Learning from the Past:

Responding to the Recommendations of the Commission to Inquire into Child Abuse Report

June 2009
The Children’s Rights Alliance is a coalition of over 90 non-governmental organisations (NGOs) working to secure the rights and needs of children in Ireland, by campaigning for the full implementation of the UN Convention on the Rights of the Child. It aims to improve the lives of all children under 18, through securing the necessary changes in Ireland’s laws, policies and services.

**Membership**
The Alliance was formally established in March 1995. Many of its member organisations are prominent in the children’s sector – working directly with children on a daily basis across the country. The Alliance’s policies, projects and activities are developed through ongoing collaboration and consultation with its member organisations.

**Vision**
Ireland will be one of the best places in the world to be a child

**Mission**
To realise the rights of children in Ireland through securing the full implementation of the UN Convention on the Rights of the Child
## Contents

1. Introduction ................................................................................................................................. 1

2. Summary Recommendations of the Ryan Report ........................................................................ 3

3. Key Alliance Actions Proposed in Response to the Ryan Report .................................................. 4

4. The Care System .......................................................................................................................... 6

   4.1 Overview of the Care System .................................................................................................. 6

   4.2 Difficulties within the Care System ....................................................................................... 8

   4.3 Early intervention, prevention and family support services ................................................... 12

5. Alliance Commentary on the Ryan Report Recommendations ....................................................... 13

Appendix I: Extract from the Executive Summary of the Commission to Inquire into Child Abuse Report: Full text of the Recommendations ........................................................................................................... 26

Appendix II: Relevant Articles from the UN Convention on the Rights of the Child ...................... 30

Appendix III: Dáil Éireann Motion Passed in Response to the Publication of the Ryan Report ........ 32

Appendix IV: Alliance Member Organisations .................................................................................. 33
1. Introduction

On 20 May 2009, following a ten-year inquiry, the Commission to Inquire into Child Abuse published the report of its findings (henceforth referred to as the ‘Ryan Report’). The independent commission, chaired by Mr. Justice Ryan, is the most comprehensive investigation ever conducted into child abuse in Ireland.\(^1\) It examines a horrific legacy of physical, emotional and sexual abuse suffered by over 30,000 children living in institutions throughout Ireland, during the period 1936 to 2000.\(^2\) The report, produced in five volumes, can be accessed at http://www.childabusecommission.ie/.

The Government is not able to re-write history – however much it may wish to do so – but it does have the power to shape both the present and the future. A Dáil motion – passed without debate on 28 May – pledged support for the full implementation of all of the Ryan Report’s recommendations.\(^3\) The Minister for Children and Youth Affairs, Mr. Barry Andrews TD, has been tasked with bringing proposals for an implementation plan in respect of the recommendations contained in the Ryan Report to Government before the end of July.\(^4\) It is vital that this plan comprises clear and achievable measures and that an independent mechanism is put in place to monitor and assess its progress.

The Alliance welcomes the publication of the Ryan Report and endorses its recommendations. We salute the courage and bravery of all those who gave personal testimony of their experiences to the Commission. Their stories must act as an impetus for change, and it is essential that each and every one of them, including those who will have been affected by the publication of the Report, is provided with counselling and advocacy support.

We all, as a society, have a duty to demonstrate, by our actions, that we honour the lives of those who have been irreparably damaged by the devastating abuse perpetrated against them as children. We can, and must, learn lessons from the past and change our attitudes, practices and laws to strengthen children’s rights and reform our care and child protection systems.

This change will require an attitudinal shift accompanied by political, budgetary and policy choices. Whilst acknowledging the economic circumstances currently facing the country, additional resources will be needed if we are serious about implementing the Ryan Report recommendations. Improvements will require a more efficient use of existing resources. In addition, there is a need for a move away from the ‘silo’ approach within the public service and the introduction of monitoring and accountability mechanisms, including sanctions for staff who fail in their duty towards children. Improvements will require the standardising of practice and policy across all Health Service Executive (HSE) regions. A long term perspective must be adopted, as investment now in early intervention, prevention and family support services will, in time, reduce the demand for crisis-led interventions and the need for children to enter the care system. This will significantly benefit children, their families and the State’s finances.

We must ensure that the rights of all children in care are respected and that they are adequately supported to enjoy, and benefit from, their childhood. We must ensure that all children who have recently left care, or are shortly due to leave care, are given the support they need to facilitate their transition to independence and self-sufficiency.

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1 Justice Mary Laffoy was Chairperson of the Commission in its formative period from May 1999 to January 2004, when she was succeeded by Justice Sean Ryan.
2 Some testimonies related as far back as 1914.
3 Text of the Dáil Éireann motion is reproduced in Appendix III.
Action can be taken now, so that the State is never again accused of not listening to children, not responding to abuse allegations, and not taking active steps to keep children safe and vindicate their rights. The State must never again stand over a child care system that fails to provide supports to keep families together, a care system that removes children from their families, yet fails to provide them with the support and services necessary to uphold their rights and provide them with a decent childhood.  

The Alliance believes that the Government can take immediate action that will make a difference to the lives of those who must live with the after-effects of their broken childhoods and for generations of children to come. The creation of a ‘living memorial’, through the successful passage of a children’s rights constitutional amendment is one clear step. Building on the political consensus during the Dáil motion and debate, we remind all parties that actions speak louder than words. We urge them to work together under the auspices of the Joint Committee on the Constitutional Amendment on Children to reach political consensus on wording for a constitutional amendment to strengthen children’s rights, which should be placed before the Irish People as soon as is practicable.

This paper begins by summarising both the recommendations of the Ryan Report and the Alliance’s key actions proposed in its response. Background information is also given on the care system itself, outlining its inherent problems and the need for more early intervention, prevention and family support services. The latter part of the paper focuses on the Alliance’s analysis of the Ryan Report, examining each recommendation in turn, and proposing actions to be included in the Government Implementation Plan.

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5 The term child care refers to any child in the care of the state; it should be distinguished from the childcare system which provides children with day care in the form of preschools, crèches and after-schools etc.
2. **Summary Recommendations of the Ryan Report**

1. Arising from the findings of its investigations and the conclusions that were reached, the Commission was required to make recommendations under two headings:
   - To alleviate or otherwise address the effects of the abuse on those who suffered
   - To prevent where possible and reduce the incidence of abuse of children in institutions and to protect children from such abuse.

2. A memorial should be erected.

3. The lessons of the past should be learned.

4. Counselling and educational services should be available.

5. Family tracing services should be continued.

6. Childcare policy should be child-centred. The needs of the child should be paramount.

7. National childcare policy should be clearly articulated and reviewed on a regular basis.

8. A method of evaluating the extent to which services meet the aims and objectives of the national childcare policy should be devised.

9. The provision of childcare services should be reviewed on a regular basis.

10. It is important that rules and regulations be enforced, breaches be reported and sanctions applied.

11. A culture of respecting and implementing rules and regulations and of observing codes of conduct should be developed.

12. Independent inspections are essential.

13. Management at all levels should be accountable for the quality of services and care.

14. Children in care should be able to communicate concerns without fear.

15. Childcare services depend on good communication.

16. Children in care need a consistent care figure.

17. Children who have been in State care should have access to support services.

18. Children who have been in childcare facilities are in a good position to identify failings and deficiencies in the system, and should be consulted.

19. Children in care should not, save in exceptional circumstances, be cut off from their families.

20. The full personal records of children in care must be maintained.

21. ‘Children First: The National Guidelines for the Protection and Welfare of Children’ should be uniformly and consistently implemented throughout the State in dealing with allegations of abuse.

* The full text of the recommendations is contained in Appendix I.
3. Key Alliance Actions Proposed in Response to the Ryan Report

General actions
1. Create a ‘living memorial’ through promoting the successful passage of a children’s rights constitutional amendment. We call on all political parties to work together under the auspices of the Joint Committee on the Constitutional Amendment on Children to reach political consensus on proposed wording for a constitutional amendment to strengthen children’s rights, which should be placed before the Irish People as soon as is practicable.
2. All children’s policies and laws must be based on, and consistent with, the principles and provisions of the UN Convention on the Rights of the Child, which Ireland ratified in 1992.
3. Ensure the next National Children’s Strategy, beginning in 2010, is rights-based; and fully implement the Agenda for Children’s Services.

The care and child protection systems must be reformed to restore public confidence.

