatric services.

The core hospital facilities will be supported by education, training and research facilities, hospital schools, play areas, 1,000 under-ground car parking spaces and a family accommodation facility. In a positive step, the Project Brief sets out that the design should recognise ‘the family’s well-being as a major factor in the provision of care for the child or young person’ and also ‘the differing needs of children, young people, parents and families in widely diverse situations’. It lists a number of areas for consideration including children’s everyday needs, parents’ and families’ needs for information and children’s needs for socialisation.

In July 2014, the Design Team for the hospital was appointed, nine months later than the initial planned date of October 2013. The Government aims to submit a planning application to An Bord Pleanála in June 2015. The date for the commence of construction has been revised for a second time and is now expected to begin in January 2015. The overall project is scheduled for completion by late 2019. The cost of this large-scale project will be generated from an upfront payment of €200 million arising from the sale of the National Lottery, complemented by €450 million Exchequer funding from the capital budget.

In May 2013, the then Minister for Health, Dr. James Reilly TD, announced plans to move the National Maternity Hospital currently located at Holles Street, Dublin 2 to St. Vincent’s University Hospital Campus, Dublin 4. This decision follows a recommendation made in the Independent Review of Maternity and Gynaecology Services in the Greater Dublin Area Report, that Dublin’s maternity hospital should be located alongside adult acute services. In addition the Government has committed to building a National Maternity Hospital on the St. James’s Hospital campus, thus providing tri-located child, maternity and acute adult services. The Department of Health is currently developing a National Strategy for Maternity Services which will inform the delivery of the tri-located services on the St. James’s campus.
Children’s Hospital gets a C grade in Report Card 2014, slightly down from last year’s grade of a C+. This reflects the continued slow pace at which the Children’s Hospital, now in the process of completing a new hospital in Dublin, is progressing but acknowledges the many milestones achieved in 2014, including the appointment of a design team, the publication of the project brief and the progression made towards applying for planning permission.

A new, single national children’s hospital was recommended in a 2006 report,72 its location has been subject to debate and review. The change in site in 2012, following planning refusal for the Mater site, delayed the process by at least two-and-a-half years and incurred a cost of €35 million.73 The current completion date is estimated at mid-2019, 13 years after the initial recommendation.74 Meanwhile, the two main children’s hospitals (Our Lady’s Hospital for Sick Children in Crumlin, Dublin and the Children’s University Hospital, Temple Street, Dublin) struggle to provide quality care in facilities that fall well below today’s standards and are in poor structural condition.75 As an immediate measure, investment must be made to these existing hospitals to ensure they can still provide the necessary level of care to sick children.

The UN Convention on the Rights of the Child mandates that all work undertaken in the field of children’s health is not limited to the achievement of the ‘highest attainable standard of health’ but crucially to ‘facilities and treatment for all children up to the age of 18 years, and despite any change in the age of the eve of their 16th birthday, with some flexibility for those already in the system. The 2013 Review of Paediatric and Neonatology Services and Framework for Future Development recommended the cut off age for Paediatric services be 16.76 However, it is not clear from this document what rationale was used to come to this conclusion.

The Children’s Rights Alliance has recommended that the hospital provide facilities and treatment for all children up to the age of 18 years,77 consistent with the definition of a child as a person under the age of 18 years under the UN Convention on the Rights of the Child78 and key Irish statutes on children, such as the Child Care Act 1991 and the Children Act 2001. The European Charter for Children in Hospital also defines children as up to 18 years of age.79 It should be noted that child protection measures place specific obligations on staff working with all those under 18 years and despite the age of medical consent being 16 years, the law is silent on the age at which a child can refuse medical treatment without parental consent.

In leading international children’s hospitals, including Boston Children’s Hospital and Great Ormond Street Children’s Hospital, Toronto Children’s Hospital and Children’s Hospital of Philadelphia, the legal age of consent is extended to the age of 18–21 years. In these hospitals there are specialist adolescent consultants and services available. The new hospital provides an opportunity to address the well-documented gap in adolescent health services by setting the cut off 18 years for the new hospital.

The tri-location of the Children’s Hospitals with the adult hospital and the new Maternity hospital is welcome. Concerns have been expressed as to the potential lack of space at the St James’ site for both the Children’s Hospital and the new Maternity Hospital.80 These concerns need to be addressed and planning work begun in parallel with the children’s hospital to ensure a coherent and efficient use of available land and resources.
**CHILDREN’S HOSPITAL**

**Immediate Actions for 2015**

**Expedite the process of building the new National Children’s Hospital**

This was an immediate action of Report Cards 2014, 2013 and 2012 and remains unaddressed. Work is progressing to planning stages at the St. James’ Hospital site in Dublin. The completion of the hospital must remain a key political priority during 2015 to ensure that there are no further slippages in the timeline. A completion date any later than mid-2019 simply cannot be accepted.

**Extend the services of the hospital to all those under 18 years**

The hospital must be able to meet the health needs of adolescents of 16 and 17 years of age. The cut off age for new patients should be extended to the eve of the young person’s 18th birthday, in line with the UN Convention on the Rights of the Child, key Irish statutes and the European Charter for Children in Hospital.

**Ensure the hospital design and operation are grounded in children’s rights**

The design and ethos of the children’s hospital must be child-centred and grounded in children’s rights. Children’s rights principles should set the process by which this should be achieved – core elements include listening to the views of children and their families, a high level of transparency and accountability in decision-making, and equality of access.

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**MENTAL HEALTH**

**GOVERNMENT COMMITMENT**

The Programme for Government commits to ring-fencing €35 million annually from within the health budget to develop community mental health teams and services as outlined in A Vision for Change, to ensure early access to more appropriate services for adults and children and improved integration with primary care services.287

**Progress: On track**

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

**Progress: Delayed**

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

**Progress: Unsatisfactory**

**WHAT’S HAPPENING?**

Budget 2015 saw the restoration of the full €35 million of development funding promised for mental health. The number of children on waiting lists for appointments has increased. Children are still being admitted to adult units.287

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

288 Minister of State for Disability, Equality, Mental Health and Older People, Kathleen Lynch TD, Parliamentary Questions: Written Answers, Mental Health Services Funding [27253/14] 24 June 2014


290 Ibid., Commitment 1.13.
The huge importance of on early access and diagnosis for children and young people.\(^{296}\)

CAMHS: A Vision for Change recommended the establishment of 127 specialist Child and Adolescent Mental Health Services (CAMHS) teams.\(^{297}\) However, there are currently only 62 CAMHS teams in operation.\(^{298}\) The HSE National Service Plan for 2015 revised slightly the target of under 72 per cent will be offered a first CAMHS appointment and under 72 per cent will be seen at first appointment within 12 weeks.\(^{299}\)

CAMHS has been identified as a Key Service Improvement Project for the HSE and a key priority for 2015.\(^{300}\) The aim is to address inconsistencies across services, specifically in the areas of waiting times, referral to treatment times, scope of treatment options available, clarity of information available to families and the interface with other agencies both internal and external to the HSE. A steering group, chaired by Anne O’Connor, National Director of Mental Health, was established in 2014 and held its first meeting in November 2014. The group has met with the management teams of all four CAMHS groups on in-patient units with a view to reviewing operational issues, including the eliminating of any barriers to full bed usage.\(^{301}\)

An ongoing debate is whether CAMHS should be located within the HSE or within the Child and Family Agency. In November 2014, the Minister Kathleen Lynch signalled that the CAMHS will remain in the HSE to ensure the provision of mental health services. However, she also stated that this under review as the CAMHS service is not getting the results that were hoped for and the resources being allocated to the service.\(^{302}\)

**Assessment, Consultation and Therapeutic Service (ACTS):** In 2014 ACTS, was rolled out to children in Children Detention Schools, in addition to those in Special Care units. Clinical services including addiction counselling, social work, social care and speech and language therapy are now available.\(^{303}\) This is a very welcome development.

**Bullying and Well-Being:** The National Educational Psychologists Service was assigned the responsibility of developing the national guidelines to be on mental health and well-being for primary schools. As of October 2014 the guidelines were in the process of being finalised. The Department of Education and Skills continued to support anti-homophobic and anti-transphobic bullying initiatives in schools.

**Review of the Mental Health Act 2001:** The Expert Group established to review the Mental Health Act 2001, presented its final report to the Cabinet in November 2014. The report has not been made public yet. It is expected that the report will recommend changes in relation to the age of consent to mental health treatment for children and young people.\(^{304}\)

**Adolescent Mental Health Units:** A Vision for Change recommended that four in-patient units for mental health treatment for children and young people be provided nationally, with a total of 108 beds. Since then, a unit have been delivered in Galway, CAMHS and Fairview, Dublin. In January 2014, construction work commenced on a new 24-bed unit, Linn Dara, on the grounds of their Cherry Orchard Hospital, Dublin. This unit will replace the interim unit on the grounds of St Loman’s Hospital, Palmerstown.\(^{305}\) The HSE National Service Plan 2015 outlined as a priority its plan to ensure and sustain child and adolescent inpatient capacity as a full 66-bed capacity and the development of a plan for interim National Paediatric Hospital CAMHS inpatient Unit.\(^{306}\)

**Adolescent In-Patients Admissions:** The HSE National Service Plan for 2014 commits to a target that 95 per cent of admissions of children to Child and Adolescent Acute Inpatient Units will be to age appropriate units in 2014 (this figure excludes admissions to units independent of the HSE). The final figures for 2014 are not publicly available. The HSE’s November 2014 Performance Assurance report states that by the end of November, there had been 263 children and adolescent admissions, of which 179 (68 per cent) were to age appropriate Acute Child and Adolescent Inpatient Units and 84 (32 per cent) to approved adult mental health inpatient units. The majority of admissions to approved adult mental health inpatient units are voluntary with parental consent, with a very small number under Section 25 of the Mental Health Act 2001. Approximately 85 per cent of admissions to approved adult mental health inpatient units are 16 and 17 years of age; a third are discharged within two days, and two thirds within one week.\(^{307}\) The HSE National Service Plan for 2015 commits to implementing a detailed reporting and monitoring process to measure progress on eliminating admission to adult units for those under 16 years and reducing the admission of those under 17 years.\(^{308}\)

**Inspections carried out by the Mental Health Commission in 2014** highlighted issues with in-patient and day care facilities around the country. The 2014 inspection of the Department of Psychiatry in Connolly Hospital, Dublin found that the centre had been obliged to admit acutely ill children on numerous occasions because no bed was available in a child and adolescent approved centre.\(^{309}\) It was found that the department was not a suitable environment for a child nor could it deliver optimal care and treatment.\(^{310}\) In a similar situation in the Mental Health Unit of Cork University Hospital, one child resident had remained an in-patient in the ward for a number of weeks, despite the availability of a bed in the nearby Child and Adolescent in-patient unit in Cork. Staff of the adult unit had sought a bed in the regional child and adolescent mental health unit and were unaware of this vacancy.\(^{311}\)

**Mental health gets an ‘E’ grade in Report Card 2015** The continued inappropriate use of adult inpatient facilities for children and young people. However the finding of CAMHS as a key Service Improvement Project for the HSE and this is a key priority for 2015 is a worrying one. Of grave concern was the waiting lists for children and young people to access the mental health services, leaving children without support and potentially in a vulnerable position.

The UN Committee on the Rights of the Child General Comment No. 4 on adolescent health notes the obligations on States to ensure the availability of mental health services that of appropriate quality and accessible to adolescents’ concerns and the implementation of preventative and mental health promotion measures for adolescents.\(^{312}\) This General Comment must be reviewed and considered by the Department of Health and HSE in the future development of mental health services for children and adolescents.

In November 2012, the HSE issued Access Protocols for 16 and 17 year olds to Mental Health Services which set out that from January 2013, CAMHS will accept referrals of all new cases of children up to their 17th birthday, and from January 2014, or earlier where feasible, up to their 18th birthday.\(^{313}\) In the HSE Mental Health Division Operational Plan and the National Policy Framework for Children and Young People this by committing that all 16 and 17 year olds requiring mental health assessment will be seen by CAMHS.\(^{314}\) It is of the utmost importance that all children have equal access to the vital service provided by CAMHS.
In 2014, the HSE Operational Plan for 2015 outlined as a priority its plan to ensure and sustain child and adolescent inpatient capacity as a full 66 bed capacity. This is far below the 108 bed for children and adolescents recommended in A Vision for Change: The Use of Existing Capacity Needs to be Examined. Two independent adolescent units hold an additional 26 beds but have unfilled capacity on an annual basis, while children are still inappropriately being placed in adult units.17

The UN Committee on the Rights of the Child says that the placement in a psychiatric unit is necessary; adolescents should be separated from adults, where appropriate; and any decision on their care should be made in accordance with their best interests.19 The placing of children in adult units may place children to situations which pose a risk to their physical and psychological wellbeing and thus contravenes the child’s right to protection from abuse and neglect (Article 19).20

The Mental Health Commission’s Code of Practice sought to phase-out the placement of children in inappropriate settings, including adult units, between July 2009 and the end of 2011, except in exceptional circumstances.21 Despite this, 32 per cent of in-patient admissions of children and young people from January to November 2014 were to adult units. Given the continued placement of children in adult in-patient wards, it is clear that the non-legally binding Code has not been successful.22 At a policy level the HSE set as key priorities for 2015 the elimination of all under 16s and reductions in the numbers of under 17s to adult units.23 While this is welcome, the continued placement of children in adult units, as a consequence of the shortage of appropriate mental health facilities, remains a children’s rights violation that requires urgent action to remedy for all those under 18 years.24 Measures to ensure compliance with best practice may require amending the Mental Health Act 2001 to prohibit the placement of a child under 18 years in an adult in-patient unit, save in exceptional circumstances where it would be in his or her best interests to do so.25

IMMEDIATE ACTIONS FOR 2015

Ensure all children under 18 years have access to mental health services and in a timely manner

The HSE’s Access Protocols for 16 and 17 year olds to Mental Health Services must be complied with, and measures taken to reduce the waiting times for first appointments. Achieving this requires ongoing investment in the development of Child and Adolescent Community Mental Health teams.

Ensure all children under 18 years receive age-appropriate mental health treatment

The practice of inappropriately treating children in adult mental health facilities must be ended as a matter of urgency. To achieve this, the HSE needs to set a time-bound target, improve internal communications and crucially bring to fruition the promised in-patient beds.

Put in place a legislative framework to fulfil the rights of children and adolescents with mental health difficulties

Urgent action is needed to put in place a legal framework to protect and fulfil the child’s rights in relation to mental health. The Mental Health Act 2001 should be amended to ensure its compliance with the UN Convention on the Rights of the Child. The updated Act should provide a guarantee that an assessment of the child’s best interests (Article 3) is informed by the views of the child; the child’s evolving capacities (Article 5) are respected as a legislative principle; and the child has access to information and participates in decision making in relation to their mental health (Article 12).
Alcohol: In October 2013, the Government accepted the broad thrust and evidence base of the 2012 Report of the Steering Group on a National Substance Misuse Strategy and approved a package of measures to deal with alcohol misuse in line with its recommendations. The First Annual Report on the National Substance Misuse Strategy – which will track progress on implementing the Steering Group Report’s recommendations – is due to be published in 2015.

