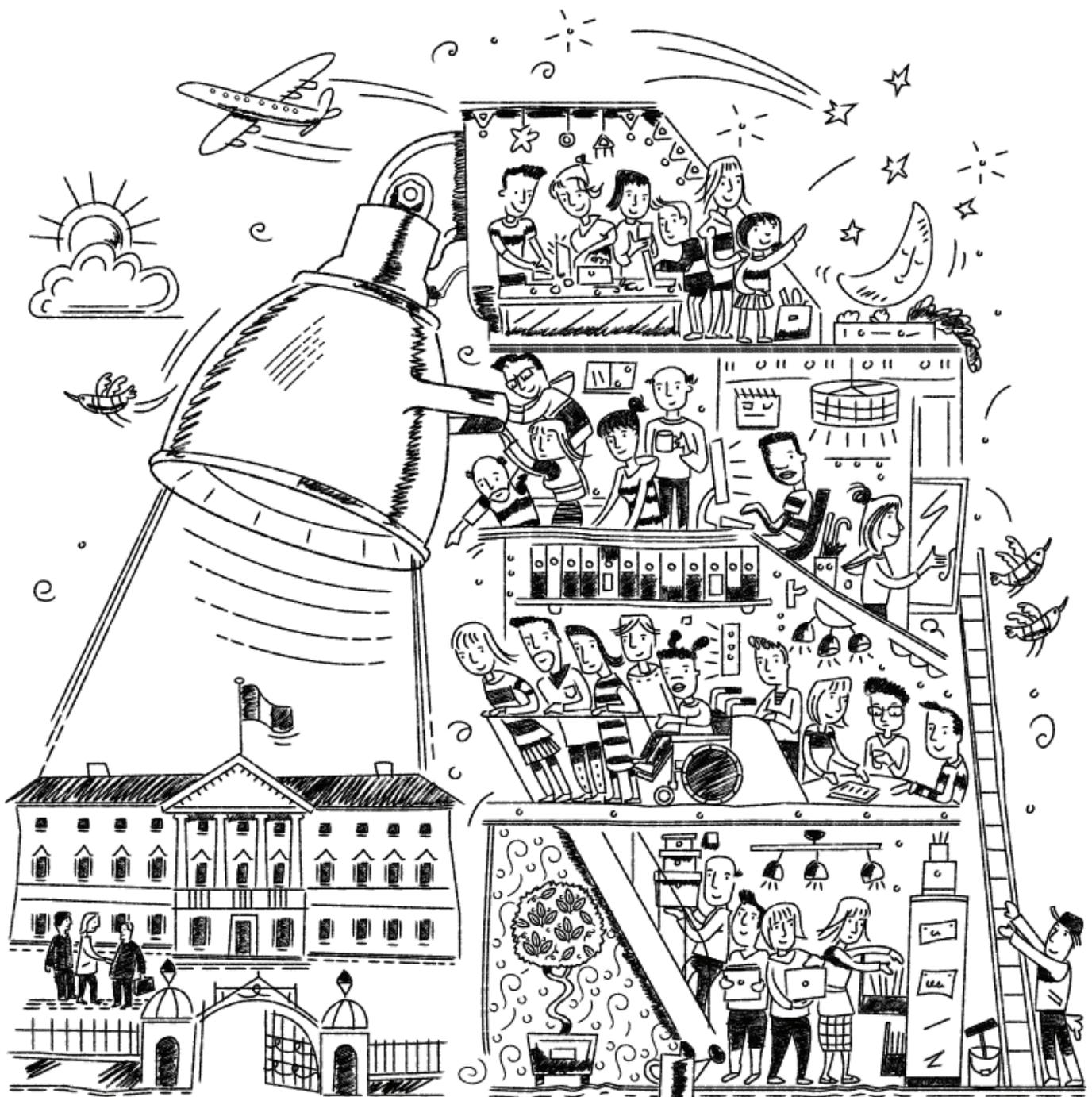


Report Card 2013

Is Government keeping its promises to children?



The Children's Rights Alliance is a coalition of over 100 organisations working to secure the rights of children in Ireland, by campaigning for the full implementation of the UN Convention on the Rights of the Child. We aim to improve the lives of all children under 18 years, through securing the necessary changes in Ireland's laws, policies and services.

Members

Alcohol Action Ireland
Amnesty International Ireland
Ana Liffey Drug Project
Arc Adoption
The Ark, A Cultural Centre for Children
Assoc. for Criminal Justice Research and Development (ACJRD)
Association of Secondary Teachers Ireland (ASTI)
ATD Fourth World – Ireland Ltd
Barnardos
Barretstown Camp
BeLonG To Youth Services
Bessborough Centre
Border Counties Childcare Network
CARI Foundation
Catholic Guides of Ireland
Catholic Youth Care
Child and Family Research Centre, NUI Galway
Childhood Development Initiative
Childminding Ireland
Children in Hospital Ireland
City of Dublin YMCA
COPE Galway
Crosscare Drug and Alcohol Programme
Crosscare Teen Counselling
DIT – School of Social Sciences & Legal Studies
Doras Luimni
Down Syndrome Ireland
Dublin Rape Crisis Centre
Dun Laoghaire Refugee Project
Early Childhood Ireland
Educate Together
School of Education UCD
Enable Ireland
EPIC (formerly IAYPIC)
Focus Ireland
Forbairt Naíonraí Teoranta
Foróige
GLEN - Gay and Lesbian Equality Network
Headstrong - The National Centre for Youth Mental Health
Home-Start National Office Ireland
Immigrant Council of Ireland
Inclusion Ireland
Inspire Ireland
Institute of Community Health Nursing
Integration Centre
International Adoption Association
Irish Association of Social Care Workers (IASCW)
Irish Association of Social Workers
Irish Association of Suicidology
Irish Autism Action
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 National Teachers Organisation (INTO)
Irish Penal Reform Trust
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
Jesuit Centre for Faith and Justice
Junglebox Childcare Centre F.D.Y.S.
Kids' Own Publishing Partnership
Kilbarrack Youth Project
Lifestart National Office
Marriage Equality – Civil Marriage for Gay and Lesbian People
Mary Immaculate College
Matt Talbot Community Trust
Miss Carr's Children's Services
Mothers' Union of Ireland
Mounttown Neighbourhood Youth and Family Project
MyMind
National Association for Parent Support
National Organisation for the Treatment of Abusers (NOTA)
National Parents Council Post Primary
National Parents Council Primary
National Youth Council of Ireland
One Family
One in Four
OPEN
Parentline
Parentstop
Pavee Point
Peter McVerry Trust
Positive Care Ireland
Psychological Society of Ireland
Rape Crisis Network Ireland (RCNI)
Saoirse Housing Association
SAOL Beag Children's Centre
Society of St. Vincent de Paul
Sonas Housing Association
SpunOut.ie
St. Nicholas Montessori College
St. Nicholas Montessori Society
St. Patrick's University Hospital
Start Strong
Step by Step Child & Family Project
Sugradh
Treoir
UNICEF Ireland
Unmarried and Separated Families of Ireland
Young Ballymun
Youth Advocate Programme Ireland (YAP)
Youth Aftercare Support Service (YASS)
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Foreword

Welcome to *Report Card 2013*, the fifth edition of the Children's Rights Alliance's annual report card series, which scrutinises the Government's own commitments to children using a rights-based approach. Childhood is important and the way Government protects the rights of children to enjoy a decent childhood demands rigorous scrutiny. You may grow out of almost everything in your life, they say, but never your childhood.