Actions specific to the care system
2. Reform the Social Services Inspectorate to create one independent inspectorate reporting directly to the Oireachtas and strengthen their mechanisms to enforce compliance with the national standards. Ensure that all care settings are inspected by the Inspectorate.
3. Raise awareness among children in care of their right to communicate complaints without fear, and of the range of channels they can use to make a complaint.
4. Support stability in care placements and the retention of social workers and key workers to provide children with a consistent care figure.
5. Ensure that all necessary supports are provided to children in care and their carers to avoid placement breakdowns.
6. Establish a mechanism to consult with children in care and those leaving care on the positives and negatives of their care experience, and act on their views to the benefit of other children.
7. Provide adequate levels of support facilitate regular access visits and contact between children in care and their families, once it has been established that this is in the child’s best interests.
8. Address the poor quality of data relating to children in care. Commence a national study of children in care, and those that leave care to inform future policy and planning of services.
9. Ensure processes are in place to communicate information to children in care and to retain reports, files and records essential to validate the child’s identity and history.
10. Instigate a programme of work to tackle the weaknesses of the HSE care system:
   - Where possible, families should be supported to prevent children from coming into care and to speed up their return home, if this is in the child’s best interest.
   - Provide every child in care with an assigned social worker, a regular and timely care plan review, access to an external complaints mechanism and independent inspection.
   - Ensure all care staff and carers (including relative foster carers) are assessed, vetted, trained and supported, and undergo regular reviews.
   - Respond to particular needs of children, including specialised mental health and other supports.
11. Undertake necessary legislative change to uphold the rights of children:
   - Amend Section 45 of the Child Care Act 1991 to provide all children who have been in care with a statutory entitlement to aftercare support; and develop comprehensive aftercare support services.
   - Publish and enact legislation to allow the High Court to have exclusive statutory jurisdiction to hear Special Care cases.
• Amend the Child Care Act 1991 to bring all homeless children under Part 4 of the Act to provide them with a statutory entitlement to care and protection, as opposed to mere ‘accommodation’.

12. Provide appropriate accommodation to vindicate the rights of children. This includes:
• Close privately run hostels for separated children; and accommodate separated children in mainstream care on a par with all other children in the care system.
• End the inappropriate placing of children in adult prisons; and proceed with the building of a new child-centred detention facility without delay.
• End the inappropriate placing of children in adult psychiatric units through the provision of a sufficient number of appropriate residential adolescent beds.

Actions specific to child protection services
13. Fund a range of counselling and therapeutic services for victims of abuse to be provided by a combination of statutory and voluntary organisations; reduce waiting lists for such services.
15. Establish an independent national authority to monitor compliance with the Children First guidelines.
16. Place the Garda Vetting Unit on a statutory footing, and legislate for soft information vetting, in line with the recommendations of the Joint Committee on the Constitutional Amendment on Children (September 2008).
17. Establish a child death review committee to review child deaths in suspicious circumstances and all deaths of children in care or known to the HSE.
18. Instigate a programme of work to tackle the weaknesses of the social work system:
• Ensure that each and every call to report an allegation of child abuse is answered and responded to within an appropriate time period.
• Address the waiting lists for social work assessment.
• Develop and enhance the social work service so it is adequate to meet its statutory duty to children.

Other specific actions
19. Invest in preventive and early intervention services to refocus our services away from crisis intervention. A network of community based multi-disciplinary teams of professionals, delivering preventive and therapeutic services, would have a lifelong impact on the wellbeing of children and families, including their demands on social services. There is need for a strategic, integrated approach to family support and early intervention; this should be coordinated by the Office of Minister for Children and Youth Affairs.
20. Appoint an independent person (not connected to the HSE or religious congregations, and reporting directly to the Oireachtas) to monitor the State’s progress on implementing the Ryan Report recommendations.
21. Request the Special Rapporteurs on Child Protection, Professor Finbarr McAuley and Mr. Geoffrey Shannon, to map out the legal framework necessary to ensure the implementation of any actions, on foot of the Ryan Report recommendations. Decisions to take action on the Rapporteurs’ recommendations should be taken within one month of their publication, by the appropriate Oireachtas Committee.
4. The Care System

4.1 Overview of the Care System

Much has changed in the Irish care system since the days of the Ryan Report’s investigation: the vast majority of children in care now live in foster homes, and a large number of these live with relatives.

**Definition of children in care**

Official statistics for April 2009 record 5,589 children in care, of these:
- 89.8% - 5,018 children were in foster care
- 60.9% - 3,404 were in foster care
- 28.9% - 1,614 were in foster care with relative
- 6.7% - 376 children were in residential care
- 3.5% - 195 children were in other care placements or at home under care order.

Greater clarity is needed as to the definition of ‘care placements’ covered in the ‘other’ category. For example, does this figure capture children sent abroad for specialist care for behavioural or psychological problems? In 2007, 19 children in care were placed in facilities outside the jurisdiction as there was nowhere suitable for them in Ireland.

The Alliance believes that there are several other groups of children who should be included in the official statistics on children in care. These include:
- 391 children who are homeless;
- 374 children with disabilities in residential settings;
- 156 separated children taken into HSE care each year;
- 123 children detained in children detention schools;
- 54 children detained in St Patrick’s Institution (adult prisons/places of detention).

**Types of care placements**

In 2007, just over half of all children (51%) were placed in care under a voluntary arrangement between their parents and the HSE; the remaining children (49%) are in care under a Care Order.

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6 Health Service Executive (2009) Supplementary PR Data April 2009. Published 11 June 2009. Data relates to year to date.
7 This figure includes pre-adoptive placements.
8 The ‘other’ category for 2007 includes disaggregated figures for Special Care and High Support placements, with 128 children still in placements classified as ‘other’. This format is not followed in the 2009 statistics.
10 Adoption can be considered part of the care system but is not covered in this paper. The Alliance is preparing a submission in response to the publication of the Adoption Bill 2009 in January 2009.
11 These figures are for the Dublin, Kildare and Wicklow areas only. David Gaskin , PCCC Parliamentary Affairs Division, HSE, Response to Deputy Aengus O’Snodaigh, TD, Re. Parliamentary Question 14495/08, 09 June 2008.
14 Irish Youth Justice Service Annual Report 2008. There are four Children Detention Schools: Oberstown Boys School, Oberstown Girls School, Trinity House and Finglas Child and Adolescent Centre.
Care Plans

Figures for March 2009 note that 9.3% children in residential care and 19.7% in foster care do not have a care plan.\textsuperscript{16} These figures are a significant improvement on those of March 2008, when 34% in residential care and 35.2% in foster care did not have a care plan.\textsuperscript{17} Whilst we welcome this improvement, we would question the accuracy of these figures. In addition, data should be provided on whether these care plans are up-to-date.\textsuperscript{18}

Reasons for children being in care

The 2007 dataset on children in care details the primary reasons for new admissions of children to care. The reasons for being in care are divided into three categories:

<table>
<thead>
<tr>
<th>7% Child centred problems</th>
<th>Including child abusing drugs/alcohol, child involved in crime, child pregnancy, child with emotional/behavioural problems, child with mental health/intellectual disability and ‘other’.</th>
</tr>
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<tbody>
<tr>
<td>39% Abuse</td>
<td>Including physical, sexual, emotional abuse and neglect. Of these, 70% are neglect and 30% are various forms of abuse. Sexual abuse, as a reason for a child being in care, accounts for less than 3% of the total number of children in State care.</td>
</tr>
<tr>
<td>54% Family centred problems</td>
<td>Including parents unable to cope/family difficulty re: housing/finance, family member abusing drugs/alcohol, physical illness/disability in other family member, mental health problems/intellectual disability in other family member, domestic violence, separated children seeking asylum and ‘other’.</td>
</tr>
</tbody>
</table>

‘Neglect’ is the primary reason for children being in care and accounts for 27% of the total figure.\textsuperscript{19} This was followed by ‘parents unable to cope/family difficulty re housing/finance’ (25%) and then ‘family members abusing drugs or alcohol’ (14%).

If you remove the children in care due to ‘abuse’(12%) and ‘child centred problems’ (7%), the majority of children (81%) are in care because of a parenting failure. These include children in care due to neglect and family centred problems. Research continually points to the poor outcomes for children in care. This begs the question: ‘if we improved our parent and family support services, could we avoid children entering the care system?’

\textsuperscript{18} It is interesting to note that the figure on the number of children with a care plan is absent from the April 2009 data.
\textsuperscript{19} Children First: National Guidelines for the Protection and Welfare of Children (1999) defines neglect as ‘an omission, where the child suffers significant harm or impairment of development by being deprived of food, clothing, warmth, hygiene, intellectual stimulation, supervision and safety, attachment to and affection from adults, medical care’, p. 31
4.2 Difficulties within the Care System

Children in care

Social workers
Every child in the care of the State should have a social worker assigned to their case. However, one in six children in foster care does not have an assigned social worker, and this figure rises to one in three children in some areas. Responsibility for protecting and safeguarding the child rests with the social worker. An assigned social worker is the child’s essential ‘gateway’ to ensuring his/her rights and welfare. The social worker is the only official means of contact and communication between the child and his/her birth family, and the HSE/State.

Care reviews
In line with Article 25 of the UN Convention on the Rights of the Child, all children in care should have a periodic review of the care they receive. Children should always be consulted when decisions are being made about their care. They should be prepared and supported by their social worker to participate in their care plan review meetings. Research with children has identified the factors that would improve their experience of care reviews.