As part of the Government’s package of measures, it committed to the drafting of a Public Health (Alcohol) Bill to introduce minimum unit pricing for alcohol; regulation of advertising and marketing of alcohol; structural separation of alcohol from other products in mixed trading outlets; health labelling of alcohol products; and regulation of sports sponsorship. It is reported that the Bill will also increase the powers of Environmental Officers to tackle underage drinking. A General Scheme of the Bill was due to be published in autumn 2014, this target was missed and the legislation is yet to be published.

To assist in developing a legislative basis for minimum unit pricing, a health impact assessment was commissioned in 2013 to study the impact of different minimum prices on a range of areas such as health, crime and likely economic impact, in conjunction with Northern Ireland. The assessment was due to be completed by the end of 2014 but is yet to be published. This is despite the fact that the Northern Ireland assessment was completed in June 2014 and published.

In October 2013, the Government decided to place the existing voluntary code that governs sports sponsorship on a statutory footing. In December 2013, an inter-departmental working group, chaired by the Department of An Taoiseach, was established to examine the regulation of sports sponsorship. The group was due to report back within twelve months but no report was published by end 2014. Smoking: National policy on smoking is guided by the 2013 report Tobacco-Free Ireland: Report of the Tobacco Policy Review Group, the first policy document to be published under the Healthy Ireland framework. The HSE National Service Plan for 2014 committed to produce an implementation plan for the recommendations contained in Tobacco Free Ireland during 2014. A draft plan has been drawn up, but is yet to be finalised.

In December 2014, the Protection of Children’s Health (Tobacco Smoke in Mechanically Propelled Vehicles) Bill 2014 was enacted. This legislation amends Section 47(1) of the Public Health (Tobacco) Act 2002 by extending the prohibition of smoking in workplaces to mechanically propelled vehicles in which a person under the age of 18 is present and making the driver of the vehicle responsible. The legislation was developed and introduced to the Oireachtas as a Private Members Bill in May 2012 by three Senators, Independent Senators, John Crown and Jillian Van Turnhout and Fianna Fáil Senator, Mark Daly. It aims to protect children and normalise smoking.
In December 2014, the Government announced a public consultation seeking views on proposed legislation on the sale of tobacco products and non-medical nicotine delivery systems (NMNDS), including e-cigarettes. Also in December 2014, the Government declared a number of ‘legal highs’ to be controlled drugs under the Misuse of Drugs Acts. The substances have no legitimate use, and are dangerous and pose significant health risks to those who use them.

Drugs: From January 2014, a National Coordinating Committee for Drug and Alcohol Task Forces replaced the Drugs Advisory Group. The National Coordinating Committee will drive implementation of the National Drugs Strategy at local and regional level and ensure that there is more effective coordination between statutory bodies and the community and voluntary sector in delivering on the objectives of the National Drugs Strategy. Four meeting of the task force were held in 2014. A subgroup has been established to examine the task force’s remit in relation to alcohol.

Alcohol, Smoking and Drugs gets a C− grade in Report Card 2015 an increase from the D− awarded in Report Card 2014. This reflects the significant strides made in the area of tobacco control, however, the lack of a progressive alcohol policy means children’s lives are being blighted by the alcohol misuse with their families, and the health of young people continues to be impacted by their own drinking.

Alcohol: Of Ireland’s 4.59 million population, it is estimated that 1.34 million people drink harmfully and 176,999 are independent drinkers. While acknowledging that work may be progressing within the Government departments, 2014 saw no tangible progress on addressing alcohol misuse. Budget 2015 did not contain any alcohol related measures. Three significant publications were due by end 2014, but none appeared – publication of the General Scheme of the Public Health (Alcohol) Bill; the health impact assessment; and the report of the interdepartmental groups on sports sponsorship. It is critical that progress is made in early 2015 to clarify Government policy on alcohol misuse and concrete actions taken.

The steps taken by Government to date to develop a new form of commitment for minimum unit pricing are to be warmly welcomed. Setting a minimum unit price for alcohol is recognised as one of the most effective methods of reducing alcohol related harm and was a key recommendations in the 2012 Steering Group Report on the National Substance Misuse Strategy. The Public Health (Alcohol) Bill is expected to regulate for both minimum unit pricing and the advertising of alcohol to children. The delay in the publication of the legislation is of concern. Publication and enactment of a comprehensive and ambitious Bill needs to be progressed as a matter of urgency. Alcohol Action Ireland note that since the Bill was announced over one year ago more than 1,000 Irish people have died due to harmful use of alcohol.

Two reports published in 2014 raise grave concerns about how the lives of children and young people in Ireland are negatively impacted by other people’s alcohol misuse. In a 2014 report one in ten Irish parents/guardians reported that children had experienced at least one or more harms in the past 12 months as a result of someone else’s drinking, including verbal abuse, being left in unsafe situations, witnessing serious violence in the home or physical abuse. In addition, the 2014 report of the Child Law Reporting Project, found that alcohol abuse was the reason for an application to take a child into care in over 12.3 per cent of cases it documented.

These findings highlight the close association between parental drinking and child neglect and abuse, and have serious implications for our child protection and welfare services. In his 2014 report, the Special Rapporteur on Child Protection, Dr. Geoffrey Shannon, called for drug, alcohol and mental health services to be actively integrated into the child protection system. The service delivery reform currently underway within the new Child and Family Agency provides a significant opportunity to address the risk factor of parental substance misuse.


An assessment of HSB child care datasets indicate that the primary reason for 14 per cent of children being taken into state care was: family member abusing drugs/alcohol. Statement by Minister Frances Fitzgerald: Early intervention and family support services, Wednesday 7th March, http://www.doca.gov.ie/viewdoc.asp?DocID=18206&CatID=12661&Hid=6&ArticleID=102&ItemID=2012-02-10 [accessed 10 February 2014].


The phenomenon of binge drinking is evident in Irish childhoods. Not only does alcohol have an immediate impact on children’s health in the form of accidents, alcohol is also long-term violence, and it also affects long-term health development and mental health. Alcohol is a factor in one of all suicides in Ireland. The Irish Association of Suicidology lists substance abuse as a risk factor for youth suicide, and the phenomenon of binge drinking has raised concerns about the link between substance abuse and Ireland’s suicide rate.

A 2014 Health Research Board report on alcohol consumption in Ireland during the course of 2013 found that almost two thirds of men and half of women aged under 18 years. Similarly, a 2014 World Health Organisation report found that 39 per cent of Irish people aged 15 years and over had engaged in binge drinking, or ‘heavy episodic drinking’, in the past 30 days. This puts Ireland just behind Austria (40.5 per cent) at the top of the 194 countries studied.

Evidence demonstrates that the top three key actions that have a positive effect on alcohol-related harm are: alcohol pricing; the availability of alcohol; and the marketing of alcoholic beverages. The UN Committee on the Rights of the Child recommended that Ireland develop a strategy to raise awareness of the problem of children misusing alcohol and to proactivelyदर्शक को पहले अपने उपयोग के लिए डायरी को अनलाइन देने के लिए आवश्यक है।
at a younger age, and to drink more. Of concern is the increased nature of children's exposure to alcohol marketing, including through social media.

Smoking: The health implications of smoking are well documented and undisputed. There is evidence that sudden infant death syndrome is more common in infants who are exposed to second-hand smoke. Of concern is the fact that 12 per cent of children in Ireland report that they smoke. Research has shown that nicotine is a highly addictive substance and children can become addicted within weeks of experimenting with tobacco. Half of all smokers who start smoking as children die prematurely from a smoking related disease. Between €1 and €2 billion of the annual health budget is spent on treating tobacco related disease.

Polydrug use is common place among young people and those who drink alcohol and use other drugs place themselves at greater risk. In addition, there is a growing availability of illicit drugs online. The normalisation of drug use is seen within urban and rural society alike and is attributed to easier access to drugs and a wider range of substances on offer.

Between 2005 and 2010, there were 2,295 cases of under-18s who used a drug treatment centre for the first time, a more than 50 per cent increase in demand over this five-year period. The Citywide Campaign has highlighted the problem of drug dealers and gangs employing teenagers to carry out illegal activities on their behalf, such as dealing drugs and collecting money. In recent years, a number of teenagers have been killed or children have witnessed their parents being killed in suspected gang and/or drug-related violence.

This phenomenon is deeply concerning. The UN Convention on the Rights of the Child has affirmed that States must introduce legislative, administrative, social and educational measures to protect children from illicit drug use and to prevent them becoming used in the illicit production and trafficking of such substances (Article 33). It is essential that age appropriate services are available, when young people need them, to support them to break an addiction.

The publication of the Public Health (Standardised Packaging of Tobacco) Bill 2014 and its passage to-date through the Houses of the Oireachtas is to be warmly welcomed. It is hoped that the measures will deter young people from smoking. It is essential that this legislation is enacted as a matter of urgency. The increase on the price of tobacco products in Budget 2015 and the consultation on e-cigarettes are both welcome developments.

Drugs: Polydrug use is commonplace among young people and those who drink alcohol and use other drugs place themselves at greater risk. In addition, there is a growing availability of illicit drugs online. The normalisation of drug use is seen within urban and rural society alike and is attributed to easier access to drugs and a wider range of substances on offer.

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Enact an ambitious Public Health (Alcohol) Bill as a matter of priority

The Bill should include provisions to reduce children's access to alcohol; curb the widespread availability of cheap alcohol; restrict the promotion of alcohol; and raise awareness of the potential harmful effects of alcohol, including through introducing minimum pricing of alcohol, restricting marketing of alcohol. The Oireachtas should reconsider the introduction of a statutory ban on alcohol sponsorship of sports.

The placement of the voluntary code that governs sports sponsorship on a statutory footing would be an ineffective and inadequate response. In addition, Section 9 of the Intoxicating Liquor Act 2008 should also be commenced to provide for the structural separation of alcohol from other goods in mixed retail outlets, such as supermarkets.

Commence the Protection of Children's Health Act 2014 and enact legislation on tobacco packaging

Develop the necessary regulations to enable the commencement of the Protection of Children's Health (Tobacco Smoke in Mechanically Propelled Vehicles) Act 2014 and ensure the provisions are incorporated into the operating systems of An Garda Síochána. Progress the enactment of the Public Health (Standardised Packaging of Tobacco) Bill 2014 as a matter of priority. This Bill will ensure that we are international leaders in tackling smoking and will send a clear message that smoking is dangerous to one's health.
4. RIGHT TO AN ADEQUATE STANDARD OF LIVING

The 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 CRC

“This homeless and housing crisis is affecting everyone - young people, families and children, older people, people with severe health problems, people battling drug and alcohol issues, people this state has failed from a young age. It is not only affecting people in our cities and towns but is also affecting people in rural areas. At the end of 2014 there were almost 3,000 people in emergency accommodation, including 880 children; 36 per cent of those were outside the capital.”

Niamh Randall, Head of Policy and Communications, Simon Communities in Ireland

Chapter Grade

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IN THE NEWS
FAMILIES FORCED TO GO HUNGRY
The Kerryman 22 November 2014

HUNDREDS of families in Tralee are so poverty stricken they can’t afford to feed themselves once they’ve met their monthly bills.

Tralee’s St Vincent De Paul branch says they are overwhelmed with desperate calls for help from local families that can’t afford food, fuel or even clothes for their children. Hundreds of extra families have contacted the society for help in recent weeks as the Christmas season looms.

This week SVP in Tralee, with support from The Kerryman, launched a Christmas appeal calling for donations of food, fuel and money to help the town’s neediest families. Many of those seeking help are from the so-called working poor. Families who have been battered by years of recession and austerity.

“We have hundreds of households looking for help. With Christmas coming and the weather getting much colder the last few weeks have been exceptionally busy,” said Tralee SVP president Junior Locke.

“We have people who used to help us who are now coming to us looking for help because they can’t afford a meal.”
Reducing the higher consistent poverty rate for households with children as compared to non-child households (8.1 per cent compared with 4.2 per cent) and for children as compared to adults (9.3 per cent compared with 6 per cent). The Department of Social Protection has already begun work on preparing an implementation plan on the child poverty target, in the context of the National Policy Framework and has identified the plan as one of its top priorities for 2015. The Department and will work with five partner departments to develop and implement a whole-of-government, multi-dimensional approach to tackling child poverty.

A KEY BARRIER TO GOOD NUTRITION IS THE COST OF FOOD, RESEARCH SHOWS
CALORIES FROM HEALTHY FOODS [...] ARE UP TO TEN TIMES MORE EXPENSIVE THAN FROM FOODS HIGH IN FAT, SUGAR AND SALT.

The 2013 European Commission Recommendation on investing in children: breaking the cycle of disadvantage recognises that children are more susceptible to poverty than the overall population and sets out an action plan for addressing child poverty. Indeed, in Ireland children are 1.4 times more likely than adults to live in consistent poverty. In November 2014, the Department of Social Protection in conjunction with the European Commission held a national seminar with representatives from both government departments and the voluntary sector on how to implement the EU Recommendation in Ireland. The seminar aimed to increase understanding of structural challenges faced when addressing child poverty; raise awareness of EU policy instruments which might be used to confront them; emphasise the need for a multi-dimensional approach to tackling child poverty; and examine best practice in the Irish context.

The European Semester Framework was introduced to coordinate economic surveillance by the European Commission of EU Member States in 2011. The European Commission issues recommendations to each Member State for a 12 to 18 month period, called Country Specific Recommendations (CSRs). Ireland has been exempt from participating in the earlier monitoring cycles under this framework to avoid duplication with the bailout conditions set down by the Troika. Following our successful exit from the Troika, in July 2014 the European Commission issued Ireland with its first set of CSRs, including a recommendation on child poverty. It recommended that the Government take steps to:

- tackle low work intensity of households and address the poverty risk of children through tapered withdrawal of benefits and supplementary payments upon return to employment; facilitate female labour market participation by improving access to more affordable and full-time childcare, particularly for low-income families.

Reducing child poverty remains unacceptably high. The EU Survey on Income and Living Conditions (EU SILC), published in January 2015, shows that in 2013 11.7 per cent of children were living in consistent poverty while 17.9 per cent of children were at risk of poverty. The percentage of children living in consistent poverty jumped 5.4 per cent between 2008 and 2013, including a jump of 1.8 per cent between 2012 and 2013. Children living in lone parent households suffer the highest rates of consistent poverty and deprivation, and one in three children in Ireland is deprived of basic necessities.

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In its General Comment No. 5, it is clear that implementation of children’s socio-economic rights is not a charitable process but a basic obligation of Government. Budget 2015: Budget 2015 was not poverty proofed. Each government department has a responsibility to carry out social impact assessments in relation to their own budgetary decisions. In a positive development, the National Policy Framework for Children and Young People 2014–2020 commits to developing ‘integrated Social Impact Assessments as a feature of policy development and policy impact analysis’ with a focus on children across a number of government departments with the Department of Social Protection taking the lead. To date, only the Department of Social Protection has published an assessment of the impact of its budgetary measures and then only after final decisions have been made. The adjustment to the Universal Social Charge (USC) in Budget 2015 is very welcome, excluding those on the lowest incomes. Also welcome is the Government announcement in December 2014 that it will establish a Low Pay Commission to advise on the appropriate rate of the National Minimum Wage and look at the issue of zero-hour contracts which contribute to in-work poverty and poverty trap. Both international and domestic actors have called on the Government to introduce progressive tax reforms and widen the tax base. If Government is considering tax reforms, it should take steps to make the tax system more equitable with a focus on indirect taxation.