You will see that we have awarded the Government an overall 'C' grade, for its work between January and December 2012 to implement its commitments to children, as outlined in its Programme for Government.

The Government received its best ever grade for its excellent work in strengthening children's rights in the Constitution. It received the first ever 'A' grade for holding the historic Children's Rights Referendum on 10 November 2012, which will prove a milestone in making Ireland one of the best places in the world to be a child.

Unfortunately, when you look at the overall grade the high grade for this unprecedented achievement has been dragged down by too many mediocre grades elsewhere. This overall grade denotes a minor slip – but a slip nonetheless – from a 'C+' grade in *Report Card 2012*. Despite making legal history for children, the Government has been less successful than last year in implementing its commitments as a package.

The overall grade clearly demonstrates that this is a wholesale exercise, with each minister and government department impacting on the final performance. Some ministers are proving more successful than others at delivering the necessary budgets, resources and actions to safeguard the lives of children.

Consistent shortcomings and the lack of real progress in the areas of poverty, health and discrimination have eaten into excellent grades awarded to Government commitments in education, right to protection and children's constitutional rights. Collective responsibility will secure a better grade next year.

The Minister for Children and Youth Affairs, Frances Fitzgerald TD, and her team within the Department of Children and Youth Affairs deserve special mention for their commitment and excellent work this year. The Minister for Education and Skills, Ruairi Quinn TD, should also be commended for securing consistent progress, particularly in the areas of literacy and patronage.

The successes of the Department of Children and Youth Affairs – in its first full year of operation – is fitting, given that 2012 marked the 20th anniversary of Ireland's ratification of the UN Convention on the Rights of the Child (the UNCRC). The UNCRC is the most widely accepted human rights instrument internationally and sets out principles that take account of children's vulnerability as well as age appropriate and developmental needs. Standards from the UNCRC provide the foundation stone for the Alliance's work and form a strong thread throughout this Report Card.

It is good to see real progress in this edition, with recommendations outlined in *Report Card 2012* not falling on deaf ears. A case in point is the section on 'Children in Detention', which received a 'B' grade, up from an 'F' grade last year, as the detention of young people in an adult prison will soon end.

Make no mistake that Government's successful – or unsuccessful – implementation of the Programme for Government fundamentally alters the climate in which children live and prosper. It plays an integral role as to whether a child thrives or wanes. The Government has the power to turn a series of events into a crisis, to escalate or de-escalate a problem. Budget 2013 is a good example of this.

The Rollercoaster Budget, issued in December 2012, including cuts to the Child Benefit payment and the Back to School Clothing and Footwear Allowance, devastated families. Consequently, we had no choice but to award the Government a FAIL – an 'F' grade on this issue.

Brutal budgets that trample on the rights of children will be graded poorly and pull down the overall grade. Cutting supports and services to vulnerable children and their families without any other reforms is short-sighted and will impact negatively on the lives of many vulnerable children and families. Studies prove that a good beginning almost always makes for a good ending and preparing now, for later, makes good business sense.

Cherishing all of our children equally is a sentiment close to the hearts of people living in Ireland. We would do a disservice to children and young people if we concern ourselves only with what children will become tomorrow. We owe it to children and young people to remember that a child is also someone in today's Ireland, whose rights can only be vindicated but once in a lifetime.



Tanya Ward
Chief Executive



Introduction

The Children's Rights Alliance works to secure the rights of all children in Ireland by campaigning for the full implementation of the UN Convention on the Rights of the Child (UNCRC). On a practical level, this translates as the Alliance advocating for the necessary changes in Ireland's laws, policies and services and holding the Government to account for their international obligations.

This is the fifth edition of our annual report card series. The first edition, *Report Card 2009*, examined whether the Government had honoured the promises it had made to the over one million children living in Ireland, and awarded it a 'D' grade. *Report Card 2010* saw deterioration in the Government's performance, reflected by its overall 'D-' grade, which demonstrated Government's barely acceptable performance and the limited positive impact of policies on children's lives. In *Report Card 2011*, Government made no improvement, again getting a dismal 'D-' grade. *Report Card 2012* saw a marked improvement with an overall 'C+' grade – the best overall grade in the Report Card series to date. It reflected the Government's commitment to children's rights, evidenced in the appointment of a Minister for Children and Youth Affairs with full cabinet status; the creation of a new Department of Children and Youth Affairs; and the commitment to hold a referendum on children's rights.

Report Card 2013 evaluates the Government on its progress during 2012 in meeting its commitments to children, as set out in the 2011 *Programme for Government*. It is awarded an overall 'C' grade, reflecting a satisfactory attempt to date, though children remain wanting.

A number of changes were made to this year's edition to reflect a stronger rights-based approach to the assessment of the Government's commitments. Where relevant, *Report Card 2013* contains a clear focus on, and reference to, the jurisprudence of the UN Convention on the Rights of the Child and other international treaty bodies. The titles of the chapters have been changed to spotlight the child's right under discussion, with an accessible explanation included in the chapter overview. The chapter title 'Education' has been changed to 'Right to Education'; 'Health' to 'Right to Health'; 'Material Wellbeing' to 'Right to an Adequate Standard of Living'; and 'Safeguarding Childhood' changed to 'Right to Protection from Abuse and Neglect'.

The final chapter, previously entitled 'Realising Children's Rights', have been reorganised, and its sections repositioned under two new chapters: 'Children's Constitutional Rights' and 'Right to Equality and Non-Discrimination'. The section on 'Patronage and Pluralism in Education' has been moved to the 'Right to Education' chapter. In the chapter, entitled 'Right to Equality and Non-Discrimination', a new section is included on 'Inequalities in Family Life', in response from calls from our member organisations. The section 'Children's Rights Referendum' has been moved to the chapter on 'Children's Constitutional Rights'. The creation of this new chapter will allow us to track the full impact of the referendum on the lives of children, and the work of the Constitutional Convention which may also have an impact on the implementation of the UNCRC.

The research process was rigorous and the grading subject to independent scrutiny. *Report Card 2013* is intended to reflect children's lived experience and the impact of decisions taken at national and policy level on their daily lives. To illustrate this local and regional stories are featured throughout *Report Card 2013*, collated from a range of national and local newspapers. As a coalition of over 100 member organisations, most of which work directly with children in Ireland, the Alliance is well placed to develop this analysis, as it is able to draw on its members wealth of experience and expertise.

We have chosen commitments that have the potential to improve the lives and life chances of all children in Ireland and have endeavoured to ensure that selected commitments are clear and measurable. We have continued to track each of the issues covered in *Report Card 2012*. Unfortunately, important issues continue to fall outside the remit of the annual Report Card series, which is limited to commitments made under the 2011 *Programme for Government*, including obesity, play and recreation, youth work and youth services. We are calling for these issues to be addressed in the forthcoming *National Children and Young People's Policy Framework* – the follow-up to the *National Children's Strategy 2000-2010*.