If there is no assigned social worker, a child will not know the person who conducts his/her care review, and/or a review may be delayed. Care reviews examine, among other things, whether the child’s needs are being met and whether the child should continue to remain in care. A delayed, or poorly run, review means that the child’s needs cannot be identified and there is no one with responsibility for implementing decisions that are made at the review meeting. Thus problems can not be identified and help pre-empt crises and placement breakdowns.

Geographical variation
The geographical location of the child has a significant impact on whether the child will be taken into care, the type of care placement and the legal status of their placement. This is in breach of the principle of non-discrimination under Article 2 of the UN Convention on the Rights of the Child. These geographical variations require exploration and explanation.

Training
There is need for training for all carers. This should include children’s rights training, and anti-racism and cultural awareness training, particularly for families who foster minority children including migrant and Traveller children. These groups are often over-represented in the care population.

Actions
The care system must be reformed to restore public confidence. A programme of work must be instigated to tackle the dysfunctional HSE care system. It must ensure that every child in care has an assigned social worker, a regular and timely care plan review, access to an external complaints mechanism and an independent inspection. Nothing less is acceptable.

More needs to be done to support children and families, where there is a risk of a child being placed in care. There is a need to invest in community-based family supports to enable parents to care for their children and thus prevent them from entering the care system (where this is in the best interests of the child).

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22 For example, why are foster care special placement and at home under care order placement used in some areas and not others?


**Foster care system**

While research has shown that the Irish foster care system is making a positive impact on children’s lives, in the absence of inspections and regular care reviews, we do not know about the wellbeing of individual children in care.

**Inspections**

The Social Services Inspectorate has begun inspections based on the National Standards for Foster Care (2003). However, capacity has restricted these inspections to a small number of homes within a specific area. There is a need for increased capacity to enable roll out to all foster homes.

**Relative fostering**

Of all those in care, 28.9% live in relative foster care. Thus over a quarter of children in care live with relatives. Relative foster families now account for 32% of all children in foster care. The Inspectorate found that a high number of relative foster families had not been vetted. Relative foster carers must be appropriately assessed, supported and trained.

**Reviews**

Under the National Standards for Foster Care, foster carers are to be reviewed one year after first placement and at three-year intervals thereafter. This is not a standardised practice throughout the country. Experience would indicate that fostering reviews are frequently held as a crisis reaction to an allegation or complaint against the foster carers. This is an ineffective approach that fails to support and encourage good communication and trust between foster carers and the HSE.

**Stability**

Despite evidence of the damage, often irreversible, caused by several moves in care, children in foster care, including very young children, continue to experience multiple placements and unnecessary trauma from placement breakdown. Strict criteria needs to be set down and met in relation to placement breakdown. It is vital that a ‘pool’ of trained, assessed and approved foster carers is established from which a selection process can be undertaken, to match the needs of the child to the strengths of the carers.

**Support**

Foster carers should be supported by a link worker (different from the child’s social worker). Foster families can also access independent support and guidance from the Irish Foster Care Association. Early intervention, particularly in difficult placements, is essential to provide adequate support and prevent placement breakdown.

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24 Four inspections have been completed: HSE Dublin South; HSE Dublin North East; Fostering First and Five Rivers Ireland since 2006. Three pilot inspections were also carried out in 2004.
25 *Inspection of the HSE Fostering Service in Dublin South West Local Health Area*, Final Report, 1 September 2008; and *Inspection of the HSE Fostering Service in Meath Local Health Area*, 12 October 2007.
26 The Irish Foster Care Association (IFCA) is a ‘rights based’, child centred organisation which promotes family based solutions for children and young people in ‘out of home care’. www.ifca.ie [accessed 17 June 2009].


**Residential care system**
Concerns continue to exist in relation to inappropriate placements and residential care settings falling outside the national guidelines (See Rec. 7).

**Specialised supports**
Some children have very difficult lives, experiencing abuse, trauma or neglect; and their experiences may result in difficult or chaotic behaviour. They may experience mental health, emotional, behavioural or addiction difficulties. The residential system continues to fail these vulnerable children where it does not provide them with specialised services and supports, suitable for their needs. If the child’s needs are not met, it is likely that their situation will deteriorate and that they will require more intensive interventions and placement breakdown.

**Inappropriate placements**
When the system cannot offer stability, the experience of a series of placement breakdowns can leave a child feeling as if he or she is being bounced around the system. There needs to be an adequate level of intensive supports, interventions or care options built in to the system to address the needs of all children. Children are failed whenever they are given an inappropriate placement. For example, in 2008 there were 247 admissions of children to adult psychiatric units, due to the lack of residential adolescent beds. In addition, Ireland continues to send children outside of Ireland to access specialised services.

**Special Care Units**
Under the Children Act, 2001, children can be detained by court order in Special Care Units for a period of up to six months, with the possibility of an unlimited extension. The relevant section of the Act has never been enacted, hence cases are decided at the District Court level on ‘exceptional jurisdiction’ in the absence of a statutory framework. Promised legislation must be published and enacted as soon as possible to allow the High Court to have exclusive statutory jurisdiction to hear special care cases.

**Children who are homeless**
There is an urgent need to review the operation of the homeless services (out-of-hours service). Children who find themselves homeless are extremely vulnerable and often drift in the system for several years. At present, a small number of children accessing the HSE service are forced to sleep rough in Dublin, due to a lack of appropriate emergency beds. This situation is completely unacceptable and must be addressed as a matter of urgency. Furthermore, the Child Care Act 1991 should be amended to bring all homeless children (currently under Part 5) under Part 4 of the Act, so that they will have a statutory entitlement to care and protection as opposed to mere ‘accommodation’.

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28 Children Act, 2001, Part IVA, Children in need of Special Care or Protection 23A(2)(b): the behaviour of the child is such that it poses a real and substantial risk to his or her health, safety, development or welfare.
Social work services

Access to social workers

Management, administrative and operational deficiencies in the HSE must be overcome. Difficulties experienced in contacting HSE social work staff to report child abuse must be addressed.

Furthermore, significant delays in accessing social work assessment for a child deemed to be at risk or suspected of having been abused, must be tackled. During 2008, the HSE received more than 21,000 reports in relation to alleged child abuse and welfare concerns. However, only one third of these cases were allocated a social worker.\(^{29}\) A taskforce report, commissioned by the HSE shows significant variations of the amount of social workers assigned to different areas of the country.\(^{30}\) To rectify this we must fully staff community care social work teams.

The lack of a fully resourced community care social work team means no assessment is made in relation to allegations of abuse or neglect. It means many children at risk are not allocated a social worker to work with them and their families and to provide the kind of supportive intervention that can prevent further abuse or neglect or an admission into care. This contravenes Article 19 of the Convention on the Rights of the Child which states that States Parties shall take all appropriate measures to protect the child from abuse and neglect.

Recruitment

Morale is low among existing social workers, who are often overworked and unsupported. To ensure services are operating at full capacity and to maximise their effectiveness, current difficulties in recruiting and retaining qualified and experienced staff must be addressed, through providing workers with adequate supervision, professional development and manageable case loads. The HSE must ensure that its social work service is adequate to meet its statutory obligations to children.

Out-of-hours services

HSE social work services are not available outside office hours, with the exception of one service in Dublin. The Alliance welcomes the initiative to provide ten foster families as a response to the emergency needs of children, under Section 12 of the Child Care Act 1991. However, this system does not constitute an adequate out-of-hours system, and we continue to advocate for national access to social work services out-of-hours for children and their families/carers experiencing a crisis.


4.3  Early intervention, prevention and family support services

Report after report on child care, child protection and children’s rights in Ireland continually point to a need to strengthen our prevention, early intervention and family support services.\textsuperscript{31} It is vital that we listen to this message and begin to take active steps to rebalance our system from one of crisis intervention to one of prevention and early intervention.

Taking a child into care should be a measure of last resort to ensure his or her care and welfare. However, much more family support is needed to make this principle a reality. The data on children shows that the vast majority (54\%) are in care due to ‘family-centred problems’ specifically their parents inability to parent (see page 7).\textsuperscript{32} Many of these parents experience serious difficulties such as poverty, homelessness, addiction or mental health problems.

Policy and practice regarding child protection must be framed as part of a holistic family support strategy that reduces over time the need for ‘high end’ crisis response services. Prevention and early intervention services are an essential part of this approach – but provision is patchy, insufficient and uncoordinated. Furthermore, it is not firmly placed at the centre of policy debate or provision. Family support services lack an integrated structure and a strategic, child-focused approach.

The OMCYA’s \textit{Agenda for Children’s Services: A Policy Handbook} (2007) has, as its core, principles for the provision of health and social services, based on the child being supported within the family and the local community.\textsuperscript{33} However there is a lack of urgency and consistency in its implementation by agencies, including the HSE.

The differential response model has been suggested as a means of providing a family-centred approach which focuses on the strengths of the family, while still maintaining child safety as its key objective. It works from the premise that most parents want to do the best for their children.