The increase to the Child Benefit payment – paid to approximately 650,000 families in respect of some 1.18 million children – is welcome. This payment is designed to assist parents with the cost of raising a child while also helping to alleviate child poverty and is a key mechanism through which the State can fulfill its duty to give ‘appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities’, under Article 18 of the UN Convention on the Rights of the Child. However, an ongoing concern is that certain children are excluded from availing of this crucial support as their parents do not meet certain qualifying criteria set out in social welfare legislation. In some cases, children of migrant parents, including the children of all asylum seekers, are prevented from accessing the payment on the basis of their parent’s immigration status which contravenes the non-discrimination principle in Article 2 of the UN Convention on the Rights of the Child.

The failure to reverse the cuts to the means-tested Back to School Clothing and Footwear Allowance in Budget 2015 is deeply disappointing. It means that the payment – received by 166,450 families – of €100 for a child under 11 years, or €200 for a child 12 years or over, does not cover the average cost of clothing and shoes for school-going children. In 2014, the costs of a primary school child’s clothing or uniform and shoes cost at least €165 and €180 on average and €260 for secondary school pupils. Despite the high cost of some crested uniforms, the Minister for Education and Skills, Jan O’Sullivan TD, confirmed in 2014 that school uniform policy is a matter for each individual school and not the Department of Education and Skills.

2013 saw families with children to struggle with rising rent prices, utility bills, personal debt, homelessness and food poverty. A 2014 UNICEF report found Irish families with children lost the equivalent of ten years of income progress, and Ireland ranked 37th of 41 OECD countries in their league table measuring relative changes in child poverty. It is hoped that the upturn in the economy coupled with reductions in the unemployment rate and increases in job creation will be reflected in a lower child poverty figures over coming years.

The Government must also uphold its international obligations, including under Article 4 of the UN Convention on the Rights of the Child to ensure the implementation of children’s economic, social and cultural rights to the fullest extent possible even when resources are limited. The Special Rapporteur on extreme poverty and Human Rights has highlighted the need to prioritise children’s rights given that most of those living in poverty are children and that poverty in childhood is a root cause of poverty in adulthood. The UN Committee on the Rights of the Child, 2015 saw families with children to struggle with rising rent prices, utility bills, personal debt, homelessness and food poverty. A 2014 UNICEF report found Irish families with children lost the equivalent of ten years of income progress, and Ireland ranked 37th of 41 OECD countries in their league table measuring relative changes in child poverty. It is hoped that the upturn in the economy coupled with reductions in the unemployment rate and increases in job creation will be reflected in a lower child poverty figures over coming years.

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Food Poverty: Food poverty continues to be an issue of concern, with the Organisation for Economic Cooperation and Development (OECD) reporting in 2014 that almost ten per cent of the Irish population did not have enough money for food.404 One in five children go to school or to bed hungry because there is not enough food in the home; one in six never have breakfast on weekdays.405 Teachers have reported an increase in the number of children they see coming to school hungry, estimating that pupils effectively lost six weeks of learning each year through hunger.406

The UN Committee on Economic, Social and Cultural Rights has made it clear that, even in times of recession or economic adjustment, States have a positive obligation to ensure that everyone has the right to be free from hunger.407 The commitment in the National Policy Framework for Children and Young People 2014–2020 to address food poverty is warmly welcomed.408 A key barrier to good nutrition is the cost of food. Research shows calories from healthy foods (fruit, vegetables, lean meats) are up to ten times more expensive than from foods high in fat, sugar and salt.409 As a consequence, children living in low-income families are more likely to be overweight or obese due to reliance on cheaper food with higher calorie content and have less access to affordable and healthy food.410 Differences in health in children from richer and poorer areas are obvious from as early as three years of age.411

The School Meals Programme, funded through the Department of Social Protection, continues to be a positive way of ensuring regular and healthy food services for disadvantaged school children. In 2014, almost 207,000 children in 1,600 schools and local organisations benefitted from the programme.412 The Government must take concrete action to ensure that people on low incomes can access and afford adequate and nutritious food, particularly lone parent households or larger families who are more likely to suffer food poverty.413

While the Department of Social Protection has begun to carry out social impact assessments following the Budget, it should ensure that these are completed and published in advance of decisions being made. In addition, other government departments should also carry out similar assessments as their decisions often have an impact on children. Budget 2016 should be poverty proofed and ensure that even in times of recession, human rights are respected.414

Immediate Actions for 2015

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<tr>
<th>POVERTY</th>
<th>RECREATION</th>
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<td>Child Poverty Target</td>
<td>Right to an Adequate Standard of Living</td>
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| Publish an ambitious rights based implementation plan to achieve the Child Poverty Target |
| Develop and publish a Child Poverty Target Implementation Plan, with objectives, actions and agreed timelines for each department or agency with responsibility for delivery. The Plan should mirror closely the EU Recommendation on investing in children with a focus on access to adequate resources, access to affordable quality services, and the child’s right to participate. It should also reflect the principles of the UN Convention the Rights of the Child, in particular Article 27 which provides for the right of every child to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development. |

Each government department should carry out a social impact assessment in advance of budgetary decisions being finalised for Budget 2016 to protect children and families

While the Department of Social Protection has begun to carry out social impact assessments following the Budget, it should ensure that these are completed and published in advance of decisions being made. In addition, other government departments should also carry out similar assessments as their decisions often have an impact on children. Budget 2016 should be poverty proofed and ensure that even in times of recession, human rights are respected.

408 Department of Children and Youth Affairs (2014) Better Outcomes Brighter Futures, p. 57.
412 Kevin Humphries TD, Minister for State at Department of Social Protection with Special Responsibility for Activation, Dáil Debate, Topical Issue Debate, School Meals Programme, 19 November 2014.
4.2 CHILDREN AND THE SOCIAL WELFARE SYSTEM

The National Policy Framework for Children and Young People 2014-2020, published in April 2014, commits the Government to determine the optimal design of child and family income supports to maximise their effectiveness and efficiency in reducing child poverty, while improving employment incentives. Budget 2015 saw the introduction of a new Back to Work Family Dividend. The Dividend is aimed at incentivising parents who are long-term unemployed to return to work without losing out financially. The Dividend will entitle a jobseeker or lone parent, who is returning to work, increasing their hours or becoming self-employed, to retain the Qualified Child Increase (QCI) paid at a weekly rate of €29.80 per child for the first year in employment and to retain half the payment (€14.90 per child) for the second year in employment. This amounts to an additional €2,324 per child over the two years, on top of any other any entitlement they may be receiving such as the Family Income Supplement Scheme (FIS). In 2014, more than 50,000 families were in receipt of FIS in respect of 111,600 children.642

**GOVERNMENT COMMITMENT**

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

**Progress:** Limited

**WHAT’S HAPPENING?**

An Advisory Group on Tax and Social Welfare – established by the Minister for Social Protection, Joan Burton TD, in June 2011 and chaired by Ita Mangan – has now concluded its work. The Advisory Group’s report on child and family incomes, published in February 2013, recommended retaining a universal Child Benefit paid at a reduced rate coupled with the introduction of a ‘second tier’ child income support to replace Qualified Child Increases (QCI) and Family Income Support (FIS) for qualifying families. These recommendations have not as of yet been accepted or acted on by Government. It is understood that Government decision on how to proceed will be taken following publication of the Advisory Group on Tax and Social Welfare report on working-age income supports. The Advisory Group has completed its work on the report on working-age income supports and the report is now with the Minister for Social Protection, Joan Burton TD, for her consideration.643

**IN 2014, MORE THAN 50,000 FAMILIES WERE IN RECEIPT OF FIS IN RESPECT OF 111,600 CHILDREN.**

**COMMENT**

Children and the Social Welfare System gets a D+ grade, a rise from last year’s D grade. The rise is in recognition of the introduction of the Back to Work Family Dividend, a welcome step which will address a long-recognised welfare trap. The Dividend, aimed at incentivising parents who are long-term unemployed to return to work without losing out financially, will be introduced in April 2015. It will help parents to return to work after a long spell of unemployment by removing a significant financial disincentive, namely the loss of social welfare supports such as the Qualified Child Increase for child dependents and Family Income Supplement. However, this measure must be accompanied will not work in isolation. It must be accompanied by additional measures to address the lack of affordable childcare and after school supports which continue to act as a barrier for some parents, in particular lone parents.

The European Commission has noted the urgent need to address the high percentage of children living in jobless households but despite a specific Country Specific Recommendations (CSR) on this issue,644 the promised sub-target to reduce poverty levels in jobless households has not yet been set. Progress on reducing poverty among jobless households will have a significant impact on child poverty. The decrease in Live Register figures is, however, a positive sign of job creation and that more people are returning to work.645

642 Communication received by the Children’s Rights Alliance from the Department of Social Protection, 5 February 2015.


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


648 UN Committee on the Rights of the Child (2003): General Comment No. 5, paragraph 8.


Towards an integrated child income support payment: In 2013, the Advisory Group on Tax and Social Welfare recommended the introduction of a two-tier system of child income supports. The first ‘tier’ provides a reduced Child Benefit paid to all families with children, the second ‘tier’ is a means tested top-up for families on very low incomes. The second ‘tier’ payment would replace Qualified Child Increases (QCI) and Family Income Support (FIS). The model proposed by the Advisory Group was problematic as it set the income threshold for means-testing of the second tier payment too low and because low paid working families suffered the greatest losses (through the loss of FIS).131

Nearly two years on from the publication of the Advisory Group on Tax and Social Welfare 2013 report on child income supports no progress has been made: a policy vacuum exists. It remains unclear if child income supports can be reformed in a manner that provides greater supports to low income families and is more responsive to individual families’ needs. The initial upfront investment to establish an integrated system would be significant so it must be clear that reform would yield longer-term benefits including a reduction in child poverty.132 It is hoped that the finalisation of the Advisory Group’s report on working-age income supports will allow a decision to be made to either reform the payments or leave them as is and focus on other measures. Given the rising child poverty rates and the adoption of a child poverty target, there is an urgent need to clarify which measures are most effective to tackle child poverty and to begin to action them.

Clarity is also needed on Government policy in this area. A position paper on reforming child income supports can be reformed in a manner that provides greater supports to low income families and is more responsive to individual families’ needs. The initial upfront investment to establish an integrated system would be significant so it must be clear that reform would yield longer-term benefits including a reduction in child poverty.133 It is hoped that the finalisation of the Advisory Group’s report on working-age income supports will allow a decision to be made to either reform the payments or leave them as is and focus on other measures. Given the rising child poverty rates and the adoption of a child poverty target, there is an urgent need to clarify which measures are most effective to tackle child poverty and to begin to action them.

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Grades

GOVERNMENT COMMITMENT

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

Progress: Slow

WHAT’S HAPPENING?

10 out of 13 sites within the Area-Based Childhood (ABC) Programme are now in contract and work is underway on an evaluation methodology.

Nearly €30 million has been committed for the Area-Based Childhood (ABC) Programme over a three year period, with Government funding of €14.85 million being matched by The Atlantic Philanthropies. The ABC programme aims to improve outcomes for children, young people and their families in some of the most disadvantaged areas of the country using targeted additional investment in evidence-based early interventions.

In April 2014, the Government reiterated its commitment to implement the ABC programme in the National Policy Framework for Children and Young People 2014–2020 as a way of addressing ‘the impact of child poverty and improve child outcomes’, and also commits to ‘streamline the learning from the programme to services throughout the country’.135

The initiative was initially announced in Budget 2013, which committed that €2.5 million would be provided by the Department of Social Protection to the Department of Children and Youth Affairs for the establishment of an Area Based Approach to Child Poverty Initiative.

The ABC programme is a joint initiative of the Department of Children and Youth Affairs, the Department of an Tánaiste and The Atlantic Philanthropies. Pobal and the Centre for Effective Services (CES) are tasked with managing implementation. An interdepartmental project team has been established to provide cross-departmental oversight and advice on the programme.136 Following a public call for proposals in April 2013, the Department of Children and Youth Affairs selected 13 successful sites,137 exceeding the Government’s


134 The group comprises the Department of Children and Youth Affairs, Atlantic Philanthropies, Office of an Tánaiste, Departments of: Taoiseach, Social Protection, Public Expenditure and Reform, Education and Skills, Environment, Community and Local Government and Health; the Child and Family Agency, the Centre for Effective Services and Pobal.
The successful sites included the three existing projects funded under the Prevention and Early Intervention Programme (PEIP): the Childhood Development Initiative in Tallaght West; Preparing for Life in the northside Dublin communities of Darndale, Belcamp, Ballymote, Glasnevin, and Ringsend; and the first area of the northside Dublin communities of Darndale, Belcamp, Bonnybrook, Darndale, Glin, Kilmore West and Moatview, and youngballymun in Ballymun. The 10 new sites selected are: Ballyfermot/Dublin 10; Bray; Clondalkin (Acherygool); Dublin Docklands; Finglas (Barnardos-led project); Grangegorman/North West Inner City; Knocknacarra in Cork; Limerick; Louth (Directhelp and Dundalk); and Midlands (Implementation of Good Behaviour Game).

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The儿童权利联盟（CHILDREN'S RIGHTS ALLIANCE）报告卡2015

An Area Based Approach to Tackling Child Poverty gets a ‘C+’ grade, the same as last year. This grade recognises the progress made during 2014 to support the projects in service design planning and development work and to bring the majority of sites into contract and operational. Anecdotal evidence suggests though that some communities found delays in the earlier part of the year frustrating.

The Government’s stated intention is that the ABC programme will build on and learn from Prevention and Early Intervention Programme (PEIP), which began service design and delivery in 2007 and were run in three Dublin sites with a budget of €36 million. The aim of the PEIP and PEII was to ‘prevent children from succumbing to the risks associated with disadvantage as well as providing them with the resilience to overcome those risks,’ similar to the ABC programme.

The three PEIP sites took a multi-pronged approach, focusing on a range of issues, including improving literacy, improving mental and physical health, increasing school readiness; and supporting quality improvements in early years’ care and education. In the PEIP sites, a standardised model was not applied across the three projects and the evaluations were not designed to enable comparison. Each of the programmes targeted a range of different outcomes, used different mechanisms to achieve these outcomes, and were implemented with different communities and populations: the approach was adapted according to local needs and contexts. A significant investment was made in carrying out independent evaluations of the effectiveness of the models of practice used. Each of the three PEIP projects published a series of evaluations and data on their programmes and has developed implementation expertise. The cost of such evaluation is prohibitive on a larger scale so the aim was to identify and develop evidence based models of practice which would lead to improved child outcomes and could be applied in other disadvantaged communities.

In October 2014, the Centre for Effective Services published The Ten Years of Learning Report which summarises the overarching learning from the outcome reports and briefing papers in the Prevention and Early Intervention Initiative (PEII) Capturing the Learning Series.

The PEII involved 52 Prevention and Early Intervention services and programmes funded throughout Ireland over a ten year period with an investment of €127 million from The Atlantic Philanthropies, Government and other organisations (including the three PEIP projects).

