

# Submission to the Department of Children, Equality, Disability, Integration and Youth on the White Paper on Direct Provision

November 2020



Founded in 1995, the Children's Rights Alliance unites over 100 members working together to make Ireland one of the best places in the world to be a child. We change the lives of all children in Ireland by making sure that their rights are respected and protected in our laws, policies and services.

Ag Eisteacht  
Alcohol Action Ireland  
Amnesty International Ireland  
An Cosán  
ASH Ireland  
AsIAM  
Association of Secondary Teachers Ireland (ASTI)  
ATD Fourth World – Ireland Ltd  
Atheist Ireland  
Barnardos  
Barretstown Camp  
Bedford Row Family Project  
BeLonG To Youth Services  
Care Leavers' Network  
Catholic Guides of Ireland  
Child Care Law Reporting Project  
Childhood Development Initiative  
Childminding Ireland  
Children in Hospital Ireland  
COPE Galway  
Cork Life Centre  
Crosscare  
Cybersafe Ireland  
Daughters of Charity Child and Family Service  
Dental Health Foundation of Ireland  
Department of Occupational Science and Occupational Therapy, UCC  
Disability Federation of Ireland  
Doras  
Down Syndrome Ireland  
Dublin Rape Crisis Centre  
Dyspraxia/DCD Ireland  
Early Childhood Ireland  
Educate Together  
EPIC  
Extern Ireland  
Focus Ireland  
Foróige  
Gaelscoileanna Teo  
Good Shepherd Cork  
Immigrant Council of Ireland  
Inclusion Ireland  
Institute of Guidance Counsellors  
Irish Aftercare Network  
Irish Association for Infant Mental Health  
Irish Association of Social Workers  
Irish Centre for Human Rights, NUI Galway  
Irish Congress of Trade Unions (ICTU)  
Irish Council for Civil Liberties (ICCL)  
Irish Foster Care Association  
Irish Girl Guides  
Irish Heart Foundation  
Irish National Teachers Organisation (INTO)  
Irish Penal Reform Trust  
Irish Primary Principals Network  
Irish Refugee Council  
Irish Second Level Students' Union (ISSU)  
Irish Society for the Prevention of Cruelty to Children  
Irish Traveller Movement  
Irish Youth Foundation (IYF)  
Jack & Jill Children's Foundation  
Jigsaw  
Katharine Howard Foundation  
Kids' Own Publishing Partnership  
Mecpaths  
Mental Health Reform  
Mercy Law Resource Centre  
Migrant Rights Centre Ireland  
Mothers' Union  
My Project Minding You  
Museum of Childhood Project  
Music Generation  
National Childhood Network  
National Forum of Family Resource Centres  
National Parents Council Post Primary  
National Parents Council Primary  
National Youth Council of Ireland  
Novas  
One Family  
One in Four  
Pavee Point  
Peter McVerry Trust  
Private Hospitals Association  
Psychological Society Ireland  
Rainbow Club Cork  
Rainbows Ireland  
Rape Crisis Network Ireland (RCNI)  
Realt Beag/Ballyfermot Star  
Respond Housing  
SAFE Ireland  
Saoirse Housing Association  
SAOL Beag Children's Centre  
Scouting Ireland  
School of Education UCD  
Sexual Violence Centre Cork  
Simon Communities of Ireland  
Social Care Ireland  
Society of St. Vincent de Paul  
Sonas Domestic Violence Charity  
SPHE Network  
SpunOut.ie  
St. Nicholas Montessori College  
St. Nicholas Montessori Teachers' Association  
St. Patrick's Mental Health Services  
Step by Step Child & Family Project  
Suas Educational Development  
Teachers' Union of Ireland  
Terenure Rugby Football Club  
The Ark, A Cultural Centre for Children  
The Prevention and Early Intervention Network  
The UNESCO Child and Family Research Centre, NUI Galway  
Traveller Visibility Group Ltd  
Treoir  
UNICEF Ireland  
Young Ballymun  
Young Knocknaheeny  
Young Social Innovators  
Youth Advocate Programme Ireland (YAP)  
Youth Work Ireland

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## Introduction

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### **The Children's Rights Alliance welcomes opportunity to make a written submission to the Department of Children, Equality, Disability, Integration and Youth on the White Paper on Direct Provision.**

The Children's Rights Alliance unites over 100 members working together to make Ireland one of the best places in the world to be a child. We change the lives of all children in Ireland by making sure that their rights are respected and protected in our laws, policies and services. We identify problems for children. We develop solutions. We educate and provide information and legal advice on children's rights.

The Programme for Government committed to bring an end to the current system of Direct Provision and to replace it with a new International Protection accommodation policy, centered on a not-for-profit approach.<sup>1</sup> The Alliance welcomes the momentum to date towards progressing realisation of this commitment, including the publication of the *Report of the Advisory Group on the provision of support, including accommodation, to persons in the internal protection process*<sup>2</sup> (the *Report of the Advisory Group*) in October and the commitment to publish the White Paper on Ending Direct Provision by the end of the year.

This submission has been developed following a consultation with our members who work to provide family support services, legal services, youth services and health services to children, young people and their families. Our submission builds on the recommendations of the *Report of the Advisory Group* and makes recommendations of the key supports and services we consider necessary to include in the new model to ensure the needs of children, young people and families are met.

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1 Programme for Government, *Our Shared Future*, 76.

2 Government of Ireland, *Report of the Advisory Group on the provision of support, including accommodation, to persons in the internal protection process* (Government Publications 2020).