The Alliance calls for:

- a strategic, integrated approach to family support and early intervention coordinated by the Office of the Minister for Children and Youth Affairs. This should ensure that there is no duplication and services are available throughout the country;
- full implementation of \textit{The Agenda for Children’s Services};
- mainstreaming of successful early intervention services, including the OMCYA’s Prevention and Early Intervention Programme;
- reform of social work and social care systems to provide multidisciplinary teams working with families in the community to deliver preventive and therapeutic services, moving the emphasis away from crisis intervention. This will reduce the pipeline into care;
- independent monitoring and quality assurance of progress in implementing family support services; and
- improved mental health and addiction services for children, adolescents and adults.


\textsuperscript{32} Health Service Executive (2009) \textit{Children and Families: Analysis Of Childcare Dataset 2007}.

\textsuperscript{33} Office of Minister for Children and Department of Health (2007) \textit{The Agenda for Children’s Services: A Policy Handbook}. 
5. **Alliance Commentary on the Ryan Report Recommendations**

The following section highlights the first line of the relevant recommendation (displayed in a box) from the Ryan Report and provides an Alliance commentary as to what steps are needed to implement it.

**Rec. 1:**

Recommendation 1 is not a recommendation per se. It states that:

*Arising from the findings of its investigations and the conclusions that were reached, the Commission was required to make recommendations under two headings:*

- To alleviate or otherwise address the effects of the abuse on those who suffered
- To prevent where possible and reduce the incidence of abuse of children in institutions and to protect children from such abuse.

**Rec. 2: A memorial should be erected**

The Alliance supports the recommendation to create a memorial. We, as a society, need to express our remorse for the shameful way we have treated children in institutions and create a different societal attitude towards children: a societal understanding that it is not acceptable to hit a child, to ignore their voice or to make inadequate provision for them.

The Alliance believes that this attitudinal shift can be best demonstrated through strengthening children’s rights in the Irish Constitution – the fundamental law of the land. The successful passage of a strong children’s rights amendment would be a ‘living memorial’.

We believe the people of Ireland should be given the opportunity to vote in a referendum to enshrine in the Constitution the value that they place on children and society’s responsibility to them. Such an amendment would constitute both a significant societal statement of intent and an acknowledgement of the responsibilities owed to children by society as a whole. The Irish Constitution must clearly state that all children have rights as individuals, regardless of the marital status of their parents, including the right to such protection and care as is necessary for their well-being; the right of to be heard on matters affecting them and the right to identity.

We call on all political parties to work together under the auspices of the Joint Committee on the Constitutional Amendment on Children to reach political consensus on proposed wording for a constitutional amendment, which should be placed before the Irish People as soon as is practicable.

**Rec. 3: The lessons of the past should be learned**

This recommendation is critical to the whole process: the findings of the Ryan investigation must act as an impetus for change to ensure that we learn from the pain of the past and take all possible actions to ensure such abuse is never repeated. The actions of relevant departments and state agencies must demonstrate how they have learned from the lessons of the past.

The Ryan Report has damaged public confidence in state agencies. It is imperative that an independent person (not connected to the HSE or the religious congregations, and reporting directly to the Oireachtas) is appointed to monitor the State’s progress on implementing the Ryan Report recommendations.
The Alliance welcomes the Ryan Report recommendations as an important starting point for reform. That said, this is not the first such series of recommendations. To truly demonstrate that we are learning the lessons of the past, we must ensure that the recommendations of previous reports on the child care and child protection systems are implemented. Many recommendations are reiterated from one report to the next.

The recommendations from the following reports must form the backbone of any reform: the November 2006 report of the Joint Committee on Child Protection; the September 2008 and April 2009 reports of the Joint Committee on the Constitutional Amendment on Children; the 2008 Redacted Report of the Monageer Inquiry; the 1998 and 2006 Concluding Observations of the UN Committee on the Rights of the Child in relation to Ireland.

Following publication in 2005 of the Ferns Report, five working groups were established. Some progress has been made in these groups, though improved transparency of their work would be beneficial so that we may learn from their experience.

**Rec. 4: Counselling and educational services should be available**

The State has a positive duty under Article 39 of the UN Convention on the Rights of the Child to promote the psychological recovery of a child who has been abused. There are, however, considerable delays in accessing assessment, counselling and therapeutic services for victims of abuse. Victims of child abuse include both children and adults. The effects of child abuse can last a lifetime and it is often only in adulthood that individuals, abused as children, will seek therapeutic support.

Unfortunately, Alliance member organisations, such as CARI, One in Four and the Dublin Rape Crisis Centre (all of which provide counselling and other services to victims of child abuse), are currently experiencing funding shortfalls, as a result of statutory funding cuts and the weak climate for fundraising at present. These voluntary organisations, and many others throughout the country, play a vital role in helping to heal the hurt of child abuse. Some victims of institutional abuse have expressed a desire to be able to access support from an agency that is independent from the State or religious congregations.

Funding should be provided to a range of services, both statutory and voluntary, to provide a timely response and a range of therapeutic services to all victims of abuse. In addition, there is a need for appropriate treatment of teenagers and adults who have exhibited sexually harmful behaviour: this is a key measure to prevent abuse.

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36 The working groups were established as follows: Project 1 To establish Inter-Agency Committees and audit of church Child Protection Policies and Procedures; Project 2 Publicity Campaign; Project 3 Review of Children First; Project 4 Counselling Services for Young People and Families; and Project 5 Treatment Services for Abusers.

37 Independent research commissioned by NOTA Ireland in 2008 indicated that current services are failing to meet the assessment treatment and management needs of individuals who present significant child protection concerns. NOTA Ireland Research, Closing the Gaps: Services in the Republic of Ireland for Those with Harmful Sexual Behaviour (December 2008).
**Rec. 5: Family tracing services should be continued**

Comprehensive family tracing services should be provided to all those who were in the industrial school system. Specialised support services may be required by individuals for extended periods of time. The preservation of one’s identity is a fundamental aspect of one’s psychological make-up. Services should focus on contact with, and access to, family members, and family and medical information and history. They should incorporate emotional, psychological and welfare issues, including issues around identity, sense of loss and abandonment, family relations and multiple loyalties.

**Rec. 6: Childcare policy should be child-centred. The needs of the child should be paramount**

The Ryan Report states that:

*The overall policy of childcare should respect the rights and dignity of the child and have as its primary focus their safe care and welfare.*

All child related policies and laws must be based on the principles and provisions of the UN Convention on the Rights of the Child, which Ireland ratified in 1992. Article 3 of the UN Convention states that: “in all actions concerning children [...] the best interests of the child shall be a primary consideration”. This principle should be enshrined in the Constitution. The need for child-centred policy is an overarching issue that is explored in more depth below.

**Rec. 7: National childcare policy should be clearly articulated and reviewed on a regular basis**

The Ryan Report states that:

*The State and Congregations lost sight of the purpose for which the institutions were established, which was to provide children with a safe and secure environment and an opportunity of acquiring education and training. In the absence of an articulated, coherent policy, organisational interests became prioritised over those of the children in care. In order to prevent this happening again childcare services must have focused objectives that are centred on the needs of the child rather than the systems or organisations providing those services.*

**Children’s policy**

The ten-year *National Children’s Strategy*, the main policy framework for children, ends in 2010. A new strategy is needed. The new strategy must be rights-based and explicitly linked to the implementation in Ireland of the UN Convention on the Rights of the Child. The National Children’s Advisory Council, whose term ended in 2009, should be reconvened to act as a consultative and monitoring forum for the development and implementation of the next National Children’s Strategy.

The *Agenda for Children’s Services: A Policy Handbook* and the accompanying *Reflective Questions* were launched in 2007 by the then Office of the Minister for Children and the Department of Health and Children. It provides strategic direction and key goals of public policy in relation to children’s health and social services in Ireland. It aims to provide the means for operational managers and frontline staff, particularly in the HSE, to direct and evaluate their delivery of services to children and their families. Monitoring is needed to ensure that the *Agenda* is being followed, especially in HSE services and decisions.
Learning from the Past: Responding to the Recommendations of the Commission to Inquire into Child Abuse Report, June 2009

**Children First: The National Guidelines for the Protection and Welfare of Children (1999)** is a voluntary set of guidelines on procedures for preventing child abuse and for responding to allegations and suspicion of abuse. The guidelines must be put on a statutory footing (see Rec. 21).

**Policy specific to children in care**

The child care system is governed by framework legislation, the Child Care Act 1991, which has been amended by the Children Act 2001 and the Child Care (Amendment) Act 2007. This legislation is operationalised through a series of Child Care Regulations (Statutory Instruments) and their requirements are set out in a series of National Standards, specifically on Foster Care; Residential Centres; Special Care Units and the use of Single Separation in Special Care Units.

Article 20 of the UN Convention on the Rights of the Child recognises the right of children deprived of their family environment to receive special protection and assistance from the State; this may include alternative care. It continues that, when considering care solutions, due regard shall be paid to the desirability of continuity in a child’s upbringing and to the child’s ethnic, religious, cultural and linguistic background. Furthermore, caselaw of the European Court of Human Rights is also of relevance in relation to the State’s role in providing for children in alternative care.