The report contains seven key areas for change and 13 recommendations. A key lesson from this report is the positive results achieved through consultation and needs analyses. These steps helped to inform and tailor the work programmes for the local context as well as ensuring stakeholder and community buy-in making them essential elements to be incorporated into the ABC Programme. The Ten Years of Learning Report is a valuable contribution to help shape the debate on why early intervention and prevention is a good investment and the principles necessary for a successful project.

Funding was provided by the Department of Children and Youth Affairs and The Atlantic Philanthropies.

Department of Children and Youth Affairs, Prevention and Early Intervention Programme for Children (Dismantling Accounts Funded)


commitment to fund up to ten sites.403 By end January 2015, ten of the 13 sites had significant progress and become operational.404 Three of the ten areas have not yet signed contracts but all are due to be in contract by end March 2015.405 The majority of the sites approved for design stage at the end of 2013 required further development and supports before they could be placed under contract. This included carrying out further consultation before choosing the type of intervention to use, while others had to develop the service model, finalise the consortium of members or verify costs.

During most of 2014, the ten new areas were in a service design phase, a pre-development fund was made available to support this work and the first of workshops were held through out 2014, run by the Centre for Effective Services to share learning from other initiatives. During this phase each of the ten sites developed a logic model summarising the service’s design, the vision, objectives and outcomes to be achieved, an implementation plan, and a revised budget. In addition, extensive community consultation took place to ensure that the service design for each site met identified needs within the community. In addition, each of the ten new sites appointed a Local Advisory Group and formed a ‘Consortium’ comprises statutory and voluntary stakeholders and service providers key to the effective implementation.406

Most sites are operating multiple programmes, with a focus on the early years, parenting and literacy. It is understood that some of the new sites have adopted programmes from the PEIP and broader prevention and early interven-
The ABC projects are a hugely positive development for the 13 selected sites, which will hopefully contribute to improving outcomes for children growing up in those communities. However, a programme-led approach alone is not sufficient; it must be part of a broader suite of ambitious Government measures to tackle child poverty and inequalities which affect nearly one in eight children in communities throughout the country. Measures are needed to address food poverty, the cost of schooling, parental unemployment, unemployment, household debt and access to affordable housing and health coupled with a whole community approach with multi-layered interventions in disadvantaged communities.

4.4 CHILD AND YOUTH HOMELESSNESS

GOVERNMENT COMMITMENT

The Programme for Government commits to ending long-term homelessness and the need to sleep rough. To address the issue of existing homelessness it commits to reviewing and updating the Homeless Strategy, including a specific focus on youth homelessness, and taking into account the current demands on housing and health services with a view to assessing how to best provide additional services.

Grade: D+

Progress: Mixed

WHAT’S HAPPENING?

Homelessness among families with children reached crisis level. Budget 2015 set out a range of new housing measures. A protocol on care leavers and housing was finalised, and the Heads of an Aftercare Bill were published.

In Budget 2015, the Government set out a series of new measures to address the current housing crisis. It pledged €2.2 billion to increase the social housing stock over the next three years. Budget 2015 provided €798 million for a range of housing initiatives – an increase of €232 million (40 per cent) on the 2014 allocation. In May 2014, the Government launched its Implementation Plan on the State’s Response to Homelessness May 2014 to December 2016.

Jonathan Corrie, a homeless man died on 1 December 2014, while sleeping rough on the front steps of a house on Molesworth Street less than 50 metres from Leinster House. A special Forum on Homelessness was held a few days later and was shortly followed by the launch of the Government’s 20-point Action Plan to tackle emergency and short term homelessness, with a budget of €20 million ‘plus’. Action was swift: 260 additional emergency beds were made available for people sleeping rough in Dublin by Christmas and a Nite Cafe was opened in January 2015 for those who do not wish to be accommodated in emergency accommodation.

Homelessness among Families with Children: In relation to families, the 20-point Action Plan contains a commitment to put in place ‘A Stay in your Home campaign’ to raise awareness of tenants’ rights and ensure that families and others at risk of losing their tenancies will be assisted to stay in their homes. In addition, the Child and Family Agency and Dublin City Council will coordinate operations to ensure that services are fully responsive to protection and welfare needs that might arise for families in emergency accommodation.

AREA BASED APPROACH TO TACKLING CHILD POVERTY

Immediate Actions for 2015

Ensure that the ABC projects are proofed against the UN Convention on the Rights of the Child

Children’s rights principles must underpin the ethos of the ABC projects and be incorporated into their vision and methods of working. In particular, each project must consider the best interests of the child, how they will hear the views of children when making decisions which will impact on them and how they will ensure equal treatment, and how they will support the child’s life, survival and development.

GRADE

D+

4.4
A new Housing Assistance Payment (HAP) is currently being introduced for people who have a long-term housing need and who qualify for social housing support. It will be administered by housing authorities and will eventually replace long-term Rent Supplement. The aim of HAP is that it will be more integrated system of housing supports, allowing all social housing supports to be accessed through one body – their local authority – and allowing recipients to take up full-time employment and still keep their housing support.453

Homeless Children: Since 1 January 2014, the legal duty to provide accommodation and care to homeless children (without their families) has transferred from the HSE to the new Child and Family Agency, Tusla. The National Policy Framework for Children and Young People 2014–2020, published in April 2014, committed to “provide an integrated and comprehensive service response to children under 18 present- ing as out of home (as for all children in care) in keeping with the findings and recommenda- tions of the Review of the Implementation of the Youth Homelessness Strategy”454.

Aftercare: In a welcome development in February 2014, the then Minister for Children and Youth Affairs Minister, Frances Fitzgerald TD, published the Heads and General Scheme of the Aftercare Bill which will amend the Child Care Act 1991 to provide for a statutory right to the preparation of an aftercare plan.455 The Bill places a statutory duty on the Child and Family Agency to prepare an aftercare plan for each eligible child and sets the grounds for eligibility based on the length of time a child has been in care. In July 2014, following a review of the legislation, the Joint Committee on Health and Children recommended that consideration be given to “broadening the eligibility criteria to include young persons accessing accommodation pursuant to section 5 of the Child Care Act 1991, who are not in care.”456

In October 2014, the Department for the Environment, Community and Local Government (DEHLG)457 released a Protocol on Young People Leaving State Care, which aims to ensure that the necessary measures are in place to prevent homelessness for young people leaving State care.458 The protocol outlines the practical steps involved in assessing a young person leaving State care and managing that person’s accommodation and support needs. It commits Housing authorities to consider the needs of care leavers when developing Homelessness Action Plans.

Homelessness gets a ‘D+’ grade in Report Card 2015 a fall from last year’s C+ reflecting the alarming rise in families with children becoming homeless in 2014. The grade also reflects positive developments in relation to the publication of the Heads of the Aftercare Bill 2014 and finalisation of the Protocol on Young People Leaving State Care. Unfortunately neither of these vindicate a child’s right to accommodation as they do not provide an entitlement to accommodation.

A child who is homeless is extremely vulnerable and the State is obliged under the UN Convention on the Rights of the Child to provide special protection to any child deprived of their family environment, so that appropriate alternative family or institutional care is available to them (Article 20). Under Article 27(3) (right to an adequate standard of living) States have an obligation to assist parents and guardians and ‘in cases of need provide material assistance and support programmes particularly with regard to nutrition, clothing and housing.’ The UN Committee on Economic, Social and Cultural Rights has stated that: ‘[t]he right to housing should not be interpreted in a narrow or restrictive sense which equates with […] merely having a roof over one’s head […] Rather it should be seen as the right to live somewhere in security, peace and dignity.’459

Homelessness among families with Children: While acknowledging the significant budget allocation for housing we note that there is neither a national policy on the needs of children within homeless families nor a national target specific to reducing homelessness among families with children. There is also concern that in the current crisis emergency accommodation will be provided to families that falls below accepted minimum standards.

The rate of families with children becoming homeless460 jumped dramatically in 2014 to an unacceptable level. The photo of a mother and her three children who were forced to sleep in their car for a week put a human face on the crisis. Between 22 and 28 December 2014 there were 407 families with 880 children in homeless accommodation across the country.461 On average over 40 families became homeless each month in 2014. With such high numbers of families presenting, it is becoming increasingly difficult for the State to provide quality emergency accommodation for them. The increase in homeless numbers is set against a backdrop of over 96,000 house- holds on the social housing list, with people waiting anything up to 10 years.

The drivers behind the increasing number of homeless families include low levels of rent supple- ments in an era of rapidly increasing rent prices, increased demand for rental accommodation, landlords refusing to accept rent allowance, growing social housing waiting lists and personal indebtedness.462 Domestic violence can also be a cause of homelessness for some very vulnerable families.463 Living for an extended period of time in emergency accommodation places a huge strain on normal family home life. Such accommodation often means whole families living in one room with no kitchen facilities. Long term hotel living is costly, unsustainable and not conducive to childhood development. There is little space for children to do home- work or to play, violating Articles 6 (develop- ment) and Article 31 (play) of UN Convention on the Rights of the Child.464 For children, the frequent accommodation moves and subsequent difficulty in inviting friends over to their home, means they often find it difficult to develop and maintain friendships. Another concern is that the child’s school may be disrupted or that they witness violence or drug use within the accommodation centres.


458 Committee on Economic, Social and Cultural Rights (CESCR) General Comment No. 4: The right to adequate housing (Art. 11) (13 December 1991).


463 Ibid.


Such accommodation is also not cost effective for the State. In 2013, the State paid over €30 million on emergency accommodation. While emergency accommodation is of course a necessity, there is a need for increased expenditure to deal with the home- less crisis at the present time. Preventative measures and more sustainable options must be invested in parallel. The provision of social housing and measures in relation to support with rents and mortgages must remain a Government priority throughout 2015.

As a preventative measure, the Government must review the levels of rent supplement in the context of rising rent prices every 12 months rather than 18 months, in line with private rent reviews. For families who are already homeless, for often long periods of time, the Social Impact Investment project had delivered results by using a combination of private sector investment and non-govern- mental support to help these families move onto independent living. The 2014 National Policy Framework for Children and Young People 2014–2020 reiterated Government commitment to this project and called for consideration of its application nationally.1

Homeless children: Much progress has been made in the area of youth homelessness over the past five years, including on the availability of data.1 On foot of the 2013 review of the Youth Homelessness Strategy, the policy response to youth homelessness is now integrated into the child protection and welfare service, rather than set out in a standalone strategy.2 The Crisis Intervention Service (CIS) operates in Dublin, Wicklow, and Kildare providing an out of hours emergency social work service to any child in a crisis situation, these include those in crisis requiring emergency accommodation, those identified by the Garda National Immigration Bureau as a separated child (seeking asylum) and those for whom there is an immediate protection or welfare concern. Between January and October 2014, 567 children were referred to the CIS, of which 147 were placed in emergency accommodation.3 In the rest of the country, an Out of Hours Service (OHS) provides a service for children who are at immediate and serious risk of harm, or who are abandoned requiring an emergency placement out of hours further to the intervention of An Garda Síochána under Section 12 of the Child Care Act 1991.4 Between January and October 2014, 270 referrals were made to the OHS, of which 156 were provided with accommodation over 359 nights.4

Some children access homeless service as a route of out an abusive family home and into care, or as a result of a care placement breakdown. For example, of 173 children who accessed Crisis Intervention Service emergency accommodation, 76 returned home and 75 were placed in residential or foster care (including relative foster care), four were placed in supported lodgings, two were placed in semi-independent living, six stayed with friends, three were placed in Secure Care and one was referred to adult services.5 Best practice is to reunite children who present as homeless with a family member or where necessary take them into care. Even a few weeks of couch surfing, stepping rough or accessing emergency accommodation can place a child at extreme risk of abuse, criminal behaviour and substances misuse. Given the vulnerability of these children and the destabilising impact of homeless, the number of children under Section 5 of the Child Care Act 1991 – which places a duty on the Child and Family Agency to accommodate a homeless child must be tracked carefully.

The Nightlight Project (based in Lefroy House) is the primary centre providing accommodation for children between the ages of 12 to 17 years, for whom fostering or supported lodgings placements are not appropriate. While Nightlights opening hours have increased recently, there are still noticeable gaps in the provision of supports for the children, particularly during weekends. On a positive note, the use of Garda Stations to access emergency accommodation has been reduced and is now only used when necessary for safety management.

The Government must prioritise the delivery of its Budget 2015 commitment on housing. It must also provide flexible and creative approaches to ensure homeless families are provided with family-friendly emergency accommodation with inhouse homework and play facilities and residents must be allowed to stay at the hostel during the day rather than being forced out onto the street. Families must also be supported to move on to stable accommodation, through for example an expansion of the Social Impact Investment project.

Review of rent supplement payments

The current rates paid to recipients do not match rise in rent prices. To address this problem the Government must bring the rent supplement review in line with private rent prices reviews which take place every 12 months by landlords, instead of every 18 months.

Extend outreach supports available to homeless children

A small number of children access emergency accommodation over an extended period of time. They often have ongoing and complex care needs. A health service, including medical, sexual health, mental health and psychiatric supports, should be available to these children on an outreach basis.

Aftercare: On 30 September 2014, 1,698 young adults between 18 and 23 years were receiving an aftercare service.6 There are a small cohort of care leavers, often those who have had multiple care placements, that find accessing housing particularly difficult. In June 2014, Focus Ireland reported that out of 140 young people accessing their three aftercare support services, 22 were using homeless services and 21 were staying in insecure accommodation.7

The publication of the Aftercare Bill 2014 is an important improvement on the existing legislative provisions. The Bill should be strengthened to provide an additional eligibility ground, one which is based on the assessed needs of a child who has either been in care or who has been known to the Agency during the past five years.8
5. Right to Protection from Abuse and Neglect

Chapter Grade

B-

The Right to Protection from Abuse and Neglect

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

Summary of Article 19 of the UNCRC

“While we welcome that there has been legislative development in recent years we are hugely disappointed that the Children First Bill hasn’t lived up to expectations. In particular the lack of sanctions for those who do not report knowledge of child abuse sends a message that the Irish Government are not serious about protecting Children in Ireland.”

Caroline O’Sullivan, Interim CEO, ISPCC

IN THE NEWS

NEW CHILD PROTECTION AGENCY TO BE OFFICIALLY LAUNCHED TODAY

TheJournal.ie 30 January 2014

The Child and Family Agency will take over from the HSE in relation to child welfare.

THE TASOISEACH ENDA Kenny is today launching the new Child and Family Agency, which will bring child services into one centralised regime.

The agency will take over child protection from the Health Service Executive (HSE). Previously three separate agencies, the HSE, the Family Support Agency and the National Education Welfare Board were over the area of child welfare. […]

The Child and Family Agency will bring together over 4,000 staff and will have a budget of €609 million.

The national network will include 106 family resource centres on the ground in communities across the state.

Speaking ahead of the launch today, the Minister for Children and Youth Affairs Frances Fitzgerald said: “I consider the new Child and Family Agency as the most effective response possible to our country’s repeated and tragic failings in child protection, as shown in the evidence of successive enquiries and reviews over many years”. […]

Speaking on RTÉ’s Morning Ireland, Senator and children’s rights activist Jillan van Turnhout said it was a great day, but said the job of the agency now was to ensure it gets all the resources it needs and that all agencies cooperate with each other. […]

By Christina Finn
The Child and Family Agency was formally established on 1 January 2014. Budget 2015 provided an additional €34 million for the Agency.