## Background

There are currently 44 Direct Provision accommodation centres nationwide, with 1,957 of the residents being children, amounting to over a quarter of all residents.<sup>3</sup>

Every child should be free to enjoy their rights without facing discrimination of any kind irrespective of their race, national or ethnic origin or other status.<sup>4</sup> Children outside their country of origin seeking refugee protection are entitled to appropriate protection regardless of whether or not they are accompanied by their parents/guardians.<sup>5</sup> In 2016, the UN Committee on the Rights of the Child called on the State to bring its 'asylum policy, procedures and practices into line with its international obligations' and ensure asylum seeking and refugee children have the 'same standards and access to support services as Irish children'.<sup>6</sup>

The 2018 European Union Regulations governing reception conditions in Ireland require that the best interests of the child is the primary consideration in decisions that impact on children including those made in relation to their accommodation and family situation.<sup>7</sup> This means that the possibility of family unity, the child's well-being and social development, safety and security considerations, including the risk of human trafficking, and their views in accordance with their age and maturity must be considered when making decisions about them.<sup>8</sup>

The 2015 the McMahon *Working Group to Report to Government Working Group on the Protection Process on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers*<sup>9</sup> made 173 recommendations aimed at improving the international protection process and direct provision system.<sup>10</sup> Key recommendations included reducing the length of time being spent by people in the protection process,<sup>11</sup> own door accommodation with cooking facilities and/or family quarters with communal kitchens, adequate recreational space for children and young people,<sup>12</sup> the establishment of an independent inspectorate independent and an increase of the weekly allowance for children from €9.60 to €29.80. In a December 2019 report, the Joint Committee on Justice and Equality noted that 'a number of recommendations have and continue to be implemented, but this process remains some way from completion'.<sup>13</sup>

The *Report of the Advisory Group on the provision of support, including accommodation, to persons in the internal protection process* published in October 2020 sets out a path for ending the current system of Direct Provision and makes a number of important recommendations for how to end the current system of Direct Provision. Of particular importance are the recommendations on unaccompanied minors which should be replicated in the White Paper.

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3 Government of Ireland, *Report of the Advisory Group on the provision of support, including accommodation, to persons in the internal protection process* (Government Publications 2020) 20.

4 UN Convention on the Rights of the Child (20 November 1989) 1577 UNTS 3 (UNCRC) Art 2(1).

5 *ibid* Art 22(1).

6 UNCRC 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4 para 66

7 European Communities (Reception Conditions) Regulations 2018, SI 230/2018, s 9(1).

8 *ibid* s 9(2).

9 Department of Justice and Equality, *Working Group to Report to Government Working Group on the Protection Process on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers* (2015). The Working Group was established by the Government in October 2014 and was chaired by former High Court Judge, Dr Bryan McMahon. It comprised a number of representatives from government departments, agencies and non-governmental organisations.

10 *ibid*.

11 Working Group to Report to the Government on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers, Final Report (June 2015) accessed 29 January 2016, paras 3.128, 3.134 and 3.135.

12 *ibid* para 4.75.

13 Joint Committee on Justice and Equality, *Report on Direct Provision and the International Protection Application Process* (House of the Oireachtas 2019) 15.

## Accommodation Supports

The current Direct Provision system needs to be transformed if we are to end the potential institutionalisation of children and families. Both the Ombudsman,<sup>14</sup> the Ombudsman for Children<sup>15</sup> and Dr Geoffrey Shannon, Special Rapporteur on the Protection of Children<sup>16</sup> have stated that the current system of Direct Provision accommodation is not appropriate for children as a long-term accommodation option. While some accommodation stock in the Direct Provision system does provide own-door accommodation and is of good quality, the system overall needs to provide the same quality of accommodation to all refugee and asylum-seeking children. There are two key components that need to be central to the White Paper; accommodation support and independent inspections.

### a. Accommodation Supports

The 2018 European Union Regulations governing reception conditions in Ireland require that the best interests of the child is the primary consideration in decisions that impact on children including those made in relation to their accommodation and family situation.<sup>17</sup> This means that the possibility of family unity, the child's well-being and social development, safety and security considerations, including the risk of human trafficking, and their views in accordance with their age and maturity must be considered when making decisions about them.<sup>18</sup> This principle should form the basis of a new state led system of accommodation.

The *Advisory Group Report* recommended a permanent state led accommodation system be established which would have three main stages comprising of an initial reception stage, followed by a second stage of support for applicants while applications are being processed and finally a post- decision support stage.

#### *Initial Reception Accommodation*

The Advisory Group recommended that in the initial stage accommodation should be provided in State owned reception centres for up to three months.<sup>19</sup> The Group envisaged that the reception centre will be a 'one-stop shop' that will provide help to make International Protection applications alongside a range of supports (which will be considered in the sections below). It is welcomed that the Group recommended that the reception centres be state owned, that they meet new standards, keep families together and provide facilities for family cooking.<sup>20</sup> However, the Alliance would urge caution in moving away from an approach of providing own-door accommodation, even in an initial reception phase. The *National Standards for accommodation offered to people in the protection process*,<sup>21</sup> due to come into effect in 2021, should be applicable to the reception centre accommodation. The Standards would require the centre to respect children's rights by explaining their rights in an age-appropriate way, hearing and taking into consideration the views of the child in relation to services provided, including through consultation, and facilitating and supporting children

14 Office of the Ombudsman, *Annual Report 2018: Delivering Outcomes* (Office of the Ombudsman 2018) 15.

15 Ombudsman for Children, '20 years later Direct Provision, a temporary solution, continues – Ombudsman for Children' (*Ombudsman for Children*, 13 March 2019) < <https://bit.ly/2HI6fFI> > accessed 25 May 2019.

16 Professor Geoffrey Shannon, *Eleventh Report of the Special Rapporteur on Child Protection* (DCYA 2018)

17 European Communities (Reception Conditions) Regulations 2018, SI 230/2018, s 9(1).

18 *ibid* s 9(2).

19 Government of Ireland, Report of the Advisory Group on the provision of support, including accommodation, to persons in the internal protection process (Government Publications 2020) recommendation, recommendation 4.1.

20 Government of Ireland, Report of the Advisory Group on the provision of support, including accommodation, to persons in the internal protection process (Government Publications 2020) recommendation, recommendation, 64.