Comparison between 2012 and 2013 Grades

This table tracks 2011 *Programme for Government* commitments

Section	2012	2013
Children's Rights Referendum	B	A
Early Childhood Care and Education	B	B-
Child Literacy	B+	B+
Children with Special Educational Needs	C	D
School Buildings	B	B
Patronage and Pluralism in Primary Education	B	B+
Primary Care	C-	D
Mental Health	C+	D-
Alcohol and Drugs	D	D
Children's Hospital	B	D
Child Poverty	E	F
Area Based Approach to Tackling Child Poverty	D	C-
Children and the Social Welfare System	C	D
Child and Family Support Agency	B	B-
Ryan Report Implementation Plan	C	B-
Youth Homelessness	D	C-
Children in Detention	F	B+
Traveller Children	N/A*	E
Migrant Children	N/A*	E
Inequalities in Family Life	**	D

*Not applicable, due to vague nature of Government commitment'

**New section in Report Card 2013

Grading For Report Card 2013

Overall Grade



Area	Sections	Grade	Average Grade
Children's Constitutional Rights	Children's Referendum	A	A Historic passage of Children's Referendum. Constitutional Convention has begun its work.
Right to Education	Early Childhood Care and Education Child Literacy Children with Special Educational Needs School Buildings Patronage and Pluralism in Primary Education	B- B+ D B B+	B- Progress in literacy and patronage, and investment in free pre-school year and school buildings. Work on patronage welcome. More action needed for children with special educational needs.
Right to Health	Primary Care Mental Health Alcohol and Drugs Children's Hospital	D D- D D	D Delays in primary care and children's hospital regrettable. Under-spend of funds in mental health and political inaction on alcohol misuse a concern.
Right to an Adequate Standard of Living	Child Poverty Area Based Approach to Tackling Child Poverty Children and the Social Welfare System	F C- D	D- Harsh measures in Budget 2013 will hit the poorest families hardest. Investment in area based initiatives welcome. Slow progress on reform.
Right to Protection from Abuse and Neglect	Child and Family Support Agency Ryan Report Implementation Plan Youth Homelessness Children in Detention	B- B- C- B+	B- Positive steps in child welfare and protection reform. Promised closure of St. Patrick's Institution welcome.
Right to Equality and Non-discrimination	Traveller Children Migrant Children Inequalities in Family Life	E E D	E+ No improvements for migrant or Traveller children, and slow progress on family inequalities.

Explanation of Grades

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

Acknowledgements

The Children's Rights Alliance wishes to thank all those who contributed to researching and compiling this report. The contribution of individual Alliance member organisations is gratefully acknowledged, as is the generosity of staff in the various statutory and non-statutory bodies and independent experts who willingly gave their time and expertise. Particular thanks is due to the Board of the Alliance for their oversight and guidance. The Alliance would also like to acknowledge the work of Children Now, based in California, whose annual report card provided the initial inspiration for this series.

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

- Professor Pat Dolan, UNESCO Chairholder in Children, Youth and Civic Engagement and Director of the Child and Family Research Centre, National University of Ireland, Galway;
- Professor Sheila Greene, Professor and Fellow Emeritus, School of Psychology, Trinity College Dublin;
- Professor Colm Harmon, Professor of Economics at University of Sydney and UCD Geary Institute;
- Professor Áine Hyland, Emeritus Professor and former Vice-President, University College Cork;
- Sally Anne Kinahan, Assistant General Secretary, Irish Congress of Trade Unions, represented by David Joyce, Equality Officer;
- Danny McCoy, Director General, Irish Business and Employers' Confederation represented by Kara McGann, Policy Executive;
- Judge Catherine McGuinness, Member of the Council of State and Personal Representative of the OSCE Chair-in-Office on Combating Racism, Xenophobia and Discrimination.



Chapter 1: Children's Constitutional Rights



“The Children’s Rights Referendum will bring about a better future for young people in care. A future of possibilities not limited by the experiences of the past, no longer voiceless and invisible.”

Jennifer Gargan, Director, EPIC (Empowering Young People in Care in Ireland)

Local Eye

Mothers, grandmothers, and great grandmothers urged to vote Yes
Mayo Advertiser

Mothers of all generations were urged to give their support to the latest proposed amendment to the Constitution by voting Yes in the Children’s Referendum on Saturday 10 November.

Mother, grandmother and former TD Mary O’Rourke, as well as mother and broadcaster Lorraine Keane were among the respected women in public life who lent their support to the Yes campaign by taking part in a photo-call to highlight the importance of mothers of all ages supporting this crucial referendum. Community campaigner Cathleen O’Neill also took part.

Mary O’Rourke, who chaired the Joint Committee on the Constitutional Amendment on Children, said: “All of the work that went into compiling the wording of the Referendum over recent years has now come to fruition. This is a very positive amendment, which will benefit future generations of children.”

‘Mothers, grandmothers, and great grandmothers urged to vote Yes’,
Mayo Advertiser, 9 November 2012

Overview

The Alliance has awarded the Government an 'A' grade in Children's Constitutional Rights, the highest possible grade. This is the first time that an 'A' grade has ever been awarded in the five-year history of the Report Card series. This grade reflects the holding and successful passage of the Thirty-first Amendment to the Constitution by the People of Ireland in November 2012 to amend the Constitution to strengthen children's rights. Another welcome development is that the Constitutional Convention was established in 2012 and has begun its work. This is an excellent grade and the Government should be congratulated on its work in this area. A special tribute is owed to the Minister for Children and Youth Affairs, Frances Fitzgerald TD for the key role she played in the lead up to, and during, the referendum campaign.

Ireland operates a dualist common law system, and under Article 29.6 of the Constitution international agreements ratified by Ireland only take effect in domestic law if the Oireachtas specifically provides for this through legislation. So although Ireland ratified the UN Convention on the Rights of the Child (UNCRC) in 1992, the Convention did not automatically become part of Irish law. Law reform since 1992 has incorporated some aspects of the Convention into domestic law on an issue by issue basis. For example, the Children Act 2001 brought into Irish law the principle that detention of a young offender should be a measure of last resort, mirroring the language used in Article 37 of the UNCRC. To be compliant with Article 4 of the Convention, the principle and provisions of the Convention must be fully reflected in all Ireland's laws, policies and practice.

The UN Committee on the Rights of the Child 2006 *Concluding Observations* on Ireland note with regret that the recommendations made in its 1998 report have not yet been fully addressed, in particular those related to the status of the child as a rights-holder, the adoption of a child rights-based approach in policies and practices and the failure to incorporate the UN Convention into domestic law; and urge the Government to make every effort to progress these actions as a matter of priority.¹

The Constitution is the fundamental legal document of the State and it sets out how we, as a country, view and value children. The passage of the children's rights referendum in 2012 is a vital step towards the full implementation of the UNCRC in Ireland. The Amendment provides an explicit recognition of children as rights holders, progresses implementation of Articles 2 (non-discrimination), 3 (best interests), 12 (voice of the child), 19 (right to protection), 20 (alternative care) and 21 (adoption) and will help foster a culture that actively protects and safeguards the rights of children.