The Child and Family Agency Bill 2013 was enacted on 1 January 2014 bringing the Child and Family Agency into existence. The establishment of the Agency was a key Programme for Government commitment. The Agency brings together the following bodies and services: Health Service Executive’s Children and Youth Services, National Education Welfare Board, Pre-school Inspection Services, services relating to the psychosocial well-being of children and services relating to domestic, sexual and gender-based violence.

The Child and Family Agency was officially launched on 30 January by An Taoiseach, Enda Kenny TD, and the then Minister for Children and Youth Affairs, Frances Fitzgerald TD, in Dublin Castle. At the launch, the Agency published its initial statement of purpose, entitled towards a Shared Purpose for consultation on the priorities and key objectives to be included in its first Corporate Plan. Also in January 2014, the Agency published its Business Plan for 2014 which identifies 16 priority areas with 59 individual output measures to be monitored throughout the year.

The Child and Family Agency Act 2013 sets out a four step structured dialogue between the Minister for Children and Youth Affairs and the Agency on the development of the Agency’s Corporate Plan. This process was completed in 2014 and involved the publication by the Minister for Children and Youth Affairs of a Performance Framework for the Child and Family Agency, an annual performance statement with specific policy guidance, direction, prioritisation and resource parameters in respect of each year for the preparation of the Agency’s Annual Business Plan, and approval by the Minister of the Agency’s three year Corporate Plan, which is due to be published in February 2015.

Budget: In April 2014, the Government committed in the National Policy Framework for Children and Young People 2014–2020 to adequately resource the Child and Family Agency so that it can ‘implement the change agenda effectively and to deliver better outcomes for children and young people’. The Agency was allocated a budget of €609 million for 2014. Budget 2015 provided an additional allocation of €34 million—a 5.6% increase over the 2014 budget—bringing the Agency’s budget allocation to €643 million for 2015, including a funding transfer of €2.5 million from the Department of Environment and Local Government in respect of domestic violence refuges and services. Over 612 million in capital funding was allocated in Budget 2015 (an increase of €5.6 million on 2014) to meet the cost of the roll-out of the National Child Care Information System.

Workforce: The Agency is preparing a workforce development strategy for publication by end of second quarter 2015. This will ensure strategic and operational workforce development plans and processes are established as key activities in the Agency focusing on improving resource deployment, structured professional and career development, recruitment, retention and turnover of key staff and staff motivation.

DGSBV: Since January 2014, the Agency has assumed responsibility for Domestic, Sexual and Gender Based Violence (DGSBV) services. It is currently conducting a review of the delivery of these services. In November 2014, Tusla hosted a learning event for stakeholders in the DGSBV sector to consider the results of the first ever mapping exercise of DGSBV services nationally.

Child Protection and Welfare: In December 2014, the Agency published a comprehensive Alternative Care Practice Handbook. A Participation Strategy for the Agency on how children and young people can participate in decision-making within the work of the Agency has been developed, but is not yet public. A child version of the Strategy is in development.

In relation to children in care having a written care plan, Tusla set a target for 2014 of 90% compliance for 2014. This target was reached for October 2014 (97.8%). However, this means 673 children in care or took maternity leave.

The Agency has been developed, but is not yet public. A child version of the Strategy is in development.

There were 1,403 (whole-time equivalent) social workers employed by the Agency at the end of November 2014 and an additional 193 are being recruited to meet existing vacancies. Up to end November 2014, 155 social workers were recruited and had commenced their work, while 102 social workers left employment, including those who retired or took maternity leave. Leave cover scheme has been introduced to address priority gaps in service resulting from maternity leave through temporary contracts.

Of the 6,454 children in care at the end of October 2014, 93% were in a foster care placement (29% of whom were in relative foster care). All children in care must have an allocated social worker. At the end of October 2014, there were 6,454 children in care of which 93% had an allocated social worker, meaning 472 children did not have an allocated social worker. Of the 17 administrative areas, six areas had a rate of 100%. However, the Dublin South West/Kildare West Wicklow area had a rate of only 78%. In relation to children in care having a written care plan, Tusla set a target for 2014 of 90% compliance for 2014. This target was reached for October 2014 (97.8%). However, this means 673 children in care or took maternity leave.

A Pilot Maternity Leave Scheme has been introduced for foster carers. A child version of the Strategy is in development.

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In relation to the agency’s overall capacity to meet the cost of the roll-out of the National Child Care Information System, the Agency’s budget allocation to €643 million in Budget 2015 was sufficient. However, the agency needs to do more to focus on the quality of care provided, in particular for children in care with complex needs.

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On a positive note, the statistics for children in care and remaining in education are encouraging – 98% of children in care between the ages of six and 16 years and 92% of those aged 17 years of age were in full-time education and the (school) age.

At the end of the third quarter 2014, there were 27,937 cases recorded as ‘open’ to social work services across the country, an increase of 664 – 27,937 cases recorded as ‘open’ to social work services.

During 2014, 32,788 referrals were received by social work services. The majority of referrals (57%) relate to a child welfare concern and the remainder to child abuse concerns. At the end of quarter three 2014, there were 1,393 children listed as active on the Child Protection Notification System (CPNS).

Child and Family Agency gets a ‘B’ in Report Card 2015, a slight fall from last year’s ‘B+’ grade. This year’s grade reflects the success of establishing a new statutory agency for children and families and the public sector policy and service delivery reform undertaken by the Child and Family Agency in its first year of operation. But the grade is also cognisant that delays exist in responding to child protection referrals and failings persist in our child care system.

The establishment of the Child and Family Agency has the potential to change how the State interacts with some of the most vulnerable families and children in need of support. A major challenge exists to shift the focus and resources of the Agency away from crisis intervention to prevention and earlier intervention measures, including family support.

Children’s Rights: The UN Committee on the Rights of the Child has emphasised that child protection must begin with proactive prevention.

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

Section 9(1) of the Child and Family Act 2014 obliges the Agency to ‘have regard for the best interests of the child’ when carrying out its functions. The legislation does not explicitly state how Agency workers should interpret this principle and no regulation was issued on it during 2014. Sections 9(3) and 9(4) of the Act places an obligation on the Agency to consult and listen to children in the planning and functioning of the Agency and in its work with individual children and families. The implementation of the Agency’s Participation Strategy is a key opportunity to operationalise these provisions. The Agency’s strategy should be in line with the national participation strategy currently being developed.

One of the underlying drivers for the establishment of the Agency was to join up child protection and family support services and early intervention and preventative work with children and families. It is not yet clear how the Agency will achieve the aim set out under Section 8 of the Act to ensure the ‘effective functioning of families’, including delivery of ‘preventative family support services’.

Budget: During 2014, Gordon Jeyes, the Agency’s Chief Executive publicly stated that the Agency required additional funding of €45 million – ‘just to stand still’.

The additional €34 million allocated to the Agency in Budget 2015 is warmly welcomed. However, even with this additional funding concerns remain that the Agency will be unable to meet its statutory obligations given the combination of growing demand for its services and demographic pressures. The Agency may be forced to run over budget or make cuts to key services that are not in the best interests of children and will prove to be a false economy.

Interagency Linkages: A key challenge for the Agency is to ensure effective interagency working with relevant services outside of the Agency. A weakness in this area can often lead to a child being failed. Despite a recommen- dation from the Task Force on the Child and Family Support Agency, Dublin: Government Publications.

The referrals relate to both child abuse and child welfare. About half the referrals are referred for an initial assessment following a preliminary inquiry. Each referrals does not relate to a new case as there may be multiple referrals made in respect of the same child; the child may already be under assessment; or the referral may not be appropriate for Tusla. In less than 2% of the 19,044 child abuse related referrals, the child was listed on the Child Protection Notification System or a child protection conference was called. Further analysis is needed to unpack this data.

For example, is there a quality assurance system in place to monitor whether the threshold is applied consistently across the country and between different socio-economic and ethnic groups?

Mental Health Services (CAMHS) in the initial phase of the Agency.

The Government should review the composition of the Agency during 2015.

Child Protection: Success will be measured by whether the Agency can address waiting lists, deliver high-quality services and improve the experience and outcomes for children and families using its services. The current backlog of 8,161 child protection cases which have not been allocated a social worker and including 2,829 deemed ‘high priority’ is unacceptable and must be addressed as a matter of urgency.

The Review of Adequacy for HSE Children and Families Services 2012 reported, published in 2014, details that 40,187 referrals were received by the HSE Children and Family Support Agency.

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**CHILD AND FAMILY AGENCY**

**Immediate Actions for 2015**

Ensure the Child and Family Agency is adequately equipped to fulfil its statutory and human rights obligations to children

Adequate resourcing of the Child and Family Agency is paramount to ensure it can comply with its statutory obligations and fulfil its own legislative remit. Under Article 19 of the UN Convention on the Rights of the Child, Ireland has an obligation to ensure children are protected from all forms of harm and abuse. The Agency’s child protection processes must be equipped to respond to children at risk in a timely and effective manner and to uphold the rights of children in care.

Expand the remit of the Child and Family Agency

In line with the recommendation of the Task Force on the Child and Family Support Agency, the Public Health Nurses (PHNs) service and the Child and Adolescent Mental Health Services (CAMHS) should be brought into the Agency to provide a link to a universal service (PHN) and a core support service for children (CAMHS).

Introduce a regulation to clarify how the best interests principle should be interpreted

The Minister for Children and Youth Affairs should provide clarity on Section 9 of the Child and Family Agency Act 2013 by issuing a regulation setting out how Agency staff should implement the best interest principle in their work.

**5.2 RYAN REPORT IMPLEMENTATION PLAN**

**GOVERNMENT COMMITMENT**

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

**Progress: Some**

**WHAT’S HAPPENING?**

The Children First Bill, 2014 was published in April 2014. The National Vetting Bureau (Children and Vulnerable Persons) Act 2012 is yet to be commenced.

The Ryan Report Implementation Plan, published in July 2009 to respond to the recommendations contained in the Ryan Report, identified key weaknesses in the child protection system and provided a roadmap for reform. The fourth and final Progress Report was due to be published by end of 2013. The Monitoring Group, chaired by the Minister for Children and Youth Affairs, which oversees the development of the report held its final meeting in November 2014, but the report has yet to be laid before the Oireachtas.

Work is under way in the Department of Children and Youth Affairs to prepare a monitoring framework for all significant child care reports, which will replace the work of the Ryan Report Implementation Group, whose term has now come to an end. This work includes promoting the application of the CLEAR protocol when devising inquiry recommendations to minimise prescriptive recommendations and focus more on key learning points which may be disseminated within and across organisations. In addition, a number of issues raised in the Ryan Report Implementation Plan have been embedded in the Child and Family Agency’s performance activity reporting and in the National Policy Framework for Children and Young People 2014–2020.

During 2014 a number of significant reports relevant to the recommendations of the Ryan Report Implementation Plan were published including: the seventh annual report of the Special Rapporteur on Child Protection, HICoE inspections and four reports by the Child Death National Review Panel. One of the Panel’s reports reviewed the case of a young man who died aged 19 years, it found there was an inadequate response to evidence he had been abused and neglected as a child. His needs were never properly assessed.

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908* Communication received by the Children’s Rights Alliance from the Department of Children and Youth Affairs, 31 January 2014.


throughout his life and his placements were not matched to his needs.107

The 2014 HIQA reports continue to highlight good practice but also areas for improvement. For example, a HIQA report on foster care services in Carlow, Kilkenny, South Tipperary noted that as of March 2014, 45 children – the majority with complex needs – were waiting for psychology and mental health services, some were waiting for up to one year.108 Another HIQA report found that 15 children in the Child Protection Notification System had no allocated social worker and these children were not visited by social workers with the regularity required for children with this level of need and risk. In November 2014, a new Criminal Law (Sexual Offences) Bill 2014 was published, which proposes reforms to better protect children from sexual exploitation, child pornography and online grooming. It addressed many recommendations made by Dr. Geoffrey Shannon, the Special Rapporteur on Child Protection in his annual reports.109

Children First: The Children First Bill was published in April 2014 by the then Minister for Children and Youth Affairs, Frances Fitzgerald TD, two years after she published the Heads and Genesis of Children First. In line with recommendations of the Ryan Report Implementation Plan,110 the Children First Bill, puts aspects of the Children First: National Guidance for the Protection and Welfare of Children (2011)111 on a statutory footing, and will formally and consistently implemented across the country. This is a significant new piece of legislation and a key component of the suite of legislation promised on foot of the Ryan Report. The Bill is subject to amendments as it progresses through the Houses of the Oireachtas, as initiated it sets out that specified individuals have a legal duty to report child protection concerns, above a defined threshold, to the Child and Family Agency. Mandated individuals are listed in Schedule 2 of the Bill and include doctors, nurses, social care and social workers, teachers, foster carers, managers of domestic violence shelters, homeless hostels and asylum seeker accommodation, child protection officers of religious, sporting, cultural, and educational organisations and specified pre-school and youth workers.112 Under Section 111(3), mandated individuals are required to report if he or she ‘knows, believes or has reasonable grounds to suspect’ or where a child has disclosed to him or her that a child has been harmed, is being harmed, or is at risk of being harmed. Section 111(3) addresses the duty to report in relation to concerns regarding children engaged in sexual activity. In addition, provisions are put in place to avoid the duplication of reports by mandated individuals. An authorised person, or persons, within the Child and Family Agency will acknowledge in writing all reports made.

Under Section 6 of the Bill, the Children and Family Agency shall, in performing its function under the Act, regard the best interests of the child as the paramount consideration. Under Section 13, mandated individuals have a legal duty if required to assist the Child and Family Agency in the child protection assessments. This novel provision also provides that the Agency may share information about the mandated individual who is the subject of a mandated report with the mandated individual who is assisting them. A key component to consider relevant Section 6(1) includes the children have a legal duty to carry out a risk assessment and prepare an organisational-specific Child Safeguarding Statement. The existing Children First Inter-departmental Group is to be put on a statutory footing under Part 4 to promote compliance and implementation by Government Departments of the Children First Guidance.

Vetting: Two years on from its enactment in December 2012, the National Vetting Bureau (Children and Vulnerable Persons) Act is yet to be commenced. The Act places the vetting of people working with children and vulnerable adults on a statutory basis and allows for the exchange of ‘relevant’ or ‘soft’ information between the National Vetting Bureau and a registered organisation. Elements of the Act relating to the disclosure of convictions require amendment following recent Court judgments before it can be commenced.113

**COMMENT**

The Ryan Report Implementation Plan gets a `B`- grade in Report Card 2015, the same grade as last year. The lack of movement reflects misguided progress. The publication of the Children First Bill 2014 was a positive step forward, but the ongoing delay in the commencement of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 is a cause of concern.