21 Department of Justice and Equality, *National Standards for accommodation offered to people in the protection process* (Department of Justice and Equality 2019).



to exercise their rights.<sup>22</sup> Applying the Standards to the reception accommodation centres would require that each centre provides access to cooking and storage facilities either in a self-contained unit or communal kitchen in tandem with catering options.<sup>23</sup> This issue was raised in 2016 by the UN Committee on the Rights of the Child which called on the State to ‘allow for residents [of Direct Provision] to store and cook their own food’ as far as possible.<sup>24</sup>

### *Support for applicants while applications are being processed*

The Advisory Group Report sets out a new system of accommodation to be provided after the initial three-month phase, whereby applicants would be helped to move to own door accommodation under the responsibility of the local authorities.<sup>25</sup> It is welcome that the group recommended that a weekly allowance equivalent to social welfare supports made to Irish Citizens living in the same circumstances be introduced and reviewed in line with the cost of living. The allowance given to families will need to be such that it prevents them from living in poverty. The allowance should not only be reviewed in line with the cost of living but should also meet the Minimum Essential Standard of Living (MESL), which is a standard of living that meets the minimum needed to live and participate in Irish society and is a standard of living which no one should be expected to live below.<sup>26</sup>

The recommendation that applicants will be moved to own door accommodation is welcome as it will mean that after three months, families will move to their own space while awaiting a decision which creates a far more child-friendly system. The Advisory Group recommended the establishment of an accommodation allocation service to be located in the initial reception centres to match people with accommodation across all Local Authority areas, which is to be welcomed.<sup>27</sup> However the service should not exist solely in the initial reception centres, families should have access to a specialised accommodation allocation service (similar to pathfinder for those in receipt of the Homeless Housing Assistance Payment) after the initial placement to offer support if tenancies breakdown or accommodation becomes unsuitable for the needs of the family. This could take the form of a specially trained, dedicated staff member in each local authority to be the point of contact for people seeking protection.

The Advisory Group proposed a model that will replicate that of the Homeless Housing Assistance Payment (HHAP) model and Local Authorities would be responsible for sourcing accommodation, which taking into account the time it will take to bring sufficient capacity on stream, it is recommended that it could be sourced through a range of options including State-owned accommodation, purpose-built accommodation, the use of Housing Association stock or new build, privately owned accommodation.<sup>28</sup> While it was also recommended that local authorities be legally mandated to source accommodation and have a ring fenced budget, the Alliance would be concerned about relying on this approach. The Local Authorities have a similar obligation and ringfenced budget for Traveller accommodation we have seen a failure on Local Authorities year on year to draw down the funds despite the need for accommodation by Traveller families.<sup>29</sup>

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22 *ibid*, Standard 6.1.9.

23 *ibid*, Theme 5: Food, Cooking and Catering Facilities.

24 UN Committee on the Rights of the Child ‘Concluding Observations: Ireland’ (2016) UN Doc CRC/C/IRL/CO/3-4 para 66(c).

25 Government of Ireland, Report of the Advisory Group on the provision of support, including accommodation, to persons in the internal protection process (Government Publications 2020) recommendation, recommendation 4.2.

26 [www.budgeting.ie](http://www.budgeting.ie) accessed 10 September 2020.

27 Government of Ireland, Report of the Advisory Group on the provision of support, including accommodation, to persons in the internal protection process (Government Publications 2020) recommendation, recommendation, 64.

28 Government of Ireland, Report of the Advisory Group on the provision of support, including accommodation, to persons in the internal protection process (Government Publications 2020) recommendation, recommendation, 65.

29 Mirroring previous years, in 2018 local authorities drew down just €6.2million of the €12 million funding allocated by the government. There was a modest improvement in 2019, with €8.6 million of the €13 million fund drawn down. Minister of State at the Department of Housing, Planning, Community and Local Government, Damien English TD, Written Answers, Housing, 28 May 2019 [22780/19].

Ensuring a sufficient supply of appropriate accommodation will be challenging in the context of the broader housing crisis.<sup>30</sup> The reliance on the private market for housing provision will only work in some parts of the country and in reality this approach might be difficult for families to source appropriate given that we are in the midst of a housing crisis which not enough social and public housing being built. The Irish Human Rights and Equality Commission has highlighted systematic discrimination in the Irish rental market against people in receipt of housing welfare payments, despite it being illegal since 2016 to discriminate against people in receipt of HAP.<sup>31</sup>

Consideration should be given to engaging approved housing bodies to provide purpose-built accommodation and the community sponsorship model could be extended. There are a number of Housing Bodies in Ireland that have the experience and social work expertise to deliver alternatives to the current accommodation system which would provide an alternative to reliance on the Local Authorities.

### Recommendations:

- The best interests of the Children should be the primary consideration in decisions that impact children in relation to their accommodation and the design of a new state led accommodation system to ensure Ireland is compliant with the 2018 European Union Regulations governing reception conditions in Ireland.
- Accommodation provided in the initial reception phase should consist of own door child friendly accommodation that respects and promotes family and community life informed by the child's best interests.
- The *National Standards for accommodation offered to people in the protection process*,<sup>32</sup> due to come into effect in 2021, should be applicable to the reception centre accommodation.
- In the second stage of support for applicants weekly allowances paid should be equivalent to the range of income supports (Supplementary Welfare Allowances) made to Irish citizens living in the same circumstances which should be reviewed in line with the cost of living and should meet the Minimum Essential Standard of Living.
- Families should have access to a specialised accommodation allocation service (similar to pathfinder for those in receipt of the Homeless Housing Assistance Payment) after the initial placement to offer support if tenancies breakdown or become unsuitable for the needs of the family. This could take the form of a specially trained, dedicated staff member in each local authority to be the point of contact for people seeking protection.
- Consideration should be given to engaging approved housing bodies to provide purpose-built accommodation and the community sponsorship model could be extended. There are a number of Housing Bodies in Ireland that have the experience and social work expertise to deliver alternatives to the current accommodation system which would provide an alternative to reliance on the Local Authorities.
- To build on the orientation programme as proposed by the Advisory Group, a programme of information supports needs to be developed for families that is delivered once they are more settled and ready to receive information. This information programme should include information on children's rights and entitlements.

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30 Council of Europe, 'How to Convey Child-friendly Information to Children in Migration: A Handbook for Frontline Professionals' (Council of Europe 2018) 26.

31 Irish Human Rights and Equality Commission, *Annual Report 2019* < <https://www.ihrec.ie/our-work/annual-report-2019/> > accessed 18 November 2020.

32 Department of Justice and Equality, *National Standards for accommodation offered to people in the protection process* (Department of Justice and Equality 2019).