Duty on States to provide for the rights of children

By ratifying the UN Convention on the Rights of the child, States agree to undertake all appropriate legislative, administrative, and other measures to ensure the implementation of the rights set out in the Convention. In relation to economic, social and cultural rights, States are obliged to undertake such measures to the maximum extent of their available resources. *Summary of Article 4 of the UNCRC*

¹ United Nations Committee on the Rights of the Child (2006) *Concluding Observations: Ireland* (CRC/C/IRL/CO/2 paragraph 9).

1.1 Children's Rights Referendum

Grade:

A

Government Commitment

The *Programme for Government* commits to establishing a process to ensure that the Constitution meets the challenges of the 21st century, by addressing a number of specific urgent issues as well as establishing a Constitutional Convention to undertake a wider review. It also promises to give priority to specific constitutional amendments, including: a referendum to amend the Constitution to ensure that children's rights are strengthened, along the lines recommended by the All-Party Oireachtas Committee.

Progress

Historic Progress



What's happening?

The Children's Rights Referendum was held and successfully approved by the People of Ireland. The Constitutional Convention was established and has begun its work.

Children's Rights Referendum: The Government committed in its 2011 *Programme for Government*² to hold a referendum to amend the Constitution to strengthen children's rights, along the lines recommended by the Joint Committee on the Constitutional Amendment on Children.³ Budget 2012 allocated €3 million for the holding of such a referendum.⁴ The Minister for Children and Youth Affairs, Frances Fitzgerald TD, reviewed the proposed amendment wording put forward by the Joint Committee along with two previous wordings produced by previous Coalition Governments and sought the advice of the Attorney General. On 18 September 2012, Taoiseach Enda Kenny TD, announced Saturday 10 November 2012 as the polling day for the children's rights referendum. On 19 September, the Government published the Thirty-first Amendment to the Constitution Bill, which contained the text of a proposed constitutional amendment. On 3 October 2012, the Bill passed both Houses of the Oireachtas.

Fine Gael, the Labour Party, Fianna Fáil and Sinn Féin all campaigned in favour of the Amendment. In addition, a civil society campaign was run to promote a 'Yes' vote. Yes for Children was led by Barnardos, Children's Rights Alliance, the ISPC and Campaign for Children.⁵ The People of Ireland voted 58% to 42% in favour of the Thirty-first Amendment. Turnout was low at 33.5%. Three of Ireland's 43 constituencies voted against the Amendment: Donegal South West, Donegal North East and Dublin North West. The highest 'Yes' vote was in Dublin South, with 73% of the ballot supporting the Amendment, closely followed by Dublin South East and Dún Laoghaire.

The Amendment was carried despite a Supreme Court ruling on 8 November 2012, just two days before polling, that upheld a complaint by Dublin engineer Mark McCrystal.⁶ He claimed that parts of the Government's referendum materials and advertisements breached the 1995 McKenna Supreme Court judgment, which prohibits the spending of public monies to espouse a particular view in a referendum.⁷ The Court made a declaration that the Government had 'acted wrongfully' by spending public monies on referendum material that was "not fair, equal or impartial."⁸ The Court did, however, find that the Government acted in good faith in its production of the materials. The Court did not order the Government to cease distributing and publishing the material: the Government took such action itself. On 19 November 2012, relying in part on the McCrystal ruling, an application was made for leave to challenge the result of the

2 Government of Ireland (2011) *Programme for Government 2011*, Dublin: Stationery Office, p.17.

3 Joint Committee on the Constitutional Amendment on Children, Government of Ireland (February 2010), *Third Report, Twenty-eighth Amendment of the Constitution Bill 2007, Proposal for a constitutional amendment to strengthen children's rights, Final Report*, Dublin: Stationery Office.

4 This sum was also previously allocated in Budget 2010 and Budget 2011.

5 LOCAL FOCUS: *East Cork Journal*, 'Children's organisations satisfied with result', 15 November 2012.

6 *McCrystal v Minister for Children and Youth Affairs*, the Government of Ireland, Ireland and the Attorney General [2012] IESC 53 (8 November 2012).

7 *McKenna v An Taoiseach* (No. 2) [1995] 2 IR 10.

8 *McCrystal v Minister for Children and Youth Affairs*, the Government of Ireland, Ireland and the Attorney General [2012] IESC 53 (8 November 2012). The Court also found that material contained a misstatement as to the effect of the referendum.

referendum and the legislative test to bring a Referendum Petition to the High Court. The High Court listed the case for mention on 15 January 2013, and the case is expected to commence in February 2013.⁹ The Amendment Bill – containing the text of the Amendment passed by the People of Ireland – is frozen until the challenge case is heard. The Bill can only become law if the Referendum Petition is declared ‘null and void’ by the courts.¹⁰

Constitutional Convention: On Saturday 1 December 2012, the inaugural meeting of the Constitutional Convention was held. It comprises 100 members: 66 citizens drawn from the electoral register, 29 members of the Oireachtas and four from the Northern Ireland Assembly. The Convention will consider at least eight possible amendments, beginning with reducing the presidential term from seven to five years and lowering the voting age from 18 to 17 years. The remaining six issues are a review of the Dáil electoral system; giving Irish citizens resident outside the State the right to vote in Presidential elections; a provision for same-sex marriage; amending the clause on the role of women in the home; increasing the participation of women in politics; and the removal of the offence of blasphemy from the Constitution. The Convention is due to submit its final report to the Oireachtas by December 2013, and the Taoiseach has pledged that a decision on each recommendation will be made within four months.¹¹

Comment

Children’s Rights Referendum: The Children’s Rights Referendum gets an ‘A’ grade in *Report Card 2013*, a rise from last year’s ‘B’ grade. This is the highest grade ever awarded in the five years of the *Report Card* series, and the first ever ‘A’ grade. This excellent grade reflects the historic achievement of the successful passage of a referendum to strengthen children’s rights in the Constitution. It also reflects the establishment of the Constitutional Convention.

The wording of the Amendment reflected some, but not all, of the recommendations of the Joint Committee on the Constitutional Amendment on Children in its Final Report of February 2010.¹² In a number of provisions, the Amendment wording is an improvement on the Joint Committee’s iteration, as the State is obliged to legislate, whereas the Joint Committee’s wording only permitted it to do so. In addition, the Amendment’s provision on child protection adopts a child-centred approach, while retaining safeguards against over-intervention by the State in family life.

However, in three areas the Amendment wording is weaker than that recommended by the Joint Committee. The Amendment did not include a general ‘best interests’ provision as recommended by the Joint Committee – albeit they used the phrase ‘welfare’ – and in line with Article 3 of the UN Convention on the Rights of the Child (UNCRC).

That said, the Amendment did include a ‘best interests’ provision and framed it in stronger terms than those used in Article 3 of the UNCRC, using the phrase ‘paramount consideration’ rather than ‘primary consideration’. However, the provision is limited to specific types of judicial proceedings, whereas the Joint Committee’s wording used broader terminology, referring to ‘disputes’. The Joint Committee’s reference to ‘care’ of the child is replaced in the Amendment wording with a narrower reference to proceedings ‘brought by the State, as guardian of the common good, for the purpose of preventing the safety and welfare of any child from being prejudicially affected’. On a positive note, the Amendment wording has been extended to proceedings relating to ‘access’.