**Flaws in Policy on Children in Care**

Policy on children in care has a number of flaws that must be remedied as a matter of urgency:

1. **Limited implementation of Regulations (see Rec. 11)**

2. **Resource led decisions**

   The HSE contracts private profit-making companies to operate some residential homes and foster family placements. Without prejudice to these operators or the quality of the care they provide, such companies are subject to market forces and their usage in the care system must be questioned. There is anecdotal evidence to suggest that some children, placed with private providers, are being moved back to the public service as a cost saving measure, with no consultation and at short notice. Any placement move, especially an unplanned one, can be very disruptive and potentially damaging for the child. Such decisions appear to be resource-led, rather than needs-led.

3. **Areas not currently covered by National Standards**

   There is a need to develop national standards to address the issues of aftercare support and supported lodgings. In addition, there is a need to compile national standards to cover how the social services and child protection agencies interact with separated children who are reunited with their

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38 Specific guidelines were subsequently published for the education, youth work and sport sectors.

39 These regulations include *Placement of Children in Foster Care Regulations, 1995*; *Placement of Children with Relatives Regulations, 1995*; *Placement of Children in Residential Care, 1995*; and *Standards in Children’s Residential Centres Regulations, 1996 and Guide to Good Practice in Children’s Residential Centres*.

40 Single separation is defined as “the isolation of a seriously disruptive young person, for as short a period as possible, to give him/her an opportunity to regain self-control.” *National Guidelines on the use of Single Separation in Special Care Units*, April 2003, p. 3


43 The HSE Dublin North has developed *Model for Delivery of Leaving Care and Aftercare Services in HSE North West Dublin, North Central Dublin and North Dublin* (November 2006).

44 Supported lodgings arrangements were designed for older teenagers to assist them making the transition to living on their own and thus provide a very low level of supervision. Anecdotal evidence suggests that there are instances where young children have been placed in these arrangements when there has been no other residential care available for them.
families (approx 150 children per year); children living with their families in direct provision accommodation centres for asylum seekers (over 1,000); and children in contact with homeless services.

4. Categories of children not covered by the National Standards

Three groups of children in residential settings fall outside the remit of the Social Services Inspectorate and are not covered by the national standards. This situation must be rectified as a matter of urgency:

Children with an intellectual disability

In 2004, 374 children, with an intellectual disability, were in full-time residential support settings. In addition, 544 other children attended residential places on a part-time or occasional basis. There are currently no inspections or standards for these centres. The Ryan Report states that we owe a high duty of care to children with disabilities, who are more vulnerable and who, if abused, can leave them even more uncertain than other children as to what to do about it. The National Standards for Children’s Residential Centres should be applied to centres for children with disabilities as provided for in the Children Act 2001. Nothing short of this is acceptable; all legal and financial obstacles must be overcome as a matter of urgency.

Separated Children

In 2008, 156 separated children were taken into HSE case. These children are provided with substandard care, which is not subject to independent inspection. Progress was made over the past year with the opening of two new residential centres covered by the national standards. However, the majority of children continue to be accommodated in privately run hostels, which are not covered by the national standards. Furthermore, the Alliance is deeply concerned about the whereabouts of over 388 separated children who have been reported missing from their HSE care placement since 2001. Separated children are hugely exposed to risks, including traffickers who may lure them into prostitution and illegal exploitative work. The inadequate quality of hostel care and accommodation has been directly linked to instances of vulnerable children going missing and being trafficked for

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45 There is concern that the weak level of safeguards in relation to reunification of separated children with family members may be exploited by traffickers or leave the child open to abuse. There is a need to put in place a system of follow-up for all separated children reunified with family.
46 Child Care Act, 1991, Section 5 provides for the development of regulations for homeless children.
51 Inclusion Ireland notes that subsequent legal opinion held that the amendment to the 2001 Act is not sufficient to cover all children with disabilities in residential centres only those placed their on a care order.
52 Carl O’Brien, ‘Lack of inspections leaves thousands in care vulnerable to abuse – groups’ The Irish Times [online], 23 May 2009, http://www.irishtimes.com/newspaper/ireland/2009/0523/1224247218228.html [accessed 17 June 2009]. In May 2009, the Government stated that it does not have funds to introduce standards on a statutory footing or to inspect residential centres for adults with disabilities. It is estimated that such measures would cost approximately €10 million. Talks are commencing with service providers to implement the rules on a voluntary basis: this is an inadequate response.
54 The numbers continue to grow: ten of the 33 separated children referred to the HSE in March/April 2009 are classified as missing from care (that is nearly 1 in 3). The missing children were 8 Chinese, 1 Nigerian & 1 Iraqi (5 female and 5 male: aged 15-17); Sanctuary Newsletter, No. 60, 31 May 2009. http://www.catholicbishops.ie/images/stories/cco_publications/refugees/sanctuary%2031%20may%202009.pdf [accessed 17 June 2009].
exploitation. The hostels must be closed as a matter of priority and the children accommodated in mainstream care on a par with other children in care, thus providing them with equity of care. The HSE has developed an operational policy on the care of separated children; this policy should be made public.

Children detained in adult prisons or places of detention
Each year approximately 50 children aged 16 and 17 years are detained in adult prisons and places of detention (the majority in St. Patrick’s Institution). National and international bodies have repeatedly condemned the deplorable conditions in St. Patrick’s Institute over the past 20 years. These centres are not covered by the national standards. The Alliance has been advocating for an end to all inappropriate placements of children in adult prisons. In March 2008, the Government committed to move all 16- and 17-year-olds to a child-centred detention facility, at the Lusk complex, in line with Part 10 of the Children Act 2001. The building of the new centre in Lusk must proceed without delay.

Rec. 8: A method of evaluating the extent to which services meet the aims and objectives of the national childcare policy should be devised

The Health Act, 2007 places the Social Services Inspectorate (SSI) on a statutory basis within the Health Information and Quality Authority (HIQA). The Social Services Inspectorate is charged with evaluating whether the national standards for children in care are being implemented. To be able to perform its duties fully, the Inspectorate should be reformed to create a fully independent agency and be given additional resources (see Rec. 12).

Rec. 9: The provision of childcare services should be reviewed on a regular basis

Reviewing policy
Legislation, regulations, national standards, policies and programmes relating to children in care should be reviewed on a periodic basis, with reference to international best practice, evidence-based research and changing demographics (including ethnic and cultural diversity). These reviews must include consultation with children in care, those with care experience, foster families and care staff, as well as other relevant NGOs and expert agencies.

Data
The quality of data publicly available on children in care is unacceptable. The most recent dataset was published in May 2009 but relates to 2007 (the previous dataset related to 2004). Accountability requires transparency regarding the population of children in care. Data is needed on the percentage of children with an allocated social worker, an up-to-date care plan, attending school and the number of placements children have. Furthermore, data should include the number of children in care who will reach 18 years and leave the care system each year and their status (in education, training, employment, and whether they are living independently).

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56 This includes the following: the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 2 to 13 October 2006 (p. 18); The Whitaker Committee Report 20 Years On Lessons Learned or Lessons Forgotten? (August 2007) Katharine Howard Foundation in partnership with the Irish Penal Reform Trust (p. 19); Report by the Commissioner for Human Rights Mr. Thomas Hammarberg on his Visit to Ireland 26 - 30 November 2007, Council of Europe, Strasbourg, 30 April 2008 (CommDH(2008)9), (p. 22)
57 The Social Services Inspectorate was set up in 1999 and administered by the Department of Health and Children until May 2007, when it was established on a statutory basis as the Office of the Chief Inspector of Social Services.
58 The national standards for children in care are currently under review.
Rec. 10: It is important that rules and regulations be enforced, breaches be reported and sanctions applied

Rec. 11: A culture of respecting and implementing rules and regulations and of observing codes of conduct should be developed

The Ryan Report states that:

_The rules were ignored and treated as though they set some aspirational and unachievable standard._

The care and child protection systems are governed, primarily, by a series of child care regulations and the _Children First_ guidelines. Serious difficulties exist in the implementation of these policies. Additional resources, better coordination and changes in attitude are required for their full implementation of the child care regulations (see Recs. 7 & 12), and the _Children First_ guidelines must be placed on a statutory footing (see Rec. 21).