## b. National Standards and Independent Inspections

The *National Standards for accommodation offered to people in the protection process* aim to improve the quality of care and accommodation provided to children and families living in Direct Provision centres.<sup>33</sup> These Standards are essential in ensuring that refugee and asylum-seeking children receive a consistent standard of high-quality care in all accommodation centres irrespective of location. Several standards address the rights and needs of children and service providers are obliged to act in the best interests of the child.

The *Report of the Advisory Group* recommended ‘that HIQA be given the responsibility to inspect accommodation centres and enforce the standards from January 2021’ until a new permanent system comes into force in mid-2023.<sup>34</sup> It is essential that as we build a new system, adequate oversight and accountability of the current reception centres is not overlooked. Consideration should be given to giving HIQA the role of inspectorate of the new accommodation system, not just for the transition phase, as it is the most appropriate body to undertake the role of inspectorate for the following reasons:

**Accountability:** HIQA is an independent authority. Their findings and reports are publicly published. More importantly, HIQA is considered by Irish society as independent oversight body. As an inspection body, it carries significant credibility in the eyes of the public.

**Consistency:** The combination of standards and inspections will ensure that children receive a consistent quality of care across every Direct Provision centre. Inconsistencies can then be identified and addressed in a systematic manner.

**Experience:** HIQA has been monitoring the quality of residential care in designated centres for children, older people and people since 2007. They have the skills and expertise necessary to effectively monitor and review the implementation of standards. Since 2017, their remit has been expanded to include new areas, which has involved them working extensively with service providers on what a new system means.

**Cost Effective:** HIQA already has the existing infrastructure and IT systems necessary to take on this job.

**Equality:** With HIQA as the inspectorate, we can ensure that children living in the refugee system are treated equally and receive the same quality of care as children in every other residential setting in Ireland.

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33 Department of Justice and Equality, *National Standards*, <http://www.justice.ie/en/JELR/Pages/PR19000215> accessed 21 January 2020.

34 Government of Ireland, *Report of the Advisory Group on the provision of support, including accommodation, to persons in the internal protection process* (Government Publications 2020) recommendation 4.7.



## Recommendations

- The Advisory Group Report recommends that: “Until the new, permanent system enters fully into force in mid-2023 the Advisory Group recommends that the Health Information and Quality Authority (HIQA) be given the responsibility to inspect the existing accommodation centres and enforce the standards from January 2021.”
- We believe that this recommendation should go much further and recommend that HIQA is the inspection body for all accommodation/support services provided directly to people seeking protection.
- HIQA needs to be provided with the necessary resources to monitor compliance with the standards through formal inspections.

## Family Supports

When families arrive in Ireland, they may need support adjusting to life in terms of a new culture, building new community networks, adjusting to parenting in Ireland and in dealing with the trauma they may have experienced. Parents in Direct Provision accommodation have reported feeling that their ability to nurture their children's development has been undermined and that they have felt disempowered by regulations in the centre.<sup>35</sup>

### a. Initial Reception Phase

The *Advisory Group Report* made very welcome recommendations in relation to supporting families in the initial reception stage. These include that upon arrival in the country there should be a comprehensive orientation programme that includes vulnerability assessments, language supports, parenting in Ireland/family supports and then if needed, special supports for children and those with special needs. The recommendation that wrap around services are provided and Tusla provide support through a social worker to work with families during their time in a reception centre, helping them to prepare for life in Ireland and to make referrals to follow-on services is also welcome.<sup>36</sup> All of these will contribute greatly to supporting newly arrived families and support parenting at a very stressful time.

### b. Support for applicants while applications are being processed

Some families will need to be able to access the same level of support after the initial phase and for some families the need for intensive supports may not arise until after the initial three months, but instead later in the process.

In order to enhance the supports provided to families following the initial three month phase when they move to own door accommodation in the community, a National Family Support and Child Protection and Welfare Strategy for families in the International Protection system needs to be developed. In 2015, HIQA raised concerns about the significantly higher child protection and welfare referral rate to Tusla of children in Direct Provision compared with the general child population.<sup>37</sup> In a single year, 14 per cent of children living in Direct Provision were referred to Tusla compared with only 1.6 per cent of the general child population. More than half of the referrals to Tusla about children in Direct Provision relate to child welfare rather than child protection concerns. The McMahon Working Group recommended that Tusla, in conjunction with the Reception and Integration Agency (RIA) develop a child welfare strategy to advise on policy and practice matters and to liaise on individual cases as required.<sup>38</sup> Whilst RIA has published a Child Protection and Welfare Policy and Practice Document for Direct Provision<sup>39</sup> accommodation centres which sets out the obligations under the Children First Act 2015, a more detailed strategy is needed to support families, particularly in the move to a new model of accommodation provision.

The White Paper should include a commitment to develop a national strategy for family support and child protection and welfare that would ensure a robust family support response at all three stages

35 [https://www.ihrec.ie/download/pdf/un\\_hrc\\_concluding\\_observations\\_on\\_ireland\\_and\\_iccpr\\_24\\_july\\_2014.pdf](https://www.ihrec.ie/download/pdf/un_hrc_concluding_observations_on_ireland_and_iccpr_24_july_2014.pdf)

36 Government of Ireland, Report of the Advisory Group on the provision of support, including accommodation, to persons in the internal protection process (Government Publications 2020).

37 Health Information and Quality Authority (HIQA) (2015) Report on inspection of the child protection and welfare services provided to children living in Direct Provision accommodation

38 Department of Justice, Working Group to Report to Government on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers (2015)

39 Reception and Integration Agency, Child Protection and Welfare Policy and Practice Document (2014)

of the immigration process outlined in Advisory Group Report.<sup>40</sup> There needs to be a focus on prevention and early intervention and addressing the particular needs of families living in reception accommodation in the initial phase and then when living in own door accommodation in the community.

The Strategy should be developed through existing Tusla structures such as the Child and Family Support Networks (CFSNs) who take a localised, area based approach to supporting and protecting children and their families and are the frontline operational structure that will ensure integrated service delivery.<sup>41</sup> This would enable families to easily access integrated services in their own communities. Children and Young People's Services Committees (CYPSC) also have a role as their purpose is to improve outcomes for children and young people through local and national interagency working and they co-ordinate services for children and young people in every county in Ireland and bring together the main statutory, community and voluntary providers of services to children and young people to provide a co-ordinated, interagency response.<sup>42</sup> These structures should be utilised to ensure that families have access to supports regardless of where they are living.