Lastly, the Joint Committee explicitly referenced three rights – the right to protection; the right to education; and the right of the child to have his views heard in court and administrative proceedings affecting him or her. The Amendment covers the right to protection under Article 42A.4.1 and the voice of the child – albeit in a more restricted format – under Article 42A.4.2, and is silent on the right to education.

9 ‘Challenge to Yes vote in children’s referendum to be heard soon’, *The Irish Times*, 16 January 2013.

10 Referendum Act 1994, Section 40(2).

11 See also Children’s Rights Alliance (2012) *Position on the Constitutional Convention*, Oireachtas Briefing, 13 March 2012.

12 Joint Committee on the Constitutional Amendment on Children, Government of Ireland (February 2010) *Twenty-eighth Amendment of the Constitution Bill 2007, Proposal for a constitutional amendment to strengthen children’s rights, Final Report*, Dublin: Stationery Office.

On balance, the Thirty-first Amendment has the potential to greatly benefit children and further the implementation in Ireland of the UN Convention on the Rights of the Child. The inclusion of a stand-alone constitutional article dedicated to children – both the rights it contains and the presence of the article itself – sends a clear message that Ireland values children and that this should be reflected in our laws and court decisions. The new article will bring about a rebalancing of the text of the Constitution with a more extensive reference to, and visibility of, children's rights. After a decade of reeling from abuse scandals the referendum draws a line in sand, offering a new legacy for children in Ireland.

The new Article 42A, entitled 'Children', sits between Articles 42 and 43; and repeals Article 42.5.¹³ Article 42A.1 contains an express recognition that all children have rights and pledges to protect those rights by law. This provision will potentially enable the Courts to identify new rights for children and break with past decisions, some of which have resulted in bad outcomes for children. Article 42A.2.1 clarifies how and when the State can step in to protect children. State intervention will be by 'proportionate means', placing an onus on the State to provide alternative measures, such as family support, prior to removing a child into care.

Article 42A.2.2 commits the Oireachtas to legislate to allow a child the opportunity to be adopted, where the level of the parental failure towards the child has reached a high threshold. Critically, such adoptions can only take place where it is in the best interests of the child and where all other options have been explored and failed. This may impact on children in long term foster care. Article 42A.3 commits the Oireachtas to bring in a law that allows parents, either married or unmarried, to voluntarily place their child for adoption.

Article 42A.4.1 commits the Oireachtas to legislate to ensure that the best interests of the child will be "the paramount consideration", in certain areas of decision-making affecting a child: child care proceedings brought by the State and proceedings concerning adoption, guardianship or custody of, or access to, any child. Article 42A.4.2 commits the Oireachtas to legislate for the views of the child to be taken into account in the proceedings listed in Article 42A.4.1.

Constitutional Convention: The Constitutional Convention is a welcome development. However, the exclusion of children and young people under 18 years and matters affecting children is regrettable and must be addressed. The scope of the Constitutional Convention should be broadened to include an examination of the fundamental rights provisions in Articles 40 to 45 of the Constitution, many of which impact on children in different ways.



Immediate actions for 2013

Enact comprehensive legislation as required under the Amendment

Four provisions of the new article necessitate the introduction of specific legislation:¹⁴ A failure to legislate would be a constitutional breach. The Oireachtas should use the opportunity when drafting such legislation to address omissions from the Amendment, for example to provide for a broader set of circumstances under Article 42A.4 in the areas of best interests and voice of the child.

Support the Judicial Studies Institute to address the interpretation of the Amendment

The Minister for Justice and Equality should provide additional funding to the Judicial Studies Institute to enable members of the Bench to undergo judicial studies on children's rights to advance the interpretation of the children's Amendment.

Address outstanding gaps in the protection of children's rights

Introduce comprehensive legislation to address outstanding gaps in the protection of children's rights, such as vindicating the child's right to know his or her identity.

Ensure children's views are heard within the Constitutional Convention

Provide a mechanism to hear the views of children and young people under 18 years in the Constitutional Convention.

¹³ Further analysis of the Amendment can be found at <http://www.childrensrights.ie/campaign/childrens-rights-andconstitutional-reform>.

¹⁴ These are on aspects of adoption (Article 42A.2.2 and Article 42A.3); best interests of the child (Article 42A.4.1); and hearing the views of the child (Article 42A.4.2).

Chapter 2: Right to Education

B-1

“The education system as a whole is under severe pressure, with many schools reporting escalating instances of family poverty, lack of resources and social stress on children in schools.”

Paul Rowe, Chief Executive, Educate Together

Local Eye

New schools a boost for pupils and construction industry

The Tuam Herald

It was reported that seven new schools in Tuam, Athenry and Claregalway will start within the next three years, while nine new schools will also be built in the city and other parts of the county.

Athenry will benefit from two new secondary schools, one new primary school and extensions to two primary schools, with two new schools for Tuam, Gaelscoil Iarfhlatha and St Oliver’s Special School. The new secondary school planned for Claregalway is expected to begin in two years’ time, while a new building for the Claregalway Educate Together School has a start date of 2015.

Tuam’s Gaelscoil Iarfhlatha has been waiting for the past 16 years for a purpose-built school. The Irish school has grown from 13 pupils to its current enrolment figure of 168 children. Principal Colm Breathnach said the school, which has been operating in temporary accommodation on Bishop Street since it was founded in 1996, is “bursting at the seams”.

Siobhán Holliman, ‘New schools a boost for pupils and construction industry’, *The Tuam Herald*, 14 March 2012

Overview

The Alliance awarded the Government an overall 'B-' grade in Education this year, the same grade as last year. This strong grade reflects investments and the protection of allocated funding to key programmes and strategies. The protection of the free pre-school year and funding for special needs supports in schools is welcome, and the ongoing investment in and rollout of the National Literacy and Numeracy Strategy, and launch of a significant programme of investment in school buildings shows a willingness to invest even in tough economic times. However, the delay in publishing the new plan for the implementation of Education for Persons with Special Educational Needs (EPSEN) Act 2004 is disappointing. In this year's *Report Card*, the section on 'Patronage and Pluralism in Primary Education' has been moved from the chapter on the Right to Equality and Non-Discrimination to the chapter on Education.¹⁵ The Government has performed well in this area, publishing the report of the Taskforce on Patronage and Pluralism, an action plan and commencing implementation of the Forum's recommendations.

The objective of the right to education is described by the UN Committee on the Rights of the Child as 'to maximise the child's ability and opportunity to participate fully and responsibly in a free society'.¹⁶ The Committee, in its 2006 *Concluding Observations* on Ireland, welcomed efforts to strengthen the legal and policy framework for education in Ireland but noted concerns in relation to the cost of education materials, the participation of children in decisions affecting them and high dropout rates among Traveller children and children with disabilities. The Committee made a series of recommendations to address shortcomings relating to children with special educational needs, improving school buildings and facilities, bullying and Traveller education, a number of which remain outstanding.¹⁷

The Department was allocated an increased overall gross budget of €8.9 billion in Budget 2013, compared to an allocation of €8.2 billion in 2012. The budget consists of €8.5 billion in current expenditure and €414 million in capital expenditure, while savings of €90 million will be made under Budget 2013. Ireland invests 4.7% of its Gross Domestic Product in education, above the OECD average of 4.0%.¹⁸

There are a number of key challenges that continue to affect a child's ability to fully exercise their right to education in Ireland. Education is a proven route out of poverty and is vital to improving children's life chances, yet the high costs of sending a child to school and the cuts to supports such as the Back to School Clothing and Footwear Allowance in Budget 2013 (see Section 4.1) mean education remains a struggle for many families.¹⁹ When compared internationally on the issue of early school leaving, Ireland's performance is well above average for secondary completion rates,²⁰ but this figure masks the high levels of early school leaving concentrated in low-income communities. Access to non-denominational or multi-denominational education remains a challenge for parents in 2012.