**Limited implementation of child care regulations**

From the reports of the Social Services Inspectorate and anecdotal evidence, it appears that many aspects of the child care regulations/standards are not being implemented. For example, under the 1995 foster care regulations, two key aspects are not fully in operation:

- Regulation 11: the HSE should prepare a care plan for each child prior to being placed in foster care. Without this plan, the child may drift in the care system. Both official statistics and anecdotal evidence indicates that children continue to be in care without a care plan.
- Regulation 18: the HSE should hold a case review every six months for the first two years and every year thereafter. Anecdotal evidence indicates that these reviews are not happening in a timely manner.\(^5^9\)

**Rec. 12: Independent inspections are essential**

**Social Services Inspectorate**

The Alliance commends the work of the Social Services Inspectorate (SSI) to date in raising standards for children in care. However, there are a number of issues that need addressing:

- The SSI is not independent. It is situated within HIQA, a state agency reporting directly to the Department of Health and Children. Inspections continue to operate on a two-tiered basis (some by the HSE and some by SSI staff). There is a need for one independent inspectorate reporting directly to the Oireachtas.\(^6^0\)
- The SSI should be granted more robust powers to enforce compliance with the child care regulations, through a range of mechanisms, including penalties, sanctions and fines.
- Some children’s care facilities are not covered by the SSI inspections (see Rec. 7); this must be addressed as a matter of priority.
- The SSI is under-resourced to carry out its functions. For example, it only has capacity to inspect a small sample of foster homes. At present it has only seven inspectors to monitor 80 residential care centres, four children detention schools and over 5,000 children in foster homes.\(^6^1\) Increased resourced are need to enable the SSI to fulfil its statutory duties.

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60 See _Children’s Rights Alliance (2006) Submission to the Department of Health and Children Regarding the Proposed Health Information and Quality Authority and Office of the Chief Inspector of Social Services._
Rec. 13: Management at all levels should be accountable for the quality of services and care

Vetting
A key responsibility of management is to ensure that all staff and volunteers are vetted. Much progress has been made in recent years by the Garda Central Vetting Unit. However, there are three weaknesses in the current vetting system that should be addressed:

- Place the Garda Vetting Unit on a statutory footing (as committed to by the Government in December 2008 on foot of the recommendation of the Joint Committee on the Constitutional Amendment on Children in September 2008).
- Enhance the system through the inclusion of soft information vetting (see Rec. 15).
- Strengthen and enable cross border and cross jurisdictional sharing of information between police forces.

Whilst progress has been made, constant monitoring is necessary. For example, the SSI’s first inspection of the four children detention schools uncovered a disturbing finding that the schools were unable to produce evidence that all staff were fully vetted. For example, in Oberstown Girls’ Detention School, only 10 of the 61 staff were properly vetted.

Child Death Review Committee
The Ryan Report states that:

The manager of an institution should be responsible for: ...Establishing whether system failures caused or contributed to instances of abuse.

On the death of a child in suspicious circumstances, or a child who dies while in the care or custody of the State, or is known to the HSE, there is no automatic independent review of the circumstances of the child’s death. The Alliance calls for the establishment of a child death review committee to assess if lessons relating to prevention and intervention can be learnt, and to recommend changes to policies and practices, if any, that may help prevent such tragedies in the future.

The reports into the deaths of two young people who spent several years in the care system (David Foley, 17-years-old, and Tracey Fay, 18-years-old) have never been published. The tragic deaths of these and other children have highlighted the vulnerability of children accessing the out-of-hours social work service in Dublin.

Furthermore, the Alliance is deeply concerned by the report that there are several undocumented cases of children who died whilst in the care of the State, which are not included in the official statistics published by the Department of Health (which has disclosed 20 cases of children who died in care over a six year period). The Alliance calls for immediate transparency on this very grave issue.

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62 The Garda Central Vetting Unit provides a police check for employees and volunteers who are working with or have access to children.
63 Following this inspection, the department is conducting an audit to ensure all staff have Garda vetting. It also said in “most” of the cases referred to by HIQA, staff had been recruited prior to the introduction by the Department of Health in November 1994 of a standard procedure for the vetting of staff. Catherine Shanahan, ‘Child still not classed as missing after eight months’, The Irish Examiner [online] 22 June 2009, http://www.irishexaminer.com/home/child-still-not-classed-as-missing-after-eight-months-94640.html [accessed 22 June 2009].
65 Cases are investigated through a Coroner’s inquiry; and a mechanism also exists under Children First for Case Management Reviews to take place when the case of suspected or confirmed abuse involves the death of a child or when the case of suspected or confirmed abuse involves the serious injury of a child.
Rec. 14: Children in care should be able to communicate concerns without fear

Article 12 of the UN Convention on the Rights of the Child states that: a child’s views must be taken into account in all matters affecting him or her. Children in care should be able to communicate concerns or complaints to their foster family, residential care staff, key worker or social worker. A child in care should also be able to make a complaint to their local HSE Social Work office, the Office of the Ombudsman for Children and the Irish Association of Young People in Care.

The importance of every child in care having an allocated social worker is central to implementing this recommendation. The social worker must have regular contact with the child to build up a trusting relationship and to form a picture of what is happening in the child’s life. For example, through frequent visits to the foster home, the social worker learns how the family works, and understands rules around discipline, homework, pastimes etc. This knowledge may prove invaluable in informing opinions in the event of problems and complaints arising. The development of a positive relationship with a social worker is particularly important for very young children in foster care, and for those in relative foster care on voluntary care orders, as they may have little or no contact outside their immediate family and, where difficulties arise, it may be impossible for them to confide in anyone. Social workers need to be supported in their role as advocates for children and empowered to do so.

Every child in care should automatically be informed in a child-friendly manner of the range of complaints’ mechanisms. The child’s social worker should ensure that the child understands this information and support him or her if they wish to make a complaint. If a child in care has no social worker or regular inspection, it is likely that he or she will not know how to make a complaint or who to make it to. In addition, the restrictions in the Ombudsman for Children Act, 2002 should be removed to allow the Office to hear complaints from children in adult prison or places of detention, and in cases involving the administration of the law relating to asylum, immigration, naturalisation and citizenship.

Furthermore, there is a need to establish a comprehensive Guardian ad Litem system to ascertain the best interests of the child and uphold their rights in any administrative and judicial decision making process.

Rec. 15: Childcare services depend on good communication

The Ryan Report states that:

*It should involve professionals and others communicating concerns and suspicions so that they can act in the best interests of the child.*

To enable professionals and others to communicate concerns and suspicions in relation to child abuse, there is a need for integrated services and legislative backing for the exchange of soft information.

In September 2008, the Joint Committee on the Constitutional Amendment on Children recommended that legislation be introduced to strengthen our vetting system and to allow for the collection and exchange of soft information (disciplinary procedures and other information that falls short of a criminal conviction). Despite the Committee’s recommendation that the Government prepare legislation for consideration in the Oireachtas by end of 2008, Heads of the Bill have yet to be published. This issue must be progressed as a matter of urgency.

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67 The Committee concluded that such legislation could be introduced without the need for constitutional reform.
Rec. 16: Children in care need a consistent care figure

All children, especially children in care, need continuity of care and a consistent care figure. In long-term stable foster or residential placements, the child may have a consistent foster family or key worker. However, this is a significant challenge for many children in care, especially those with multiple care placements. The role of the social worker is crucial, particularly in relation to developing and implementing a care plan. A real barrier to implementing this recommendation is the fact that one in six children in care does not have an assigned social worker. International best practice should be explored to see how best to support stability in care placements and retention of foster families, social workers and key workers to provide children with a consistent care figure; and how they can be facilitated to stay in touch after the child leaves care.

Rec. 17: Children who have been in State care should have access to support services

Aftercare

Aftercare support is discretionary; and its provision is inconsistent around the country. The Alliance firmly believes that all children who have been in care should have a statutory entitlement to aftercare support.68 Section 45 of the Child Care Act 1991 must be amended from an enabling provision to a statutory obligation on the HSE to provide aftercare to all young people leaving care.69 This obligation should apply to all young people regardless of whether or not they are in further education, and the upper age limit of 21 years should be removed. Investing in aftercare services makes financial sense as it will reduce the pressure on adult support services, including homeless and criminal justice services.

A fully funded national, comprehensive and standardised After Care Service is long overdue. It should be underpinned by a national policy and practice guidance and involve a partnership approach of Local Authority housing departments, stage agencies and voluntary organisations. Services must have sufficient flexibility to identify those most in need and to tailor supports (including the cut-off time for this support) to individual circumstances.

Young people who have been in care are significantly more disadvantaged by comparison with their peers in terms of education, income and employment; with a high risk homelessness or detention. One study found that 68% of young people had experienced homelessness two years after leaving HSE care, and 65% of young people who had been in a youth justice centre had spent time in prison during the two years after leaving the centre.70 Other research has shown that as many as one-third of all prisoners on remand at Cloverhill prison came from a care background.71

Very often, young people who have experienced childhood trauma may have delayed emotional and social maturation. Thus while young people in care may, chronologically, be eighteen years old, a small number remain in need of support for varying lengths of time, thereafter. Many children leave care in an unplanned way before they turn 18 years; they may have chequered care histories and have left school early. These young people are likely to be particularly in need of support on leaving care.

The importance of maintaining a link with the birth family whilst in care comes into play again when the child leaves care. Prior to leaving care the issue of whether extended family members can provide some support for the young person should be explored.