The UN Convention on the Rights of the Child provides that a child has a right to protection from abuse and neglect (Article 19). Based on this principle, the UN Committee on the Rights of the Child recommends that States coordinate and implement child protection systems to assess referrals and respond to them in an effective and timely manner.114

While warmly welcoming the publication of the Bill, advocates have recommended that the Bill be strengthened by providing sanctions for those who fail to make referrals and that clarity be provided in relation to retrospective allegations.115

To promote compliance with the Bill, an investment in education, training and support for stakeholders, including parents will be needed. A key challenge will be to ensure the effective roll out of the legislation across Government Departments and statutory agencies. Based on previous experience, it is anticipated that the numbers of referrals will initially rise and then level out. Hence, measures need to be in place to ensure the availability of sufficient social workers to assess referrals and respond to them in an effective and timely manner.

Vetting: The delay in commencing the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 – a key pillar in our child protection system – is deeply disappointing.116 The lack of legislation on soft information vetting leaves a gaping hole

107 UK Court of Appeal (T and others v Chief Constable of Greater Manchester 2013).
108 Other relevant articles include the right to rehabilitative care (Article 39), the specific protections for children in the care system such as the child’s right not to be separated from his parents and protection for children without families (Articles 9 and 10), the review of care placements (Article 25) and the best interests of the child in adoption cases (Article 23).
109 UN Committee on the Rights of the Child (2009) General Comment No. 13. The right of the child to freedom from all forms of violence, CRC/C/GC/13, Section 42.
in our child protection system and means Ireland is operating outside of best practice internationally. It is not clear if the review of the 2012 Act has been concluded and what amendments, if any, are proposed. It is not clear if the review will also allow for a re-examination of the scope of the Bill to address omissions, such as the exclusion of child minds.

Child Victims: Ireland continues to be the only European Union Member State which has not yet ratified the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography.14 Irish law is broadly in compliance with the Second Optional Protocol except for the legal requirement to introduce victims’ legislation for children. In addition, Ireland has yet to ratify the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, known as the Lanzarote Convention.14 Ratification of these two important international agreements should be prioritised.

Immediate Actions for 2015

Enact the Children First Bill, 2014 and provide funds to promote compliance

It is critical that the Children First Bill, 2014 is enacted as soon as possible to vindicate the child’s right to protection from abuse under Article 19 UN Convention on the Rights of the Child. Investment in education, training and support and adequate social work services will be needed to support compliance with the Children First Bill. The effective roll out of this legislation is a key plank in our child protection system, it must be afforded priority by Government in terms of the legislative agenda and budgetary decisions.

Commence the National Vetting Bureau Act 2012 as a matter of urgency

Conclude the review and commence the legislation as a matter of urgency. Provide support and training to relevant organisations and professionals to enable them to comply fully with their statutory duties under the National Vetting Bureau Act 2012.

Ratify the Second Optional Protocol to the UNCRC and the Lanzarote Convention

The Government must ratify the Second Optional Protocol to the UNCRC on the sale of children, child prostitution and child pornography and the Lanzarote Convention on sexual exploitation and abuse as a matter of urgency to ensure greater protection of children, in particular for victims of abuse and trafficking.

5.3 CHILDREN IN DETENTION

GOVERNMENT COMMITMENT

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

Progress: Slow

The Government’s 2012 commitment to end the practice of detaining children in adult prisons is getting close to being achieved through making provision for all 16 and 17 year olds to be detained in the new, integrated, National Children Detention Facility at the Oberstown campus, Co. Dublin.143 The Government reiterated its commitment in the National Policy Framework for Children and Young People 2014–2020, published in April 2014.144 Much progress has been made to date. Since July 2012, all 16 year olds have been detained in the Oberstown campus. In December 2013, all 17 year olds serving a custodial sentence were transferred from St Patrick’s Institution to a dedicated unit in Wheatfield. The Government is getting close to achieving the practice of detaining children in adult prisons, including those on remand in St. Patrick’s Institution.

Phase 1 of the construction work on the new National Detention Facility is complete although the facility is not yet operational. Children continue to be detained in adult prisons, including those on remand in St. Patrick’s Institution.

In September 2014, Judge Michael Reilly, the Inspector of Prisons expressed grave concern about the continued detention of a small number of boys in St Patrick’s Institution describing it as ‘at times, tantamount to holding them in isolation and it is certainly inhumane’.145 Despite a Government commitment to close St Patrick’s Institution completely, following a previous damning report by the Inspector of Prisons in 2012, the prison remains open and continues to detain children.146

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The Irish Independent [Online], 11 January 2015

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Children in Detention receive a B+ grade in Report Card 2015, a fall from last year’s grade of B+. This grade recognises the significant work achieved in 2014 in terms of completing the construction work on the first three units and commencement of 40 new staff members. However, the fact remains that children continue to be detained in adult prisons and legislation to underpin the national facility is not yet enacted.

Children on Remand in St. Patrick’s. The decision to close St Patrick’s Institution was warmly welcomed and long overdue. The detention of children in an adult prison that operates a penal regime has been criticised as a glaring human rights violation by a number of domestic and international bodies as it is in direct contravention of Article 37 of the UN Convention on the Rights of the Child (torture and deprivation of liberty). St Patrick’s Institution was considered to be the most violent prison in Ireland, responsible for one third of all assaults in the prison system.

It is unacceptable that children on remand continue to be detained in St Patrick’s. The Inspector of Prisons recent comments that the detention of 17 year olds now amounts to de facto solitary confinement are extremely concerning and must be acted upon by putting in place an alternative until the new facility is operational. Sentenced Children at Wheatfield. While the transfer of 17 year olds from St. Patrick’s Institution is a welcome step, the transfer to a new interim facility at Wheatfield prison must be ‘a temporary, short-term measure’, as articulated by Emily Logan, then Ombudsman for Children. Although the Visiting Committee’s 2013 annual report, published in 2014, praises Wheatfield for its provision of a diverse and structured educational programme away from the general prison population, it is important that there are no further delays in the transfer of these children to the Oberstown campus.

Physical Environment at Oberstown: The expansion and investment in the Oberstown campus provides a unique opportunity to build a world-class facility with a child-centred, education-focused regime, rooted in a children’s rights framework. The campus was designed and has operated to date as a group of children detained in adult prisons, where children receive care, therapeutic supports and education. However, recent physical changes to the campus, including the erection of a large perimeter fence raise concerns that the model is moving away from its child-centred focus to the larger adult model. The UN Convention on the Rights of the Child is clear that States must treat children in conflict with the law in a manner that takes account of the child’s sense of dignity and worth, reinforces the child’s respect for human rights, and takes account of the child’s best interests in all actions undertaken by public authorities in the child’s best interests in all actions undertaken by public authorities. The child’s best interests must be given priority over any other consideration.

Reservation: In 1989, the Irish Government lodged a reservation to Article 10 (2b) of the International Covenant on Civil and Political Rights (right to liberty) which states that ‘Accused juvenile persons shall be separated from adults and brought as speedily as possible to the place of detention. We urge the Government to withdraw this reservation. The Department of Children and Youth Affairs has indicated that

Budget: Budget 2015 provided the final instalment of a €56.4 million investment over three years in the national facility. An additional €19 million was allocated to complete the national facility and a further €1.8 million to cover the costs of additional staff and costs associated with the new, larger facility.

Workforce: A recruitment programme was agreed by An Tánaiste to staff the new facility. By end 2014, 40 of the 67 approved posts had commenced employment, this cohort included 22 residential social care workers who have completed six weeks induction training.

An additional recruitment phase for residential social care workers is planned for early February 2015 and it is hoped that staff will commence work at the end of April/early May 2015.

Children Detention Schools: A total of 38 boys – and no girls – were detained in the three Schools as of 7 January 2015. In 2014, a total of 168 boys and eight girls were remanded or committed to the schools, down slightly on the 179 boys and 12 girls held in 2013.

Therapeutic Services: The Assessment, Consultancy and Therapy Service (ACTS) provides specialised clinical services to children with high risk behaviours associated with chronic domestic violence.

ACTS now provides on-site (in-reach) services to children detention schools, 136 children were referred to it for treatment in 2014 and there is no waiting list for accessing therapeutic services.

Mental health screening is available to all children within 24 hours of their arrival in detention, to assess if they require a referral to the clinical team for treatment.


Information received by the Children’s Rights Alliance from the Child and Family Agency 6 February 2015.


For an overview of the Children’s Rights Alliance’s Action Plan 2014-2018 see Children and Youth Affairs has indicated that


Children Detention Schools as of 7 January 2015.

The new national facility will encompass the three existing schools and six new residential units. The first three of the new units were formally handed over to the Oberstown campus on 27 November 2014. These three units will prioritise the transfer of responsibility for 17 year old boys from adult prison facilities.

The fourth and fifth units were handed over on 16 January 2015. The final unit is expected to be handed over by July 2015. Testing, fit-out and staff training are ongoing. To facilitate staff training and orientation, the first two units are to be occupied with existing staff and children by end quarter one of 2015. The transfer of responsibility for all 17 year old males to the Oberstown campus is due to be completed by end quarter two of 2015. This will be contingent on the completion of staff recruitment and the enactment of the Children (Amendment) Bill 2014.

Also in September 2014, the General Scheme of the Children (Amendment) Bill 2014 was approved by Government, the Bill is due to be published during the Spring/Summer 2015 Oireachtas Session. Under the new legislation, the three existing Children Detention Schools – Oberstown Boys, Trinity House and Oberstown Girls – will be amalgamated into a single National Children Detention Facility under one Director. The Bill will address a court ruling which found that children are entitled to the same remission as adults, 2012, and also remove legislative references which provide for the detention of children in adult institutions.

The schools currently operate under the same board of management but not under a single director. The transfer of responsibility for all 17 year old males to the Oberstown campus is due to be completed by end quarter two of 2015. This will be contingent on the completion of staff recruitment and the enactment of the Children (Amendment) Bill 2014.

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Children Detention Schools as of 7 January 2015.

The new national facility will encompass the three existing schools and six new residential units. The first three of the new units were formally handed over to the Oberstown campus on 27 November 2014. These three units will prioritise the transfer of responsibility for 17 year old boys from adult prison facilities.

The fourth and fifth units were handed over on 16 January 2015. The final unit is expected to be handed over by July 2015. Testing, fit-out and staff training are ongoing. To facilitate staff training and orientation, the first two units are to be occupied with existing staff and children by end quarter one of 2015. The transfer of responsibility for all 17 year old males to the Oberstown campus is due to be completed by end quarter two of 2015. This will be contingent on the completion of staff recruitment and the enactment of the Children (Amendment) Bill 2014.
it will consider withdrawal of this reservation following the transfer of all 17 year olds to the Oberstown campus.162

Use of Remand: As of 30 January 2015, there were 13 children remanded in custody (nine in Oberstown and four in St. Patrick’s Institution).163 A total of 96 children were remanded in custody to the Children Detention Schools in 2013 and of these 26 subsequently received an order to be detained in the Children Detention Schools.164 Two issues of concern arise given the negative effect of inappropriate remand on children.165 Firstly, children on remand who have not been convicted are detained alongside those who have been convicted contrary to Article 10(2)(a) of the International Covenant on Civil and Political Rights (right to liberty).

Secondly, only 27 per cent of those detained on remand were subsequently sentenced to detention on conviction. The question arises as to whether this breaches Section 96 of the Children Act which states that detention (including detention on remand) should only be used as a measure of last resort. In addition, Ireland, unlike other jurisdictions, lacks an outer time limit for the application of remand. Concern also exists about the use of the remand of children in custody on welfare grounds contrary to Section 88 of the Children Act 2001 (as amended) which stipulates that the Court shall not remand a child in custody solely on the basis of care or protection concerns.166

Children (Amendment) Bill 2014: The Children (Amendment) Bill 2014 is a welcome and necessary development to support the establishment of the national facility and should be progressed as a matter of urgency to ensure the transfer of all 17 years olds to the Oberstown campus. However, the Bill contains one retrograde step. Head 8 of the Scheme proposes to change from 12 months to two years the frequency of inspections of the Children Detention Schools.167 Given the vulnerability of children who are deprived of their liberty it is imperative that there is an annual inspection of the national facility.

Aftercare Bill: In February 2014, the Government approved the General Scheme and Heads of the Aftercare Bill 2014, which places a statutory duty on the Child and Family Agency to prepare an aftercare plan for each eligible child.168 Head 1 sets out the grounds for eligibility based on the length of time a child has been in care, it does not include children in detention.169 In July 2014, following a review of the legislation, the Joint Committee on Health and Children recommended that consideration be given to ‘broadening the eligibility criteria to include young persons who have been in the care system but who subsequently end their childhood in detention centres’.170 For some children there is clearly cross over between care and detention. Five of the 38 children (13 per cent) in the Children Detention Schools as of 30 January 2015 had been in the care of the Child and Family Agency prior to their detention, and 22 of the 38 children (58 per cent) had a social worker assigned by the Child and Family Agency.160

Information received by the Children’s Rights Alliance from the Department of Children and Youth Affairs, 15 January 2014.182

Communication received by the Children’s Rights Alliance from the Department of Children and Youth Affairs, 6 February 2015.183

Minister for Children and Youth Affairs, James Reilly TD, Parliamentary Questions: Written Answers 20 January 2013 (210215).


Section 186 Children Act 2001 (as amended by the Criminal Justice Act 2006) requires that inspections of children detention schools take place at least annually.


Communication received by the Children’s Rights Alliance from the Department of Children and Youth Affairs, 6 February 2015, and see Ibid., p. 28.

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6. **RIGHT TO EQUALITY AND NON-DISCRIMINATION**

**Chapter Grade**: D+

The Right to Equality and Non-Discrimination

Every child has the right to equal treatment and 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 UNCRC*

“The long-awaited Children & Family Relationships Bill will bring us a giant step closer to equality for all children and the diverse families they live in. Children need to have legal relationships with the adults who raise and love them whether they are their biological parents, step-parents, grand-parents or lesbian/gay parents because this ensures children’s safety and stability. Our responsibility is to make laws and services that meet the actual reality of children’s lives.”

Karen Kiernan, Chief Executive, One Family

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**IN THE NEWS**

**FOOD RULES AT DIRECT PROVISION CENTRES SLAMMED AS ‘DEGRADING’**

TheJournal.ie 30 January 2014

Direct Provision centres deny people the right to prepare food for themselves and their children. Ann Murphy looks at an issue faced every day by asylum seekers in Ireland.

For food writer and Bridgestone Guide publisher John McIlenna, food is not just something you eat.

Instead, it is stands for something much more — it is part of who you are and the ability to cook a meal for your family is a basic human right. He has written strongly in recent weeks about cooking being a basic human right, on a blog by the UK-based Sustainable Food Trust. And in May, he launched a report by the Cork-based Irish Immigrant Support Centre, NASC, examining the issues which residents of direct provision centres have with food in the centres. […]

He added: “These people are already in very difficult circumstances and the one thing that could give them comfort is to cook and share their own food, and cook for their own families. That right is being deprived from them and is very degrading.” […]

… He said that even though their allowance of €19.10 a weekly is “miserly”, they would put it to good use in buying food they would enjoy cooking themselves, if they were granted access to the kitchens in the country’s 34 direct provision centres. Such a measure would make their lives more tolerable, he believes. […]

By Ann Murphy
GOVERNMENT COMMITMENT

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

**Progress:** Limited

WHAT’S HAPPENING?

In November, the Minister of State for Equality, New Communities and Culture pledged that Traveller ethnic minority status would be a reality within six months. An ethnic identifier was introduced in primary schools. In July 2014, a Special Inquiry into the removal of two Roma children from their families was published.