The Right to Education

Every child in Ireland has the right to access education and to be educated. The aim of the right to education goes beyond academic achievement to the development of the child's personality, talents and abilities to their fullest potential, and to providing them with the tools to live a full and responsible life within society. *Summary of Articles 28 and 29 of the UNCRC*

15 The chapter on the 'Right to Equality and Non-Discrimination' was called 'Realising Children's Rights' in *Report Card 2012*.

16 UN Committee on the Rights of the Child (2001), General Comment No.1: The aims of education, CRC/GC/2001/1.

17 UN Committee on the Rights of the Child (2006) *Concluding Observations: Ireland*, CRC/C/IRL/CO/2, paragraph 59.

18 Latest available figures relate to 2009 and exclude tertiary education. OECD (2012) *Education at a Glance: OECD Indicators*, Paris: OECD, p. 244.

19 In 2012, going back to school cost €350 for a child in junior infants and €770 for a 1st year pupil in secondary school. Barnardos (2012) *School Costs Survey 2012*, Dublin: Barnardos, p. 1-2.

20 OECD (2012) *Education at a Glance: OECD Indicators*, Paris: OECD, p. 40.

2.1 Early Childhood Care and Education

Grade: **B-**

Government Commitments

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

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

Progress

On track

What's happening?

The free pre-school year has been maintained. Plans for a National Early Years Strategy have been announced. Policy gaps remain for children under three.



The free pre-school year continued to be available in 2012.²¹ The scheme is available for up to three hours a day to all children in the year prior to commencing primary school, regardless of the economic status of their parents. Now in its third full year, 95% of eligible children are availing of the free pre-school year; this is almost 65,000 pre-school children in 4,300 services.²² In July 2012, the Minister for Children and Youth Affairs, Frances Fitzgerald TD, signalled her support for the free pre-school year to be extended to a second year for some children,²³ noting that it could be "particularly beneficial for certain children with special needs who currently can avail of the pre-school year on a pro-rata basis over two years".²⁴ The Minister commented that the length of the preschool scheme is being reviewed, although she cautioned that additional funding to support a second year was not currently available.

The scheme cost €175 million in 2012. An additional €9.8 million was provided for the scheme in 2012 to cover the cost of extra children qualifying due to demographic factors. The investment in the scheme takes up approximately 40% of the Department of Children and Youth Affairs overall spend.²⁵ Budget 2013 did not impact on the capitation grant or staff child ratio for the scheme.

In January 2012, the Minister for Children and Youth Affairs announced her intention to develop Ireland's first National Early Years Strategy for children from birth to six years covering areas such as enhancing the quality of early childhood care and education and childminding, the further

21 The free pre-school year, administered by the Department of Children and Youth Affairs, is available to all children between the ages of 3 years and 2 months and 4 years and 7 months in September of the relevant year, entitling them to programme-based activities in the year proceeding primary school.

22 Frances Fitzgerald TD, Minister for Children and Youth Affairs, Parliamentary Questions: Written Answers [32548/12], Dáil Debate, 4 July 2012, Vol. 771 No. 2.

23 LOCAL FOCUS: *Herald.ie*, Fitzgerald pushes for childcare to be free for two years, 29 October 2012.

24 *Ibid.*

25 Department of Children and Youth Affairs (2011) *Comprehensive Review of Expenditure: Vote 43, Department of Children and Youth Affairs*, <http://www.dcy.gov.ie/documents/publications/cre2011.pdf> [accessed 13 November 2012].

development of the free pre-school year and improving health and physical fitness, including responding to obesity.²⁶ Work on the Strategy has commenced and is expected to be finalised by mid-2013. An Expert Advisory Group on the development of the Strategy was established in summer 2012 and its work is ongoing. The Strategy will sit within the broader framework of a National Children and Young People's Policy Framework.

In March 2012, an evaluation of *Siolta*²⁷, the National Quality Framework for Early Childhood Education, was published. The evaluation highlighted concerns in consistency in the implementation of the *Siolta* Quality Assurance Programme, the dedicated staff time required and costs and difficulties in interpreting the *Siolta* guidance.²⁸

All leaders of the free pre-school year were required to hold a minimum qualification of Level Five on the National Framework of Qualifications (NFQ) by August 2012, as part of their contractual arrangement with the Department of Children and Youth Affairs.²⁹ Data from Pobal indicates that approximately 96% of services participating in the free pre-school year met this requirement in 2011-2012.³⁰

Comment

Early Childhood Care and Education gets a 'B+' grade in *Report Card 2013*, a slight fall from last year's 'B' grade. This grade recognises the protection in Budget 2013 of the valuable investment in the universal free pre-school year in difficult economic times and the commencement of the development of a National Early Years Strategy, but also the inconsistency in the quality of free pre-school year service provision. To improve next year, the Government must launch a rights-based National Early Years Strategy,³¹ containing a clear vision for the early years, a focus on quality and a commitment to extend the free pre-school year to a second year.

Ireland was ranked 18th out of 45 countries in a 2012 study of pre-school provision for 3-to-6-year-olds.³² The Starting Well Index assessed the extent to which governments provide a good, inclusive early childhood education environment for children between three and six years, with a particular focus on relative availability, affordability and quality. Census 2011 showed an 18% increase in the population of children under four years of age over the past five years. Provision for this group is therefore urgent.

All children have the right to education under Article 28 of the UN Convention on the Rights of the Child, with the UN Committee on the Rights of the Child interpreting the right to education during early childhood as beginning at birth.³³ The right to education is closely linked to a child's right to maximum development, under Article 6.2.³⁴ In addition, Ireland is under an obligation to provide assistance to parents, which includes quality childcare services to working parents, under Article 18(3).³⁵ The free pre-school year and the Child Benefit payment are currently the State's key mechanisms to support children in achieving these rights. The National Early Years Strategy must explore how best the Government can vindicate these rights over the next five years.

26 Department of Children and Youth Affairs, 'Minister Frances Fitzgerald announces preparation of Ireland's first National Early Years Strategy' [press release], 25 January 2012, <http://www.dcy.gov.ie/viewdoc.asp?DocID=1751> [accessed 14 January 2013]; Department of Children and Youth Affairs, 'Minister Fitzgerald hosts first meeting of Expert Advisory Group on Ireland's first-ever Early Years Strategy' [press release], 18 June 2012, <http://www.dcy.gov.ie/viewdoc.asp?DocID=2140> [accessed 14 January 2013].

27 Centre for Early Childhood Development in Education (2006) *Siolta: The National Quality Framework for Early Childhood Education*.

28 The evaluation of the *Siolta* Quality Assurance Programme took place at an interim stage in the implementation of the Programme. The field test phase of the Programme is expected to conclude shortly and a final report is being prepared for submission to the Department of Education and Skills. Goodbody Economic Consultants (2011) *Evaluation of Initial Implementation of Siolta Final Report*, pg. 97.