68 See Focus Ireland’s Campaign for a Right to Aftercare: http://takeaction.focisureland.ie/takeaction
69 The Act also enables, but does not require, the provision, for those leaving care, of aftercare support from age eighteen up to the age of twenty-one or until they have completed their education.
70 Patricia Kelleher, Carmel Kelleher and Maria Corbett (2000) Left Out on Their Own: Young People Leaving Care in Ireland, Dublin: Oak Tree Press.
‘Aged Out’ Minors – separated children who have turned eighteen and whose residency status has not been determined – have particular aftercare needs. Their transition to Reception Integration Agency (direct provision) accommodation can be extremely stressful and the lack of support places this group at high risk of going missing.\textsuperscript{72}

**Rec. 18: Children who have been in childcare facilities are in a good position to identify failings and deficiencies in the system, and should be consulted**

Children and young people who are, or have been, in care should be involved in the formulation of any proposed reforms, whether legal, policy or otherwise. The participation of children is crucial and reflects Article 12 of the UN Convention on the Rights of the Child. Service providers, such as the Irish Association of Young People in Care (IAYPIC)\textsuperscript{73} are well placed to facilitate consultations on the positives and negatives of the care experience.

**Research**

In an absence of a national study of children in care in Ireland, there is no clear picture of what the care experience is like for children. A number of studies, conducted from a youth homelessness perspective, in the past ten years have highlighted the links between young people leaving care and homelessness.\textsuperscript{74}

There is a need for a national study of children currently in care, which would focus on their care careers, the involvement of agencies in their lives, and family involvement. This study should also capture children’s own views of their care experience. In addition, there is a need for a national longitudinal study to track the journeys of young people when they leave care, and the supports they receive, to establish how they fare and ‘what works’ for them. These are essential to provide an evidence base for future planning and policy development.\textsuperscript{75}

**Rec. 19: Children in care should not, save in exceptional circumstances, be cut off from their families**

Under Article 9 of the UN Convention on the Rights of the Child, children who are separated from one or both parents have a right to maintain personal relations and direct contact with their parents on a regular basis, except if it is contrary to the child’s best interests. Facilitating family contact is a key task of social workers. Children in care must be facilitated and supported to maintain contact and have regular access with their birth families (once it is established that this is in the child’s best interest).

The 2007 data indicates that the vast majority of children are in care due to their parents’ inability to cope. Ultimately, if a child in care is to have the possibility of returning to live at home, intensive supports must be provided to his or her families. More needs to be done to empower parents to become partners with social services, where this would be beneficial for their children. In addition,


\textsuperscript{73} The Irish Association of Young People in Care (IAYPIC) gives a voice to what young people with care experience are saying; explains the rights of young people in care; gives information, advice and support to young people with care experience; helps people who work with young people in care to involve them more when decisions are being made about them. www.iaypic.ie.


\textsuperscript{75} The CAAB have commissioned research to identify gaps in recent research, identify themes and make recommendations for future research. “An Audit and Analysis of Irish Research Literature on Children in Detention and Out of Home Care”.

there is a need to invest in early intervention and preventive family support services that can support families to care for their children at home and thus avoid a child entering care.\textsuperscript{76}

\textbf{Rec. 20: The full personal records of children in care must be maintained}

Information on a child’s care history, and in particular any information on family identity issues, is vital to upholding the child’s rights under the UN Convention on the Rights of the Child:

- right to identity: the child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents (Article 7);
- preservation of identity: the right of the child to an identity and to, if necessary, a re-establishment of the basic aspects of the child’s identity (name, nationality and family relations) (Article 8); and
- the right to have contact with parents: the child has the right to maintain contact with both parents if separated from one or both (Article 9).

Children should be given accurate and honest information about their families and why they are in care, in an age appropriate manner. Reports, files and records essential to validate the child’s identity and their social, medical, family and educational history must be retained. These records need to be kept secure and up-to-date and the private nature of such records respected. Access to personal information plays an important role in emotional and psychological wellbeing, encapsulating issues of identity, sense of loss and abandonment, family relations, multiple loyalties, as well as issues around contact with, and access to, their family.

\textbf{Rec. 21: ‘Children First: The National Guidelines for the Protection and Welfare of Children’ should be uniformly and consistently implemented throughout the State in dealing with allegations of abuse}

The \textit{Children First} guidelines (1999) must be placed on a statutory footing. This is a fundamental step that must be taken as a matter of urgency. The inadequate and inconsistent implementation of the \textit{Children First} guidelines has been continuously highlighted,\textsuperscript{77} most recently in the 2008 review of compliance commissioned as a response to the Ferns Report.\textsuperscript{78} The task to fully implement the guidelines will require ongoing training and support of a large number of individuals, including all those working in schools. It will require close interdepartmental working to ensure that there is a common understanding of the process of allegation referrals.

There is a need to establish an independent national authority to monitor compliance with the \textit{Children First} guidelines. This body should publish regular progress reports on compliance by public and private bodies (including church bodies); it should have powers, where necessary, to initiate proceedings or recommend the withholding of public grants against non-complaint bodies.\textsuperscript{79}

\textsuperscript{76} A projects such as the Dochas project in North Clondalkin is a good example of a community based project providing direct support to children and families which keeps children in school and out of the care system.


\textsuperscript{79} The periodic updating of the Guidelines and ongoing professional and volunteer training in their use should rest with the Department of Health and Children.
Other child protection gaps

The Alliance has long advocated for reform of our child protection system, some gaps not covered in the system include:

- Corporal punishment is still lawful in Ireland as parents, and those in care settings, can lead the common law defence of ‘reasonable chastisement'; this defence must be removed.
- Up to one in five primary schools are not implementing the Stay Safe programme; parents can exempt their children from it. This situation must be remedied.
- There is no comprehensive national strategy for the prevention of child abuse. We need to do more to raise awareness of how child abuse can be prevented.
- There is insufficient protections and services for child victims of trafficking, there is no safe house accommodation for suspected or identified victims of child trafficking. This needs to be considered in any reform of the child protection and child care systems.
Recommendations

1. Arising from the findings of its investigations and the conclusions that were reached, the Commission was required to make recommendations under two headings:
   (i) To alleviate or otherwise address the effects of the abuse on those who suffered
   (ii) To prevent where possible and reduce the incidence of abuse of children in institutions and to protect children from such abuse

(i) To alleviate or otherwise address the effects of the abuse on those who suffered

2. A memorial should be erected.
The following words of the special statement made by the Taoiseach in May 1999 should be inscribed on a memorial to victims of abuse in institutions as a permanent public acknowledgement of their experiences. It is important for the alleviation of the effects of childhood abuse that the State’s formal recognition of the abuse that occurred and the suffering of the victims should be preserved in a permanent place: On behalf of the State and of all citizens of the State, the Government wishes to make a sincere and long overdue apology to the victims of childhood abuse for our collective failure to intervene, to detect their pain, to come to their rescue.

3. The lessons of the past should be learned.
For the State, it is important to admit that abuse of children occurred because of failures of systems and policy, of management and administration, as well as of senior personnel who were concerned with Industrial and Reformatory Schools. This admission is, however, the beginning of a process. Further steps require internal departmental analysis and understanding of how these failures came about so that steps can be taken to reduce the risk of repeating them. The Congregations need to examine how their ideals became debased by systemic abuse. They must ask themselves how they came to tolerate breaches of their own rules and, when sexual and physical abuse was discovered, how they responded to it, and to those who perpetrated it. They must examine their attitude to neglect and emotional abuse and, more generally, how the interests of the institutions and the Congregations came to be placed ahead those of the children who were in their care. An important aspect of this process of exploration, acceptance and understanding by the State and the Congregations is the acknowledgement of the fact that the system failed the children, not just that children were abused because occasional individual lapses occurred.

4. Counselling and educational services should be available.
Counselling and mental health services have a significant role in alleviating the effects of childhood abuse and its legacy on following generations. These services should continue to be provided to ex-residents and their families. Educational services to help alleviate the disadvantages experienced by children in care are also essential.

5. Family tracing services should be continued.
Family tracing services to assist individuals who were deprived of their family identities in the process of being placed in care should be continued. The right of access to personal documents and information must be recognised and afforded to ex-residents of institutions.

(ii) To prevent where possible and reduce the incidence of abuse of children in institutions and to protect children from such abuse
6. **Childcare policy should be child-centred. The needs of the child should be paramount.**
The overall policy of childcare should respect the rights and dignity of the child and have as its primary focus their safe care and welfare. Services should be tailored to the developmental, educational and health needs of the particular child. Adults entrusted with the care of children must prioritise the well-being and protection of those children above personal, professional or institutional loyalty.

7. **National childcare policy should be clearly articulated and reviewed on a regular basis.**
It is essential that the aims and objectives of national childcare policy and planning should be stated as clearly and simply as possible. The State and Congregations lost sight of the purpose for which the institutions were established, which was to provide children with a safe and secure environment and an opportunity of acquiring education and training. In the absence of an articulated, coherent policy, organisational interests became prioritised over those of the children in care. In order to prevent this happening again childcare services must have focused objectives that are centred on the needs of the child rather than the systems or organisations providing those services.