### c. Trauma Informed Practice and Cultural Sensitivity

The significance of trauma-informed approaches within mental health supports provided for people accessing the international protection process is noted within the *Advisory Group Report*.<sup>43</sup> Given the indications of experience of trauma as disproportionately high amongst asylum seekers, it will be important that trauma-informed approaches are integrated within supports and services beyond mental health supports, which amongst other outcomes would mitigate against potential re-traumatisation of children and young people within the international protection process. Staff within the initial orientation centres and staff working with the families should be trained to work with families in a trauma informed manner. It is also important that all services provided are delivered in a manner that is sensitive to the cultural diversity of the service users and all staff should receive cultural sensitivity training to support families.

### Recommendations

- The supports outlined in Annex 11 of the Advisory Group Report should form the basis of the supports provided for children and families in the initial reception orientation phase. These wrap around supports should be replicated in the second stage for children and families.
- A dedicated National Strategy for Family Support, Child Protection and Welfare for families in the International Protection process should be developed. The Child and Family Support Networks (CFSNs) in Tusla could be tasked with implementing the strategy and co-ordinating integrated services in the communities that meet the needs of children and families.
- Trauma-informed approaches should be integrated within supports and services and staff should be trained in trauma informed practices.
- All services provided should be designed to be culturally sensitive and staff should be trained in cultural sensitivity.

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40 Government of Ireland, Report of the Advisory Group on the provision of support, including accommodation, to persons in the internal protection process (Government Publications 2020) (Annex 11)

41 <https://www.tusla.ie/services/family-community-support/prevention-partnership-and-family-support-programme/meitheal-national-practice-model/what-are-child-and-family-support-networks-cfsns/> (accessed 16th November)

42 <https://www.cypsc.ie/> (accessed 17th November)

43 Government of Ireland, Report of the Advisory Group on the provision of support, including accommodation, to persons in the internal protection process (Government Publications 2020) 70.

## Health Supports

Article 39 of the UN Convention on the Rights of the Child states that ‘Children who have experienced neglect, abuse, exploitation, torture or who are victims of war must receive special support to help them recover their health, dignity, self-respect and social life’. In the McMahon report, parents expressed their concerns for the well-being of their children in Direct Provision, including as regards their mental health and self-esteem, sense of shame, bullying at school, difficulties in forming friendships and lack of integration in the local community.<sup>44</sup>

### a. Vulnerability Assessments

Children arriving into the State may have experienced significant trauma and may be in need of mental health supports. It is vital that vulnerability assessments are prioritised and expedited in order to get a thorough needs assessment and provide children with the support needed in a timely manner. The Advisory Group Report recommended that vulnerability assessments be carried out within 30 days for all applicants.<sup>45</sup> Further to this when establishing a vulnerability assessment procedure, a specific screening tool to identify vulnerabilities of children should be established to consider children's special reception and procedural needs. The vulnerability assessment should also be used to signpost individuals to relevant supports.

### b. Mental Health Supports

*The Advisory Report* recommends that mental health be addressed within a specific orientation programme delivered by youth services to children and young people it is important that this is contained in the White Paper.<sup>46</sup> This aspect of the orientation process may need to be repeated in again after the initial orientation in order to be most impactful for people. There is considerable evidence that many adult refugees have significant mental health problems and that this in turn affects child psychopathology. Parental psychopathology and parenting capacity is a well-documented mediator of child psychopathology – studies show that family cohesion and high parental support are associated were fewer psychological difficulties amongst the child. Positive maternal mental health has been particularly identified as a strong protective factor, buffering the child against adverse psychological experiences.<sup>47</sup> The White Paper needs to make special provision for mental health supports to be provided to parents in a timely manner.

Asylum seekers and refugees are identified as a priority group within *Sharing the Vision* the National Mental Health Policy.<sup>48</sup> *Sharing the Vision* recommends the convening of an Expert Group to advise on best practice for provision of tiered mental health supports to those in Direct Provision.<sup>49</sup> The White Paper should recognise that recommendation in *Sharing the Vision* needs to remain a key

44 Department of Justice, Working Group to Report to Government on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers (2015)

45 Government of Ireland, Report of the Advisory Group on the provision of support, including accommodation, to persons in the internal protection process (Government Publications 2020) recommendation 4.2.

46 Government of Ireland, Report of the Advisory Group on the provision of support, including accommodation, to persons in the internal protection process (Government Publications 2020) Annex 11.

47 Fazel, M., Reed, R. V., Panter-Brick, C., & Stein, A. (2012). Mental health of displaced and refugee children resettled in high-income countries: risk and protective factors. *The Lancet*, 379, 266-282.  
doi: 10.1016/s0140-6736(11)60051-2

48 Government of Ireland, *Sharing the Vision: A Mental Health Policy for Everyone* (HSE 2020) 29.

49 Government of Ireland, *Sharing the Vision: A Mental Health Policy for Everyone* (HSE 2020) Recommendation 63.

action as we move to a new system. Mental health needs must remain a priority and there should be close collaboration with the DCEDIY and the HSE Mental Health Division as we move towards a new system.

#### Recommendations:

- Vulnerability assessments be carried out within 30 days for all applicants and children should be prioritised in the roll out. When establishing a vulnerability assessment procedure, a specific screening tool to identify vulnerabilities of children should be established to consider children's special reception and procedural needs. The vulnerability assessment should also be used to signpost individuals to relevant supports. At the same time, a follow-up assessment will be necessary once families are relocated from their orientation system.
- *The Advisory Report* recommends that mental health be addressed within a specific orientation programme delivered by youth services to children and young people should be included and expanded upon in the White Paper to be repeated again after the initial orientation. Children will welcome mental health supports once they settle into their school or youth service and making those interventions available will be key.
- Special provision should be made for mental health supports to be provided to parents in a timely manner.
- The recommendation in *Sharing the Vision* to convene an Expert Group to advise on best practice for provision of tiered mental health supports to those in Direct Provision should be recognised and supported in the White Paper and there should be close collaboration with the DCEDIY and the HSE Mental Health Division as we move towards a new system.