In the National Policy Framework for Children and Young People 2014–2020, published in April 2014, the Government committed to reduce discrimination and intolerance of all types experienced by marginalised groups including Traveller and Roma children, and to improve their educational and health outcomes.144 The Government reiterated its commitment to implement and monitor the National Traveller Roma Integration Strategy.144

Ethnic Minority Status: In April 2014, the Joint Oireachtas Committee on Justice, Defence and Equality recommended that the Government recognise the ethnicity of the Travelling Community, and commence a ‘time limited dialogue with the Traveller representative groups about the new legislation or amendments to existing legislation [...] required’.145

In November 2014, the Minister of State for Equality, New Communities and Culture, Aodhán Ó Ríordáin TD, committed that the State would grant ethnic minority status to Travellers within six months.146 The Department of Justice and Equality is engaged in consultations on the implications of granting ethnicity to Travellers, including with their counterparts in the UK and Northern Ireland where Irish Travellers have been granted ethnic status.147

Ethnic identifier: Work continued in 2014 on the Primary Online Database, which will replace the Annual Census of Primary Schools. The new database will collect data on children’s ethnic and cultural background, and is expected to be fully operational for the 2015/2016 academic year.148 The ethnic identifier will help track the progress of minority and ethnic groups, identifying learning outcomes and informing the development and implementation of future policies and activities.148

The 2014 Assessment of Ireland’s National Traveller Roma Integration Strategy by the European Commission raises concerns in relation to the content of the document, lack of targets, lack of detail in some areas and funding mechanisms.149 A new National Traveller and Roma Integration Strategy Steering Group will be published in 2015,150 as part of the EU Framework for National Roma Strategies up to 2020.151 The steering group for the new Strategy will comprise an amalgamation of the National Traveller Monitoring and Advisory Committee (NTMAC) and the High Level Group on Traveller issues (HLG).152

In 2014, the Department of Justice and Equality developed a National Strategic Framework aimed at supporting the Traveller Inter-Agency Groups (TIG) to implement local strategies in consultation with Local County Development Committees.153

IN NOVEMBER 2014, MINISTER OF STATE FOR EQUALITY, NEW COMMUNITIES AND CULTURE, AODHÁN Ó RÍORDÁN TD, COMMITTED THAT THE STATE WOULD GRANT ETHNIC MINORITY STATUS TO TRAVELLERS WITHIN SIX MONTHS.

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[145] Ibid., Commitment, 4.9.
[147] Kitty Holland, Traveller ethnicity will be reality in six months, says Ó Ríordáin, The Irish Times, 19 November 2014.
[148] Communication received by the Children’s Rights Alliance from the Department of Justice and Equality, 4 November 2014.
[149] Ibid.
[151] Communication received by the Children’s Rights Alliance from the Department of Justice and Equality, 6 February 2015.
[152] Ibid.
[154] Communication received by the Children’s Rights Alliance from the Department of Justice and Equality, 6 February 2015.
[155] Ibid.
[157] Ibid., paras. 3.4, 3.4.4, 4.6.
The section on ‘Traveller and Roma Children’ gets an E+ grade in Report Card 2015, a rise from last year’s E’ grade. The increased grade is in recognition of the Government’s commitment to officially recognise the ethnic minority status to Travellers in 2015 and the inclusion of a universal ethnic identifier in the Primary Online Database.

Outcomes for Traveller children are almost universally worse than their settled peers. According to Census 2011, there are 14,913 Traveller children in Ireland.140 Travellers have a very young population with 42 per cent of under the age of 15.141 In comparison to the right to life, survival and development (Article 6) of the UN Convention on the Rights of the Child, many Traveller children live in conditions that are far below the minimum required for healthy child development and this is reflected in their health outcomes. The UN Committee on the Rights of the Child has expressed its concern about the lack of adequate recognition, action and positive measures taken by Ireland to enhance the rights and life opportunities for Traveller children.142 In June 2014, the Seanad Public Consultation Committee expressed its concern that ‘Travellers in Irish society suffer high levels of racism and discrimination, including indirect discrimination’.143

In its 2014 review of Ireland’s compliance with the UN International Covenant on Civil and Political Rights, the UN Human Rights Committee expressed its regret about Travellers since the Committee’s 2008 review.144 In March 2011, the UN Committee on the Elimination of Racial Discrimination also expressed its concern about Traveller and Roma ‘children in Ireland.145 The Committee recommended that Ireland should ‘adopt an effective policy and action plan, developed in consultation with Traveller and Roma communities, to redress situations of inequality’.146 These sentiments echo the recommendations of the UN Committee on the Elimination of Racial Discrimination in 2011.147

Ethnic Minority Status: The pledge by Minister O’Riordan, that Traveller ethnicity would be ‘a reality’ within six months is very welcome. In 2014, the Joint Oireachtas Committee on Justice, Defence and Equality joined with many national, European and international bodies and agencies in calling on the Government to grant ethnic minority status to the Traveller community including the Equality Authority; the Human Rights Commission; the National Consultative Committee on Racism and Interculturalism; the UN Human Rights Committee; the Council of Europe Commissioner for Human Rights; the UN Committee on the Rights of the Child; the UN Committee on the Elimination of Racial Discrimination; the Advisory Committee on the Implementation of the Council of Europe Framework Convention for the Protection of National Minorities (FCNM).148

Recognition of Traveller ethnicity would require public authorities and policymakers to ensure that the identity and culture of Travellers are respected in matters affecting them. It would also ensure that Travellers would be afforded protection under the EU Race Directive. Recognition of the ethnic minority status of Travellers would open a new dialogue as to how the State interacts with Travellers.

Pavee Point Travellers’ Centre (2010), Ibid.


Pavee Point Travellers’ Centre (2010), Profile of the Traveller Family For Family Resource Centres (2010), Dublin: Pavee Point.


Ibid.


141 Pavee Point Travellers’ Centre (2010), Profile of the Traveller Family For Family Resource Centres (2010), Dublin: Pavee Point.


145 Ibid.

146 UN Committee on the Elimination of Racial Discrimination (2011) Concluding Observations: Ireland, CERD/C/IRL/5-3, para. 13


149 Pavee Point Travellers’ Centre (2010), Profile of the Traveller Family For Family Resource Centres (2010), Dublin: Pavee Point.


153 Ibid.


156 ‘Proposals for the Primary Online Database provide for the retention of a child’s personal data from the time they enter school until they turn thirty years of age. Department of Education and Skills (2014) Circular 2017/2014, Fair Processing Notice to explain how some of the personal data of pupils in primary and special schools will be recorded on the proposed Primary Online Database (POD) and how this data will be processed by the Department of Education and Skills, in compliance with the Data Protection Act 1988 and the Data Protection (Amendment) Act 2003, p. 5.


160 Ibid., p. 32.


163 See Section 2.1 of this report for more information.

164 Communication received by the Children’s Rights Alliance from the Department of Justice and Equality, 4 November 2014.

165 Education Article 28 of the UN Convention on the Rights of the Child lays out the right to education for all children, while Article 29 affirms that such education should enable to the development of ‘respect for the child’s parents, his or her own cultural identity, language and values, […]’ These Articles affirm, both themselves, and when read in the context of the non-discrimination right articulated in Article 2, the duty upon the Government to ensure the right to education for all children in Ireland, including Traveller children.

166 Census 2011 found that 55 per cent of Traveller pupils have left school by the age of 15, on average 4.7 years earlier than the general population. The percentage of Travellers with no formal education in 2011 was 17.7 per cent, compared with 1.4 per cent in the general population. Travellers retain their traditional lifestyle, combined with the prejudice they often encounter, creates severe problems in acquiring basic levels of educational qualification and this translates into poorer living circumstances.

167 A 2011 evaluation of the DEIS programme found that the educational attainment of Travellers remains significantly lower than that of their settled peers in both reading and mathematics. Despite the very obvious challenges faced by Travellers in education, the Visiting Teachers for Travellers (VTT) Programme – and the 42 associated posts – were stopped in Budget 2011. While Budget 2015 saw increases in other areas of educational support,168 it included no additional supports for Travellers in education. Resources are provided based on ‘identified individual educational need’ to all children with no specific provision for Traveller children or others based on cultural or ethnic background.169
Roma: it is estimated that there are between 3,000 and 5,000 Roma living in Ireland. The UN Human Rights Committee, in July 2014, expressed concern at the lack of data on the Roma community living in Ireland. The UN Committee on the Rights of the Child in its 2006 Concluding Observations on Ireland called on the Government to prevent the marginalisation and social exclusion of Roma children. Emily Logan’s Special Inquiry into the removal of two Roma children from their respective families was a wake-up call. The decisions to remove the children took place in a chaotic situation where everyone thought that they were acting to protect the children. Ultimately Emily Logan found that the Gardaí had acted disproportionately and breached the constitutional rights of the families.

Of particular concern is the finding that the children’s ethnicity featured in the decision-making. The Child and Family Agency needs to respond by developing a robust equality policy and appointing a senior designated social inclusion manager. The cases highlighted the need for concrete action to tackle discrimination against Roma children and their families.

On International Roma Day in April 2014, Pavee Point launched three reports on the Roma in Ireland, focusing on education; maternal health; and child protection considerations. They explore how Roma children face many barriers in trying to access education including ‘poverty, racism, discrimination, poor housing and health conditions’ while ‘a lack of access to employment and social protection’ also causes financial difficulties. These barriers further marginalise Roma children and perpetuate a cycle of social exclusion. The fear of engagement with authorities can lead to mothers disengaging from the Public Health Nurse Service which results in children remaining unvaccinated in order to fulfil the Government’s commitments to combat the exclusion of Roma children and improve outcomes for this cohort, health and education frontline workers must be adequately trained and properly resourced to build a relationship of trust with these vulnerable families.

187 Official sources estimate 3,000 in the National Roma Integration Strategy but civil society organisations such as Pavee Point believe the number is closer to 5,000. The Government does not have figures on the number of Roma in Ireland. – Communication to the Children’s Rights Alliance from the Department of Justice and Equality, 4 November 2014


direct provision is a system of accommodation provided by the State to all people seeking asylum in Ireland. It provides room and board within former hotels, hostels or other large buildings, usually in the form of shared rooms. Each centre is managed by private contractors, after a tendering process but remains subject to oversight and standards put in place by the Reception and Integration Agency. In addition to room and board, adult asylum seekers receive a weekly allowance of €19.10 while a child receives a weekly allowance of €9.60. The accommodation is not compulsory for those seeking asylum but those who do not avail of it, do not receive their weekly allowance.**

In April 2014, the National Policy Framework for Children and Young People 2014–2020 recognised migrant children as a vulnerable group and made specific commitments to address their needs.** It committed to introduce and enact legislation to ‘promote the child protection and welfare of all children in the asylum system’.**

In July 2014, the UN Human Rights Committee raised concerns over the prolonged length of time residents spend in the direct provision system, highlighting that the centres are not conducive to family life and recommended that residents should spend as short a time as possible in the centres.'** In July 2014, in its Statement of Government Priorities 2014–2016, the Government outlined its plans to address the direct provision system** and the newly appointed Minister of State for Equality, New Communities and Culture, Aodhán Ó Ríordáin TD, voiced strong concerns about the system.** These developments took place against a backdrop of increased media attention on the system** and a series of nationwide protests by direct provision residents.** In his 2014 report, the Special Rapporteur on Child Protection, Dr. Geoffrey Shannon, again raised concerns about children living in direct provision and called for an immediate review of the system and research on its impact on ‘the specific vulnerability of children accommodated in this system’.** Dr. Shannon recommended that in particular the consequences for the best interest principle should be considered.**

In October 2014, the Minister for Justice and Equality and the Minister for Equality, New Communities and Culture established a Working Group, chaired by former High Court Judge, Dr Bryan McMahon, to review the protection process and make recommendations on how to improve the standard of living in the direct provision system.** The Group is expected to report its recommendations by Easter 2015.** The Government has said that the protection elements of the former Immigration, Residence and Protection Bill would be fast-tracked and that an International Protection Bill will be enacted in 2015.** In November 2014, the High Court handed down a judgment in which it found that overall the direct provision system did not breach the right of residents to family life. However, the Court found that certain House Rules did interfere with residents’ constitutionally protected right to a home and Article 8 (right to private and family life) of the European Convention on Human Rights (ECHR).** The Judge also found that the internal complaints procedure for direct provision residents was ‘deficient’ and not sufficiently independent as the Reception and Integration Agency (RIA), who authored the House Rules, was the final arbiter on complaints.**

Education: In the school year 2013/2014, migrant children made up 11 per cent of the primary school population and 12 per cent of post-primary pupils.** Published in 2014, the Annual Monitoring Report on Integration 2013, found that it has become difficult to monitor the English as an Additional Language Support (EAL) programme as it no longer has a distinct funding stream. Instead the EAL programme is aligned with other types of learning...
supports. The Department of Education and Skills provides additional learning support hours based on the number of mainstream teaching posts in primary schools, and in post-primary schools the allocation is based on the number of pupils. In the 2013/14 academic year, some permanent EAL posts were made available to primary schools with a high concentration of pupils requiring language support and, while these will be retained, additional permanent posts will not be allocated for the 2014/15 year. The Government’s Framework for Children and Young People 2014–2020 has committed to ‘strengthen social inclusion measures and re-invigorate efforts to improve educational outcomes for migrant children and young people.’


The UN Convention on the Rights of the Child protects every child, regardless of nationality or immigration status. Article 2 of the UN Convention on the Rights of the Child requires States to ensure that children are not discriminated against, including because of their background. Article 7 stipulates that a child has the right to a nationality, while Article 10 calls for family reunification decisions to be dealt with in a ‘positive, humane and expeditious manner’. Article 30 commits States to ensure that children of an ethnic, religious or linguistic minority are not denied the right to enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language. The UN Committee on the Rights of the Child has affirmed that the enjoyment of rights stipulated in the Convention is not limited to children who are citizens of a State Party and must therefore, if not explicitly stated otherwise, also be available to all children – including asylum-seeking, refugee and migrant children – irrespective of their nationality, immigration status or statelessness. In addition, there are many naturalized Irish citizens that belong to various minority ethnic groups. The proposed International Protection Bill will be a key legal development that will affect the rights of children and their parents, who are seeking protection in Ireland. An Immigration and Residence Bill will, however, be required to consolidate and update existing immigration law and ensure that other migrant children are protected, including children at risk of trafficking and undocumented children. It is critical that both pieces of legislation be aligned with Ireland’s obligations under the UN Convention on the Rights of the Child. The principles of the Convention must apply to decisions and practices affecting children including that children should not be discriminated against. The best interests of the child should be taken into account in matters affecting them (Article 3) and that the views of the child should be taken into account in matters affecting him or her (Article 12).

All proposed legislation should pay special attention to vulnerable migrant groups, particularly children, particularly separated children, children of asylum seekers and children at risk of trafficking. Clear principles must also apply in relation to reception conditions and living standards for applicants awaiting a decision on their claim. In this context, Ireland should sign up to the Recast EU Reception Conditions Directive. It has currently opted out of this Directive. Article 23 of that Directive requires States to ensure that the best interests of the child are a primary consideration in decision-making and States must ensure a standard of living adequate for the minor’s physical, mental, spiritual, moral and social development.