8. **A method of evaluating the extent to which services meet the aims and objectives of the national childcare policy should be devised.**
Evaluating the success or failure of childcare services in the context of a clearly articulated national childcare policy will ensure that the evolving needs of children will remain the focus of service providers.

9. **The provision of childcare services should be reviewed on a regular basis.**
Out-of-home care services should be reviewed on a regular basis with reference to best international practice and evidence-based research. This review should be the responsibility of the Department of Health and Children and should be co-ordinated to ensure that consistent standards are maintained nationally. The Department should also maintain a central database containing information relevant to childcare in the State while protecting anonymity. Included in such a database should be the social and demographic profile of children in care, their health and educational needs, the range of preventative services available and interventions used. In addition, there should be a record of what happens to children when they leave care in order to inform future policy and planning of services. A review of legislation, policies and programmes relating to children in care should be carried out at regular intervals.

10. **It is important that rules and regulations be enforced, breaches be reported and sanctions applied.**
The failures that occurred in all the schools cannot be explained by the absence of rules or any difficulty in interpreting what they meant. The problem lay in the implementation of the regulatory framework. The rules were ignored and treated as though they set some aspirational and unachievable standard that had no application to the particular circumstances of running the institution. Not only did the individual carers disregard the rules and precepts about punishment, but their superiors did not enforce the rules or impose any disciplinary measures for breaches. Neither did the Department of Education

11. **A culture of respecting and implementing rules and regulations and of observing codes of conduct should be developed.**
Managers and those supervising and inspecting the services must ensure regularly that standards are observed.

12. **Independent inspections are essential.**
All services for children should be subject to regular inspections in respect of all aspects of their care. The requirements of a system of inspection include the following:
• There is a sufficient number of inspectors.
• The inspectors must be independent.
• The inspectors should talk with and listen to the children.
• There should be objective national standards for inspection of all settings where children are placed.
• Unannounced inspection should take place.
• Complaints to an inspector should be recorded and followed up.
• Inspectors should have power to ensure that inadequate standards are addressed without delay.

13. **Management at all levels should be accountable for the quality of services and care.**
Performance should be assessed by the quality of care delivered. The manager of an institution should be responsible for:

- Making the best use of the available resources
- Vetting of staff and volunteers
- Ensuring that staff are well trained, matched to the nature of the work to be undertaken and progressively trained so as to be kept up to date
- Ensuring on-going supervision, support and advice for all staff
- Regularly reviewing the system to identify problem areas for both staff and children
- Ensuring rules and regulations are adhered to
- Establishing whether system failures caused or contributed to instances of abuse
- Putting procedures in place to enable staff and others to make complaints and raise matters of concern without fear of adverse consequences.

14. **Children in care should be able to communicate concerns without fear.**
Children in care are often isolated with their concerns, without an adult to whom they can talk. Children communicate best when they feel they have a protective figure in whom they can confide. The Department of Health and Children must examine international best practice to establish the most appropriate method of giving effect to this recommendation.

15. **Childcare services depend on good communication.**
Every childcare facility depends for its efficient functioning on good communication between all the departments and agencies responsible. It requires more than meetings and case conferences. It should involve professionals and others communicating concerns and suspicions so that they can act in the best interests of the child. Overall responsibility for this process should rest with a designated official.

16. **Children in care need a consistent care figure.**
Continuity of care should be an objective wherever possible. Children in care should have a consistent professional figure with overall responsibility. The supervising social worker should have a detailed care plan the implementation of which should be regularly reviewed, and there should be the power to direct that changes be made to ensure standards are met. The child, and where possible the family, should be involved in developing and reviewing the care plan.

17. **Children who have been in State care should have access to support services.**
Aftercare services should be provided to give young adults a support structure they can rely on. In a similar way to families, childcare services should continue contact with young people after they have left care as minors.

18. **Children who have been in childcare facilities are in a good position to identify failings and deficiencies in the system, and should be consulted.**
Continued contact makes it possible to evaluate whether the needs of children are being met and to identify positive and negative aspects of experience of care.
19. **Children in care should not, save in exceptional circumstances, be cut off from their families.** Priority should be given to supporting ongoing contact with family members for the benefit of the child.

20. **The full personal records of children in care must be maintained.** Reports, files and records essential to validate the child’s identity and their social, family and educational history must be retained. These records need to be kept secure and up to date. Details should be kept of all children who go missing from care. The privacy of such records must be respected.

21. ‘**Children First: The National Guidelines for the Protection and Welfare of Children**’ should be uniformly and consistently implemented throughout the State in dealing with allegations of abuse.
Appendix II: Relevant Articles from the UN Convention on the Rights of the Child


**Article 2 – Non Discrimination**

1. States 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, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child’s parents, legal guardians, or family members.

**Article 3 – Best Interests of the Child**

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

**Article 7 – Name and Nationality**

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.

2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

**Article 8 – Preservation of Identity**

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.

2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to speedily re-establishing his or her identity.

**Article 9 – Separation from Parents**

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child’s place of residence.

2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.
3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child’s best interests.

4. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child’s best interests.

**Article 12 – The Child’s Opinion**

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

**Article 19 – Protection from Abuse and Neglect**

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

**Article 20 – Protection of Children Without Families**

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.

2. States Parties shall in accordance with their national laws ensure alternative care for such a child.

3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child’s upbringing and to the child’s ethnic, religious, cultural and linguistic background.

**Article 25 – Periodic Review of Placement**

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

**Article 39 – Rehabilitative Care**

1. States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.
Appendix III: Dáil Éireann Motion Passed in Response to the Publication of the Ryan Report

That Dáil Éireann:
— sincerely apologises to the victims of childhood abuse for the failure to intervene, to detect their pain, and to come to their rescue;

— accepts all the recommendations of the Ryan Report and supports their full implementation;

— recognises that the victims of these appalling abuses must be consulted on the forms of support they need;

— recognises that supporting the victims and survivors must be the priority for all concerned;

— calls on the Congregations to commit to making further substantial contributions by way of reparation, in the context of discussions with the State, including to a Trust to be set up and managed by the State for the support of victims and to other education and welfare purposes; and

— agrees that a two day debate will take place on a substantive motion to be agreed.”

*An Taoiseach, Enda Kenny, Eamon Gilmore, Caoimhghín Ó Caoláin.*

[27 May, 2009]
# Appendix IV: Alliance Member Organisations

## Member Organisations 2009

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<tr>
<th>Organisation</th>
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<tr>
<td>Amnesty International</td>
<td>Irish National Organisation of the Unemployed</td>
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<td>Ana Liffey</td>
<td>Irish National Teachers Organisation</td>
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<td>Children’s Project The Ark, a cultural centre for children</td>
<td>Irish Penal Reform Trust</td>
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<td>Assoc. for Criminal Justice Research &amp; Development</td>
<td>Irish Refugee Council</td>
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<td>Association of Secondary Teachers Ireland</td>
<td>Irish Traveller Movement</td>
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<td>ATD Fourth World</td>
<td>Irish Youth Foundation</td>
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<td>Barnardos</td>
<td>Irish Society for the Prevention of Cruelty to Children (ISPCC)</td>
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<td>Barretstown</td>
<td>Jack &amp; Jill Children’s Foundation</td>
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<td>Belongto</td>
<td>Jesuit Centre for Faith &amp; Justice</td>
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<td>Border Counties Childcare Network</td>
<td>Junglebox FDYS Kids’ Own Publishing Partnership</td>
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<td>CARI</td>
<td>Kilbarrack Youth Project</td>
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<td>Catholic Guides of Ireland</td>
<td>La Leche League of Ireland</td>
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<td>Catholic Youth Care</td>
<td>Lifestart National Office</td>
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<td>Childminding Ireland</td>
<td>Mary Immaculate College</td>
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<td>Children in Hospital Ireland</td>
<td>Matt Talbot Community Trust</td>
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<td>City of Dublin YMCA</td>
<td>Miss Carr’s Children’s Home</td>
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<td>CityArts</td>
<td>Mothers’ Union</td>
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<td>Crosscare Aftercare Unit</td>
<td>Mounttown Neighbourhood Youth Project</td>
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<td>Crosscare Drug Awareness Programme</td>
<td>National Association for Parent Support</td>
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<td>DIT – School of Social Sciences &amp; Legal Studies</td>
<td>National Children’s Nurseries Association</td>
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<td>Dublin Rape Crisis Centre</td>
<td>National Parents Council (Post-Primary)</td>
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<td>Dun Laoghaire Refugee Project</td>
<td>National Parents Council (Primary)</td>
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<td>Educate Together</td>
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<td>Enable Ireland</td>
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<td>Focus Ireland</td>
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<td>Integrating Ireland</td>
<td>SAOL Project – SAOL Beag Children’s Centre</td>
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<td>International Adoption Association</td>
<td>Society of St. Vincent de Paul</td>
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<td>IPPA, the Early Childhood Organisation</td>
<td>SPARK (Support Project for Adolescent Refugee Kids)</td>
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<td>Irish Autism Action</td>
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