29 Department of Children and Youth Affairs, *General Terms and Conditions governing participation in the Early Childhood Care and Education (ECCE) Programme*, http://www.dcy.gov.ie/documents/childcare/Terms_and_Conditions_for_ECCE_Scheme.pdf [accessed 22 December 2012].

30 Pobal (2012) *Pobal Annual Survey of the Early Years Sector 2011*, p. 35.

31 A rights-based approach to the National Early Years Strategy means that the Strategy will be framed using the standards and language of international human rights law such as the UN Convention on the Rights of the Child in order to recognise, promote and protect the human rights of children in their early years. This will reflect the international obligations already committed to by the State in national policy on early years. A human rights based strategy will identify the rights-holders and their entitlements as well as those who hold the duty to fulfil those rights and their obligations while setting out a road-map for the fulfilment of their obligations in order to achieve those rights.

32 The Economist Intelligence Unit (2012), *Starting Well: Benchmarking early education across the world*, London: The Economist Intelligence Unit.

33 UN Committee on the Rights of the Child (2006), General Comment No.7: *Implementing child rights in early childhood*, CRC/C/G/GC/7/Rev.1.

34 *Ibid.*

35 *Ibid.*

The development of a National Early Years Strategy and the appointment of an Expert Advisory Group are welcome developments. The Strategy offers an important opportunity to provide a rights-based framework for the implementation of Government commitments and the development of a policy in relation to early childhood. As it is the first such strategy, comprehensive consultations must be undertaken. Buy-in from key stakeholders, including parents and early childhood care and education providers, will be critical to its success.

The Strategy must set out a clear and ambitious vision for early years in Ireland. Its primary focus must be on children, while also considering the labour market participation of parents. In April 2012, the Minister for Social Protection, Joan Burton TD, pledged to provide a Scandinavian style childcare system³⁶ as part of her reform of the One Parent Family Payment.³⁷ The Strategy must map out the steps required to progress from current provision to such a model.

The 2011 *Programme for Government* made no reference to care and education services for children under three years of age, despite evidence showing that most of a child's development takes place in the first three years, particularly in language and literacy.³⁸ This gap must be addressed in the new Strategy. A key component of the Strategy must be a focus on delivering quality service provision. Returns on public investment in early childhood care and education may be lost unless young children receive a quality service and investment is continued.³⁹

The early childhood care and education sector is governed by the Child Care (Pre-School Services) Regulations 2006⁴⁰ and is supported by two national frameworks developed for the birth to six years age group: *Síolta* (2006)⁴¹ and *Aistear* (2009).⁴² The evaluation of *Síolta* highlighted a lack of consistency in the implementation of the programme. It is critical that the forthcoming Strategy adequately addresses these concerns to ensure the effective and consistent national implementation of *Síolta*.

Improvements have been made in the quality of the free pre-school year through *Síolta* coordination and a number of local initiatives, however this remains variable⁴³ and information on the quality of early years provision in practice is scarce.⁴⁴ It is critical that quality improvements do not focus exclusively on the free pre-school year and are applied to all children that are participating in early years care and education settings.



36 Barnardos and Startstrong (2012) *Towards a Scandinavian childcare system for 0-12 year olds in Ireland?* Dublin: Barnardos, Startstrong, p. 11-13.

37 Joan Burton TD, Minister for Social Protection, Dáil Debate, 18 April 2012, Vol. 761 No. 3.

38 Jaclyn Kupcha-Szrom, Zero to three Policy Center, *A Window to the World* (2011), <http://www.zerotothree.org/publicpolicy/policy-toolkit/early-literacywebmarch1-6.pdf> [accessed 18 January 2013] p.5.

39 F. Cunha and J.J. Heckman (2010), *Investing in Our Young People, Working Paper 16201*, Cambridge: National Bureau of Economic Research, p. 5, 14.

40 Health Service Executive (2006), *Child Care (Pre-School Services) (No 2) Regulations 2006 and Explanatory Guide to Requirements and Procedures for Notification and Expectation*, http://www.hse.ie/eng/services/Find_a_Service/Children_and_Family_Services/Pre-school_Services/Child_Care_Preschool_Services_Regulations_2006.pdf [accessed 25 January 2013].

41 Centre for Early Childhood Development and Education (2006) *Síolta: The National Quality Framework for Early Childhood Education*, Dublin: Centre for Early Childhood Development and Education.

42 National Council for Curriculum and Assessment, 'Aistear: the Early Childhood Curriculum Framework', <http://www.ncca.biz/Aistear/> [accessed 18 January 2013].

43 Start Strong (2012) *Submission to the Early Years Education Policy Unit on the future role of Síolta and the Síolta QAP*, http://www.startstrong.ie/files/Start_Strong_submission_to_EYEPU_on_the_future_of_Síolta.pdf [accessed 18 January 2013] p.1.

44 Start Strong (2010) *Children 2020: Planning Now, for the Future, Children's Early Care and Education in Ireland*, Dublin: Start Strong, p.11.

Participating providers in the free pre-school year are obliged to adhere to the Síolta principles and accept visits and advice from Síolta coordinators and County Childcare Committee staff.⁴⁵ However, providers are not obliged to undergo the twelve-step Síolta Quality Assurance Programme. Early years settings require considerable support to progress through the Quality Assurance Programme and for quality provision to be achieved, coaching and mentoring is a critical factor. The implementation of Síolta has been significantly facilitated by the implementation of a defined evidence-based curriculum where that has taken place in parallel.⁴⁶ There is a clear need for training and capacity building of practitioners. This should be supported by resources and accompanied by intensive coaching and mentoring to foster the development of quality provision for children. Training and information provision alone will not be sufficient to progress the development of quality in services. Where training in Síolta is available, it is limited as financial support is not being made available to providers or to individual staff for up-skilling.⁴⁷ Aistear is being rolled out in infant classes at primary school level but not at pre-school level, while the Health Service Executive regulations primarily monitor health and safety rather than support for child development. Moreover, these inspections are not formally integrated with Síolta and Aistear. The new Strategy should include measures to support the comprehensive rollout of Síolta and Aistear.

Finally, to improve quality, the Strategy should build on the 2010 *Workforce Development Plan*.⁴⁸ Adequate resourcing and published mapped targets and timeframes for the implementation of the Plan are urgently needed. In addition, the Level Five qualification (on the National Framework of Qualifications), which is required by leaders of the free pre-school year⁴⁹, should be reviewed and extended to all staff in the sector. A commitment to increasing the minimum qualification requirements of early childhood care and education practitioners was given in the 2011 National Literacy and Numeracy Strategy, though no timeline was provided for its achievement.⁵⁰

The allocation of funding in Budget 2013 to an Area Based Approach to Child Poverty Initiative is discussed in Section 4.2.



Immediate actions for 2013

Launch and commence the implementation of the National Early Years Strategy

A rights-based National Early Years Strategy should be developed and be accompanied by an adequately resourced implementation plan. The Strategy should contain a clear and ambitious vision for early years policy, commit to the introduction of a second year of the free pre-school year scheme and include comprehensive measures to improve the quality of early years services.