Children in the Asylum System: At the end of June 2014, of the 4,324 asylum seekers in State direct provision accommodation, over one third, or 1,527, were children. The average length of stay in direct provision is four years but 16 per cent of residents have been living in the system for more than eight years. This means that some children have spent their whole lives living in a centre. Direct provision centres are not a normal parenting environment and accommodation residents from many different backgrounds. Parents do not have a choice where they will live, or who they will live with, in communal centres. Of particular concern is the potential exposure to child protection risks. The Reception and Integration Agency (RIA) – a Department of Justice and Equality body responsible for overseeing the direct provision system – updated its child protection policy in October 2014 which is informed by Children First Guidelines and the Child Protection and Welfare Practice Handbook.

In her 2013 annual report, then Ombudsman for Children Emily Logan, indicated that she had received complaints about child protection issues in direct provision. An audit of child protection as well as child welfare concerns should be carried out given that direct provision centres are not covered by any national standards, such as those for children in residential care, nor are they inspected by an independent inspection regime, such as the Health Information Quality Authority (HIQA). Given the expertise developed by HIQA in the area of health and children’s services, it seems logical to extend their remit to inspect the centres.

The High Court held in C.A. and T.A (a minor) v Minister for Justice and Equality, Minister for Social Protection, the Attorney General and Ireland, that a resident’s bedroom was his or her home and thus, unsanctioned inspections and a requirement to sign in on a daily basis constituted a disproportionate interference with the constitutional protection afforded to the home. The Court also found that the ban on unannounced inspections was unreasonable and that the complaints procedure lacked independence. On foot of this judgment, the Reception and Integration Agency is required to develop a complaints procedure which is sufficiently independent. The model used by both the HSE and the Child and Family Agency could be adapted by RIA for its own use. This process allows for local resolution of complaints with an independent view by the Ombudsman (or Ombudsman for Children where appropriate) only if the matter has not been resolved. The proposed revision of the complaints process offers an opportunity to formally recognise the Office of the Ombudsman for Children as a legitimate avenue of redress for children and young people. While the Department of Justice and Equality has not accepted that the OCO can address these complaints, the draft complaints-handling framework of the Ombudsman for Children Act, the OCO has made it clear that it is willing to consider complaints about the asylum determination process, it does have a role in addressing complaints relating to reception conditions.

The Court, in the C.A. and T.A. case did not rule on the claim that the ‘best interests of the child’ under Article 3 of the UN Convention on the Rights of the Child was applicable in this case pending a decision in another case due before the High Court. The “best interests of the child” under Article 3 of the UN Convention on the Rights of the Child was applicable in this case pending a decision in another case due before the High Court. The ‘best interests of the child’ under Article 3 of the UN Convention on the Rights of the Child was applicable in this case pending a decision in another case due before the High Court.

COMMENT

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The involvement of the Children’s Rights Alliance on the group suggests the Government’s intent to ensure that children’s rights are properly considered in its deliberations. There are a number of key areas where the lives of children living in direct provision could be significantly improved. These include the provision of self-catering accommodation to allow for a more family-friendly environment; an increase in the Direct Provision Allowance for children, and access to the Child Benefit payment to assist parents in meeting the high costs of raising a child and to help prevent further social exclusion and isolation of children who live in direct provision.

The Working Group on the Protection Process has been asked to consider the former judgement and address the issues identified by the Court. While the Working Group has been charged with making evidence-based recommendations to improve the standard of living in the current system, the Government has imposed a requirement that any suggestions should be cost-neutral or incur a saving for the Exchequer. This may pose a challenge to achieving real and substantial change. Although discussions are taking place at a policy level to address the issue of inadequate conditions in direct provision and the need to reduce the amount of time spent in the system, without substantive changes to the way in which asylum applications are processed, any changes to the system will be superficial and limited in scope.

MIGRANT CHILDREN

Immediate Actions for 2015

Enact legislation to reform the Protection Process and on immigration issues as a matter of urgency and proofed it against the UN Convention on the Rights of the Child

Report Cards 2012, 2013 and 2014 all called for immigration and protection legislation to be proofed against the UN Convention on the Rights of the Child. A specific legal pronouncement should be included in the Bill requiring decision-makers to set out in writing how the best interests of the child have been considered in their final determination on that child’s immigration status or any other immigration-related decision which will have a negative impact on that child. Specialist training should be held with all staff and specialist staff should be employed to work directly with children.

Take steps to protect the rights of children living in direct provision and opt-in to the EU Recast Reception Conditions Directive

To ensure that children in direct provision maintain an adequate standard of living and their developmental needs are met, self-catering accommodation should be provided for families. In addition, the child component of the direct provision allowance should be increased to at least the equivalent of the Qualified Child Increase, and the parents of children in direct provision should have access to Child Benefit. Opting-in to the Recast Reception Conditions Directive would ensure that the best interests of the child principle is at the forefront of decisions made about accommodating asylum and protection applicants. An audit of child protection and child welfare referrals should be carried out to ensure that there is sufficient oversight in that in relation to children living in direct provision.

6.3 INEQUALITIES IN FAMILY LIFE

GOVERNMENT COMMITMENT

Progress: Good

We will modernise and reform outdated elements of family law.

Progress: Slow

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

Progress: Good

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

WHAT’S HAPPENING?

The Heads of the Children and Family Relationships Bill were published in January 2014 and revised Heads issued in September.

The Government committed under The National Policy Framework for Children and Young People 2014–2020, published in April 2014, to [r]eform aspects of family law, including the law on guardianship, to create a legal structure to underpin diverse parenting situations and provide legal clarity on parental rights and duties in diverse family forms. It also committed to clarify the law in relation to a child and young person’s right to know his or her identity, where the child is adopted or born through the use of Assisted Reproductive Technologies, and to put in place mechanisms to collect and retain information necessary to enable a child to exercise their right to identity and to facilitate regular family access for children in care.

Family Law Reform: In January 2014, the General Scheme of the Children and Family Relationships Bill was published by the then Minister for Justice and Equality, Alan Shatter TD. The legislation aims to update and clarify the law on parental rights and duties in the range of different family forms in Ireland, including step-parent families and families headed by cohabiting couples, gay or lesbian couples or by other extended family members. Speaking at a high level seminar on the initial Scheme, Dr. Geoffrey Shannon, Special Rapporteur on Child Protection, noted that the Bill represents the most significant change in family law in a generation and attempts to reflect the social reality of contemporary family life in Ireland.

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The Oireachtas Committee on Justice, Defence and Equally reviewed the initial Scheme, carried out a public consultation and issued a report in May 2014.144 On foot of this consultation process, a number of changes were made to both the initial Scheme and the revised Scheme was published in September 2014.145 Most welcome was the inclusion in the revised Scheme of a provision to ensure that a child born through assisted human reproduction has the right to know his or her genetic identity. This will be achieved through a prohibition on non-disclosure of genetic material and the establishment of a national donor-conceived person register. Further consultation was undertaken on the revised Scheme and the bill is expected to be published in mid-February 2015.

In light of a pending Supreme Court decision, provisions relating to children born through surrogacy were not included in the revised Scheme.146 Legislation addressing the issue of surrogacy will instead be developed by the Department of Health at a later date.147

The revised Scheme is subject to change when published as a Bill and to further change on foot of Government approval as the Bill progresses through the Houses of the Oireachtas. The revised Scheme provides that the best interest of the child will be the paramount consideration in decisions on custody, guardianship and access. It proposes repealing the Guardianship of Infants Act 1964 and extending the class of persons who can apply for guardianship of a child to civil partners, cohabitees, step-parents and others acting in loco parentis. In certain cases, it proposes that unmarried fathers will automatically be awarded guardian- ship of their children, and access applications will be simplified for interested persons who are not parents of the child, such as grandparents or step-parents.148 It will also set out how parentage is to be assigned in cases of assisted reproduction and provide for the views of the child to be heard in decision-making, through the use of an ‘expert’ to make known the views of the child.

In another positive legislative development in 2014 was the enactment of the Civil Registration (Amendment) Bill 2014 in December. This legislation requires unmarried parents to register the name of the child’s father on a child’s birth certificate. This will help ensure the child’s right to know their parent’s identity is respected.

Civil Partnership and Cohabiting Couples: The Civil Partnership and Certain Rights and Obligations of Cohabitating Couples Act 2010, since coming into effect, provides legal recognition through civil partnership for same-sex couples including a wide range of marriage-like rights and obligations for civil partners. The Finance (No. 3) Act 2011 addressed some anomalies for children of civil partners, relating to taxation, so children of civil partners are now treated the same and have the same rights as children of married couples in terms of taxation, capital gains tax relief and inheritance tax relief. In December 2014, the Government announced that it will hold a Marriage Equality referendum in 2015,149 which will ask the People of Ireland if they wish to introduce the right to marriage. Marriage may be contracted in accordance with law by two persons without distinction as to their sex into the Constitution.150

Family Courts: In 2014, the then Minister for Justice and Equality, Alan Shatter TD, indicated that a referendum may not be necessary to reform the family courts system and that this could be done through legislation. The Department of Justice and Equality intended to publish legislation by end 2014 but this has now been delayed and is expected in 2015.151

Children have the right to know who their father or her genetic identity. This will be achieved through a prohibition on non-disclosure of genetic material and the establishment of a national donor-conceived person register. Further consultation was undertaken on the revised Scheme and the bill is expected to be published in mid-February 2015.

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This year ‘Inequalities in Family Life’ receives a B grade, a significant rise from last year’s D+ grade. The improved grade reflects the publication of the initial and revised Scheme of the Children and Family Relationships Bill. It acknowledges that both the former Minister for Justice, Equality and Defence, Alan Shatter TD, and current Minister for Justice and Equality, Frances Fitzgerald TD, engaged in an open consultation process and demonstrated a real willingness to go on board suggestions for improving the Bill.

Of particular note is that following calls from the Children’s Rights Alliance, our members and the Ombudsman for Children, the revised Scheme was amended to include provisions on the child’s right to identity.149 This is a very significant positive development as it brings Irish law in this area into line with Articles 7 and 8 of the UN Convention on the Rights of the Child, which state that every child has a right to know his or her parents and have access to information concerning their genetic identity (which may be accessed when the child reaches 18 years of age). The inclusion of the provisions on the child’s identity required liaison between the Department of Justice and Equality and the Department of Health, which develop the necessary provisions. The requirement – under the Civil Registration (Amendment) Bill 2014 – for unmarried parents to register the names of both parents on a child’s birth certificate is also a welcome step to uphold the child’s right to identity.

The UN Convention on the Rights of the Child recognises the central role played by parents in the lives of children. Under the Convention it is stated that every child has the right to be cared for by his or her parents insofar as possible.152 The term ‘parent’ is interpreted to mean genetic, birth and psychological or social parent referring to someone who is not biologically related to the child but cares for the child for significant periods of their childhood. Children also have the right to contact with both their parents on a regular basis, to maintain personal relations and not to be separated from their parents against their will, unless the separation is in the child’s best interests.153 Children have the right to know their parents and to have accurate information about them, including those that fall outside the direct scope of the Convention, the best interests of the child principle must apply.154

The structure of Irish family life has changed significantly in recent decades with 36.1 per cent of registered births being outside of marriage in the second quarter of 2014.144 These include situations where a child is born to a lone, unmarried parent; an unmarried couple who are living at the same address; blended families, for example where the parents who have become separated, divorced or widowed and formed a new relationship, the child lives with one parent and a non-biological civil-partner, a child living with grandparents or other family members; or a child living with their parent and a non-biological civil-partner. According to the latest figures available, almost 352,000 children lived with a lone parent; 104,665 children lived with a co-habiting, unmarried parents146 and there were 230 same-sex couples with children.

Many children have no legal relationship with the person who provides them with day-to-day parental care. The legal ability to formalise the relationship between a child and their de facto
parent is critical to ensure security, fairness and clarity in the child’s life and upbringing. The limitations placed in granting guardianship[306] means that, in families with a step-parent or civil partner, only the biological parent can be recognised as the guardian of the child and the other party will always be a stranger to the child in legal terms.[307] This can make routine family practicalities very difficult, as the non-biological parent cannot consent to emergency medical treatment, vaccinations or school forms. It can also have a devastating impact in the context of family break up.

Irrespective of the legal relationship entered into by parents, children should not be discriminated against due to the status of that relationship. The UN Convention on the Rights of the Child provides that a child must not be discriminated against because of their parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

The Children and Family Relationships Bill will be the most comprehensive amendment to the law on children and family relationships in many years. It provides a unique opportunity to modernise the law in the area and provide legal recognition to the many different and diverse family relationships that exist in modern day Ireland. Given the complexity of modern family structures this Bill needs to be given careful consideration and enacted at the earliest opportunity.

The revised Scheme also provides for two key children’s rights principles, namely the best interests principle as well as the voice of the child. However, under the proposals the court will only hear from the child at the judge’s discretion so there is no automatic right for the child’s voice to be heard. In addition, it is not clear what mechanisms will be put in place to ensure that the child’s views are properly heard and considered. The UN Committee has been clear in relation to Article 12 of the UN Convention on the Rights of the Child that the way in which the child’s views are represented ‘should be determined by the child (or by the appropriate authority as necessary) according to his or her particular situation’ requiring consultation with children in how best to present their views to ensure that they are ‘transmitted correctly to the judge.’[308]

To support the roll out of the legislation a court welfare service is needed. This service would provide an appropriate mechanism to carry out assessments of the child’s welfare and best interests, ascertain his or her views, while also carrying out family risk assessments. It would help to support the judiciary make informed decisions in accordance with the proposed legislation and with the State’s children’s rights obligations.

The requirement under the Civil Registration (Amendment) Act 2014 for unmarried parents to register the names of both parents on a child’s birth certificate is also a welcome step to uphold the identity rights of children. However, the lack of a Central Register for Statutory Declarations for Joint Guardianship continues to cause problems for some unmarried fathers who have not retained a copy of the declaration and are unable to prove that they are a joint guardian. The statutory declaration is the only non-judicial mechanism to enable an unmarried father to gain guardianship rights – the safe keeping of these documents should be fully supported by the State.

The Ombudsman for Children (2010) heard, CRC/C/GC/12, para. 36.


2003 at l-034.


2009/2010: Advice of the Ombudsman for Children on the Civil Partnerships Bill


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Establish a court welfare service to support the roll out of this legislation

Enact the Children and Family Relationships Bill ensuring that the provisions on best interests of the child, voice of the child and the right to identity are retained

The Children and Family Relationships Bill should be enacted to reform the law on parentage, guardianship, custody and access. The Bill should ensure that children’s rights can be vindicated by the people in their lives that fulfil the parenting role and that the best interests of the child forms the basis for decisions. The Bill must ensure that mechanisms are put in place to allow the child to have his or her voice heard directly in decisions and that the child’s right to identity is protected.

Establish a Central Register for Statutory Declarations for Joint Guardianship

The Scheme does not provide a facility for the establishment of a Central Register for Statutory Declarations for Joint Guardianship as recommended by the Law Reform Commission in 2010.[309] The statutory declaration is the only non-judicial mechanism to enable an unmarried father to gain guardianship rights – the safe keeping of these documents should be fully supported by the State.

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.