## Legal Assistance

### a. Length of Time for a Decision

Children and young people have highlighted the significant impact of long waiting periods on their emotional and psychological wellbeing.<sup>50</sup> The Council of Europe Guidelines on Child Friendly Justice state:

In all proceedings involving children, the urgency principle should be applied to provide a speedy response and protect the best interests of the child, while respecting the rule of law.

The principle applies to access to the procedure and to the length of the decision-making process.<sup>51</sup> Delays in the processing of international protection applications not only contributes to anxiety and instability for children and young people<sup>52</sup> it also prolongs the amount of time that children spend in the Direct Provision system. Childhood is short: people spend an average of two years living in Direct Provision is two years, which is a quarter of an eight year old's life.

In 2017, the UN Committee on the Rights of the Child adopted a general comment on the rights of children in migration<sup>53</sup> which recommended the prioritisation of children in the protection process and ensuring the best interests of the child are 'taken fully into consideration in immigration law, planning, implementation and assessment of migration policies and decision-making on individual cases'.<sup>54</sup>

In 2019 the average processing time for new applications received under the International Protection Act 2015 was 10 months<sup>55</sup> despite additional resources being assigned to the International Protection Office<sup>56</sup> to reduce average waiting times for a first instance decision. The *McMahon report* recommended adequate resources be provided to the protection determination bodies<sup>57</sup> and as an additional safeguard, 'an annual review of the system with a view to making recommendations to guard against any future backlogs, e.g. failure to provide adequate recommendations to all decision-making bodies'.<sup>58</sup> The *Advisory Group Report* recommended that there be an obligation on the IPO 'to complete all first instance recommendations within a fixed timeframe that ensures decisions can be taken within 6 months of an application for international protection being lodged'<sup>59</sup> and that sufficient resources and appropriately qualified staff be provided to the IPO to do this.<sup>60</sup>

The *MacMahon Report* made a number of specific recommendations in relation to children and young people that should form part of the White Paper including:

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- 50 Council of Europe, 'Child Friendly Information for children in Migration: what do children think?' (Council of Europe 2018) 14.
- 51 Council of Europe, 'How to Convey Child-friendly Information to Children in Migration: A Handbook for Frontline Professionals' (Council of Europe 2018) 36.
- 52 Council of Europe, 'Child Friendly Information for children in Migration: what do children think?' (Council of Europe 2018) 14.
- 53 Joint general comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 (2017) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration' (2017) UN Doc CMW/C/GC/3 – CRC/C/GC/22.
- 54 Ibid para 29.
- 55 Minister for Justice and Equality, Charles Flanagan TD, Parliamentary Questions, Written Answers, 27 June 2019 [27296/19]
- 56 Ibid
- 57 Department of Justice and Equality, *Working Group to Report to Government Working Group on the Protection Process on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers* (2015) 114.
- 58 Ibid 98.
- 59 Government of Ireland, Report of the Advisory Group on the provision of support, including accommodation, to persons in the internal protection process (Government Publications 2020), recommendation 3.1.
- 60 Government of Ireland, Report of the Advisory Group on the provision of support, including accommodation, to persons in the internal protection process (Government Publications 2020), recommendation 3.2.



- Good practice in relation to training and the provision of child-sensitive procedures be maintained and developed further
- Inter-agency co-operation be maintained and further promoted in order to ensure that the principle of the best interests of the child can be effectively implemented.<sup>61</sup>
- An inter-agency review of procedures and practices relating to children occur regularly to ensure that procedures do not fall short and that best practice is maintained.<sup>62</sup>

#### **b. Child Friendly Materials and Training of Professionals**

The UN Committee on the Rights of the Child recommends asylum seeking children are:

... [p]rovided with all relevant information, in their own language, on their entitlements, the services available, including means of communication, and the immigration and asylum process, in order to make their voice heard and to be given due weight in the proceedings.<sup>63</sup>

For information to be child-friendly it should be provided in the child's primary language; use easy vocabulary, pictograms and colours; be provided in a range of formats both written and verbal; and include children in both the development and evaluation of the materials.<sup>64</sup>

Applicants are required to complete an international protection questionnaire which runs to some 61 pages and includes 95 questions. When an applicant applies for protection at the International Protection Office, they are provided with this questionnaire and an information booklet on international protection. The information booklet is a detailed booklet containing 52 pages.<sup>65</sup> The McMahon report recommended the development of child-friendly materials and special information services for children in the protection process.<sup>66</sup> The current provision of information is wholly inadequate for the needs of children particularly those who are making an application with their family. Further, there is a need to maintain and develop further child-sensitive procedures and an inter-agency review of procedures and practices relating to children should happen on a regular basis to ensure that best practice is maintained.<sup>67</sup>

One of the key recommendations contained in the Council of Europe's *Guidelines on Child friendly Justice* is that all professionals working with children receive interdisciplinary training on the rights and needs of children of different age groups, communicating with them at all ages and stages of development, and with children in situations of particular vulnerability.<sup>68</sup>

All professionals working within the IPO, IPAT and legal professionals working with children and families in the Protection Process should be required to complete training modules on representing children and young people in the international protection process. These modules should include the best interests of the child principle, taking instructions from children and young people, skills for the avoidance of re-traumatisation and ensuring that the voice of the child is appropriately heard. This is important, not only where the professional is interacting with children and young people themselves, but also where a family with children is being represented.

61 Department of Justice and Equality, *Working Group to Report to Government Working Group on the Protection Process on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers* (2015) 3.2.60.

62 *ibid.*

63 UNCRC General Comment on the Right of the Child to be Heard (2009) UN Doc CRC/C/GC/12 para 124.

64 Council of Europe, 'How to Convey Child-friendly Information to Children in Migration: A Handbook for Frontline Professionals' (Council of Europe 2018) 23.

65 IPO, *Information Booklet for Applicants for International Protection*. Available at: <http://www.ipa.gov.ie/en/IPO/InfoBookletNew.pdf/Files/InfoBookletNew.pdf>. Accessed on 17/11/20.

66 *ibid* 120.

67 Department of Justice and Equality, *Working Group to Report to Government Working Group on the Protection Process on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers* (2015) 3.2.60.

68 Council of Europe, *Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice*, 23.

### c. Legal Aid for Children and Young People

The right of all children to be heard and taken seriously constitutes one of the fundamental values of the UN Convention on the Rights of the Child. The Council of Europe's *Guidelines on Child-Friendly Justice* provide that Judges should respect the right of children to be heard in matters that affect them and that children should be consulted about the manner in which they would like to be heard.<sup>69</sup> The *Guidelines* also provide that children should not be precluded from being heard on the basis of age.<sup>70</sup> In 2017, the UN Committee on the Rights of the Child adopted a general comment on the rights of children in migration<sup>71</sup> which recommended the prioritisation of children in the protection process and ensuring the best interests of the child are 'taken fully into consideration in immigration law, planning, implementation and assessment of migration policies and decision-making on individual cases'.<sup>72</sup>

Currently there is a presumption that children are included in their parent or guardian's application. While this presumption should apply, in all cases the State and the parent or guardian's legal adviser should assess whether this presumption is appropriate. Accompanied children should have a clear right to apply for International Protection independently and should have access to the assistance of a legal representative.

The Advisory Group recommended that social workers assigned to unaccompanied minors should 'be legally obliged to seek prior legal advice on a protection application as soon as possible after the minor becomes the responsibility of Tusla, and before completing and lodging the application'.<sup>73</sup> This is a very welcome and important recommendation for inclusion in the White Paper. Further the Advisory Group recommended that the Legal Aid Board be given sufficient resources to support 3,500 new applicants for international protection.<sup>74</sup> This should be expanded, and legislation amended so that legal aid is provided for people seeking Family Reunification. As a priority unaccompanied minors should be eligible to access legal aid for Family Reunification applications. While it is, in theory, an administrative system, it is very complicated, subject to much caselaw and domestic and EU level, and impossible to navigate by children on their own.

### Recommendations

- An obligation should be placed on the IPO to complete all first instance recommendations within a fixed timeframe that ensures decisions can be taken within 6 months of an application.
- Sufficient resources and appropriately qualified staff be provided to the IPO.
- Child - friendly materials containing relevant legal information should be provided for children.
- Initiatives to make information about the protection process more accessible to children should be supported by the relevant agencies.

69 Council of Europe, *Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice*, 29

70 *ibid.*

71 Joint General comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 (2017) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration' (2017) UN Doc CMW/C/GC/3 – CRC/C/GC/22

72 *Ibid* at para 29

73 Government of Ireland (2020) Report of the Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection Process, recommendation 4.6.

74 Government of Ireland (2020) Report of the Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection Process, recommendation 3.15.

- Good practice in relation to training and the provision of child-sensitive procedures be maintained and developed further.
- Inter-agency co-operation be maintained and further promoted in order to ensure that the principle of the best interests of the child can be effectively implemented.<sup>75</sup>
- An inter-agency review of procedures and practices relating to children occur regularly to ensure that procedures do not fall short and that best practice is maintained.<sup>76</sup>
- All professionals working within the IPO, IPAT and legal professionals working with children and families in the Protection Process should be required to complete training modules on representing children and young people in the international protection process. These modules should include the best interests of the child principle, taking instructions from children and young people, skills for the avoidance of re-traumatisation and ensuring that the voice of the child is appropriately heard.
- Accompanied children should have a clear right to apply for International Protection independently and should have access to the assistance of a legal representative.
- Social workers assigned to unaccompanied minors should 'be legally obliged to seek prior legal advice on a protection application as soon as possible after the minor becomes the responsibility of Tusla, and before completing and lodging the application.'<sup>77</sup>
- Legal aid should be provided for people seeking Family Reunification.
- As a priority unaccompanied minors should be eligible to access legal aid for Family Reunification applications.

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75 Department of Justice and Equality, *Working Group to Report to Government Working Group on the Protection Process on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers* (2015) 3.2.60.

76 *ibid.*

77 Government of Ireland (2020) Report of the Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection Process, recommendation 4.6.

## Youth Supports

All young people should be able to access and benefit from youth work and this is especially true for vulnerable, marginalised or at-risk young people.<sup>78</sup> Universal youth work, targeted youth projects and mentoring can benefit young asylum seekers in their integration into the community.

A report commissioned by the Children's Rights Alliance on the needs of children and young people coming to Ireland under the International Refugee Programme found that the quality youth work services have an important role to play in supporting the integration of young people in a manner that is empowering, participatory and rights based.<sup>79</sup> The research also found that different youth services built relationships with children and young people who did not have English as a first language in different ways. Youth work services have the potential to enable children and young people to adjust to life in Ireland, while retaining their cultural identity and provide a space for young people from different backgrounds to engage in intercultural dialogue.<sup>80</sup>

Youth work has been shown to be a gateway into other services that young people need, making it a vital connection and support for young people as they transition through the various stages from childhood to adulthood. For every €1 invested in youth work the economic benefit/costs saved by the State in the long run are €2.20.<sup>81</sup> The youth sector is well placed to understand the challenges faced by young people in the International Protection Process, and to offer them programmes and interventions that meet their specific needs. Several youth services are already engaging with young people in the International Protection Process; however, we hear from our members that this has not happened in a systemic way. A national co-ordinated response is needed to ensure that the specific needs of young people in the International Protection Process are met. This could be achieved through the establishment of a national programme for youth organisations that would support and facilitate the young people's quality engagement in community-based youth organisations and for those who are identified as needing further support, provide a more intensive wrap around supports and links into existing support services.

Research conducted by the National Youth Council has found that there are a considerable number of areas in the country where youth services are 30 minutes' drive, or more, away from Direct Provision Centres.<sup>82</sup> When looking at both the initial orientation centres and at where families are housed when they transition to housing in the community it is essential that the availability of youth work services is taken into consideration when deciding on locations.

### Recommendations

- Establish a national programme for youth organisations that would support and facilitate the young people's quality engagement in community-based youth organisations and for those who are identified as needing further support, provide a more intensive wrap around supports and links into existing support services.

78 Foroige (2020) Universal youth work: the case for funding. Briefing paper to Minister Roderic O Gorman.

79 Muireann Ní Raghallaigh, Karen Smith and Jennifer Scholtz, *Safe Haven. The Needs of Refugee Children Arriving in Ireland through the Irish Refugee Protection Programme: An Exploratory Study* (Children's Rights Alliance 2019) 66.

80 Muireann Ní Raghallaigh, Karen Smith and Jennifer Scholtz, *Safe Haven. The Needs of Refugee Children Arriving in Ireland through the Irish Refugee Protection Programme: An Exploratory Study* (Children's Rights Alliance 2019) 66.

81 Assessment of the Economic Value of Youth Work by Indecon Economic Consultants, November 2012.

82 National Youth Council of Ireland, Interactive Map of Youth Work Activities for Young Asylum Seekers and Refugees <<https://www.youth.ie/articles/online-interactive-map/>> accessed 20 November 2020.

- When looking at both the initial orientation centres and at where families are housed when they transition to housing in the community it is essential that the availability of youth work services is taken into consideration when deciding on locations.

## Education Supports

The Committee on the Rights of the Child has called on States to ensure that all young children, but particularly vulnerable children like refugees have access to appropriate and effective... education specifically designed to promote their well-being.<sup>83</sup> The UN Committee on the Rights of the Child is clear that 'local integration must be based on a secure legal status (including residence status) and be governed by the Convention rights that are fully applicable to all children who remain in the country'.<sup>84</sup>

Access to education is key to fulfilling long-term aspirations and in the short-term can provide distraction and give children a sense of security, routine and normality following displacement and resettlement.<sup>85</sup> Schools also serve an important social function by providing spaces to build friendships and to gain access to the support of competent adults thus playing an important protective role.<sup>86</sup> It is key that children attend school as early as possible when they arrive in Ireland as any significant break in access to education 'may negatively affect a child's educational experience... as well as their chances of a successful integration'.<sup>87</sup> There needs to be a comprehensive school induction pack developed for children to ease and support their transition into school life in Ireland.

Earlier intervention and prevention are predicated on the timely identification of needs. A report commissioned by the Children's Rights Alliance on the needs of children and young people coming to Ireland under the International Refugee Programme found that schools and educational services need more support in assessing the academic abilities and needs of young refugees independent from language.<sup>88</sup> Providing access to English as an Additional Language (EAL) and learning supports is central to refugee children and young people's right to education. In order to ensure equality of opportunity, provision and access needs to be equal for all children.<sup>89</sup> All children should receive an assessment of their needs prior to entering the school system. This should include an assessment for any language or learning supports needed as well as any emotional or psychological supports a child will need in school. On foot of this a suite of supports should be available to support children in the school system including adequate English language support, access to NEPS and mental health supports in the school and access to home supports for learning, including but not limited to home language tuition.

The provision of comprehensive information and support to schools and educational services, through toolkits or information packs and access to interpreters, is key to promoting best practice,

83 UNCRC 'General Comment No. 7 on Implementing Child Rights in Early Childhood' (2005) UN Doc CRC/C/GC/7/Rev.1 para 24.

84 UNCRC 'General Comment No. 6 Treatment of unaccompanied and separated children outside their country of origin' (2005) UN Doc CRC/GC/2005/6 para 89.

85 Muireann Ní Raghallaigh, Karen Smith and Jennifer Scholtz, *Safe Haven. The Needs of Refugee Children Arriving in Ireland through the Irish Refugee Protection Programme: An Exploratory Study, Executive Summary* (Children's Rights Alliance 2019) 6. 86 Sleijpen et al., 2017; Pastoor, 2015; Betancourt and Kahn, 2008

87 Rosa De Costa, *Rights of Refugees in the Context of Integration: Legal Standards and Recommendation*, (UNHCR 2006) 86.

88 Muireann Ní Raghallaigh, Karen Smith and Jennifer Scholtz, *Safe Haven. The Needs of Refugee Children Arriving in Ireland through the Irish Refugee Protection Programme: An Exploratory Study, Executive Summary* (Children's Rights Alliance 2019) 6.

89 Muireann Ní Raghallaigh, Karen Smith and Jennifer Scholtz, *Safe Haven. The Needs of Refugee Children Arriving in Ireland through the Irish Refugee Protection Programme: An Exploratory Study, Executive Summary* (Children's Rights Alliance 2019) 6.

creating inclusive educational environments and easing the transition to school for young refugees.<sup>90</sup> The Advisory Group recommended that ‘specific training opportunities should be provided for teachers working in schools receiving children’.<sup>91</sup> Educational settings are also important sites for identifying and responding to socio-emotional and psychological needs and education professionals should also have access to trauma-awareness training.<sup>92</sup>

## Recommendations

- Children should be supported to attend school as early as possible when they arrive in Ireland as any significant break in access to education.
- A comprehensive school induction pack should be developed for children to ease and support their transition into school life in Ireland.
- All children should receive an assessment of their needs prior to entering the school system. This should include an assessment for any language or learning supports needed as well as any emotional or psychological supports a child will need in school.
- A suite of supports should be made available to support children in the school system including adequate English language support, access to NEPS and mental health supports in the school and access to home supports for learning, including but not limited to home language tuition.
- Comprehensive information and supports should be available to schools and educational services, through toolkits or information packs and schools should have access to interpreters.
- Education professionals should have access to specific training including trauma-awareness training.

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90 Muireann Ní Raghallaigh, Karen Smith and Jennifer Scholtz, *Safe Haven. The Needs of Refugee Children Arriving in Ireland through the Irish Refugee Protection Programme: An Exploratory Study, Executive Summary* (Children’s Rights Alliance 2019) 6.

91 Government of Ireland, Report of the Advisory Group on the provision of support, including accommodation, to persons in the internal protection process (Government Publications 2020) recommendation 5.4.

92 Muireann Ní Raghallaigh, Karen Smith and Jennifer Scholtz, *Safe Haven. The Needs of Refugee Children Arriving in Ireland through the Irish Refugee Protection Programme: An Exploratory Study, Executive Summary* (Children’s Rights Alliance 2019) 6.