Conduct an evaluation of the free pre-school year

In order to assess the impact and quality of the free pre-school year, an evaluation should be undertaken, which would include consultation with service providers.

45 Department of Children and Youth Affairs, *General Terms and Conditions governing participation in the Early Childhood Care and Education (ECCE) Programme*, http://www.dcy.gov.ie/documents/childcare/Terms_and_Conditions_for_ECCE_Scheme.pdf [accessed 22 December 2012].

46 Information received by the Children's Rights Alliance from *youngballymun*, 22 January 2013

47 There are approximately 25 Síolta coordinators working with 135 ECCE services across a broad spectrum of service provision. This is a small number considering an estimated 4,250 services will be contracted under the free pre-school year scheme for the 2011/2012 year.

48 The Plan is aimed at the professional development of those working in the early childhood care and education sector. It provides for national standards for awards in ECCE, access to accredited learning opportunities and quality of courses relating to content, delivery and work placement. Department of Education and Skills (2010) *A Workforce Development Plan for the Early Childhood Education and Care Sector in Ireland*, Dublin: Department of Education and Skills.

49 It also provides an increased capitation grant to services where the free pre-school year leader has a relevant graduate qualification and other staff hold FETAC Level 5, to incentivise staff and providers to continue up-skilling.

50 Department of Education and Skills (2011), *Literacy and Numeracy for Learning and Life – the National Strategy to Improve Literacy and Numeracy among Children and Young People 2011-2020*, Dublin: Department of Education, p. 27.

2.2 Child Literacy

Grade: **B+**

Government Commitment

The *Programme for Government* commits to developing a National Literacy Strategy for children and young people as a matter of urgency, with school-level targets that are related to national targets.

Every school will be required to have a Literacy Action Plan, with demonstrable outcomes. Responsibility for achieving these outcomes will be vested in the school principals, who will also receive continuing professional development to support the implementation of the strategy.

Progress

On Track

The Programme for Government also commits to:

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

Progress

Progress Made

What's happening?

The National Literacy and Numeracy Strategy continues to be rolled out. Investments have been protected. Increased time is to be spent on literacy in all schools.



Literacy and Numeracy for Learning and Life – the National Strategy to Improve Literacy and Numeracy among Children and Young People 2011-2020, launched in July 2011,⁵¹ sets out clear targets for children's literacy performance at primary and second-level, with a view to substantially improving performance by 2020. The Strategy will continue to be rolled out in 2013 at a cost of €6.5 million.⁵² This investment was protected in Budget 2013.⁵³ There are now 22 primary and 15 post-primary, full-time equivalent, literacy advisors and 10 primary and 2 post-primary full-time equivalent numeracy advisors within the Professional Development Service for Teachers (PDST).⁵⁴ The Strategy requires all schools to engage in school self-evaluation and produce School Improvement Plans from 2012/2013, which include specific targets for the promotion and improvement of literacy and numeracy.⁵⁵ Primary schools are required to have an action plan for either literacy or numeracy in place no later than the end of the school year 2013/2014, with an action plan for the other the following year. All 860 *Delivering Equality of Opportunity in Schools* (DEIS) schools have Action Plans in which literacy is one of the key themes.⁵⁶

51 *Ibid.*

52 Department of Education and Skills, *Literacy and Numeracy for Learning and Life: The National Strategy to improve Literacy and Numeracy among Children and Young People 2011-2020*, Dublin: Department of Education and Skills.

53 Department of Education and Skills, 'Minister Quinn protects frontline education services in Budget 2013' [press release], 5 December 2012, <http://www.education.ie/en/Press-Events/Press-Releases/2012-Press-Releases/PR2012-12-05.html> [accessed 18 January 2013].

54 Information received by the Children's Rights Alliance from the Department of Education and Skills, 28 January 2013.

55 Department of Education and Skills, *Literacy and Numeracy for Learning and Life: The National Strategy to Improve Literacy and Numeracy among Children and Young People 2011-2020*, p. 78.

56 *Ibid.*

In June 2012, a departmental circular was published, providing advice on the implementation of the Strategy.⁵⁷ It states that the 'strengthening of skills in this area is a task for *all* teachers' [emphasis added] and directs that literacy and numeracy be supported across the curriculum. Supports for schools, teachers and principals are being made available through enhanced Continuing Professional Development (CPD)⁵⁸ and a key focus of the PDST over the coming years will be to support post-primary schools (both English- and Irish-medium) in progressing the improvement of literacy and numeracy outcomes.⁵⁹

An extended and restructured Bachelor of Education programme for primary teachers was launched in September 2012, which provides further time for student teachers to learn about literacy and numeracy training.⁶⁰ A similar programme for post-primary teachers is under review by the Teaching Council.⁶¹ The Junior Cycle reform proposals have been published and it is intended that reform will allow schools to provide extra time to support numeracy and literacy and other key skills. Literacy and numeracy are among the eight skills that underpin learning in the new Junior Cycle.⁶² *The Programme for Government* commits to increased time to be spent on literacy in schools, specifying 10 hours per week in DEIS schools and 7.5 hours per week in non-DEIS schools. From January 2012, all primary schools are required to spend 8.5 hours a week on literacy for full-day pupils and 6.5 hours for pupils with a shorter day.⁶³ Progress on reaching these targets is assessed by the Inspectorate.⁶⁴

In November 2012, the Department's *School Self-Evaluation Guidelines* were published,⁶⁵ which aim to support ongoing consultation with parents and provide for reporting to parents on progress in literacy and numeracy.⁶⁶ All schools are required to introduce self-evaluation in the school year 2012/13 and to build capacity to evaluate and report on their work in literacy and numeracy over the next three years.⁶⁷ The Department's June 2012 circular also comments on standardised testing to commence in 2014 and the sharing of assessment information to another primary school or to a post-primary school upon transfer of a child.

Comment

Child Literacy receives a 'B+' grade in *Report Card 2013*, the same as last year's grade. This reflects the continued rollout of the National Literacy and Numeracy Strategy and the retention of its funding under Budget 2013. Overall, this grade reflects a solid effort that will have positive effects on children. Good progress has been made on the implementation of some aspects of the Literacy and Numeracy Strategy, as evidenced in the departmental circular of June 2012 as well as the publication of the *School Self-Evaluation Guidelines*.⁶⁸ This will allow the Strategy to be rolled out and a number of initiatives to be developed such as standardised testing.

Article 28 of the UN Convention on the Rights of the Child provides that every child has the right to education and that States such as Ireland that have ratified the Convention shall promote and encourage international cooperation in matters relating to education, in particular towards the elimination of illiteracy.⁶⁹ Article 29(1) outlines the 'individual and subjective' right to a specific quality of education.⁷⁰ Equipping a child with adequate literacy and numeracy skills is central to their progression from a life of poverty, disadvantage and marginalisation.⁷¹

In December 2012, an international survey showed that Irish pupils ranked 10th out of 45 countries in reading but were placed 17th in mathematics and 22nd in science out of 50

57 Department of Education and Skills (2012), *Circular No. 0025/2012 to Boards of Management, Principal Teachers and Teaching Staff of Post-Primary Schools*, Dublin: Department of Education and Skills.

58 In December 2012 the PDST delivered CPD for literacy link teachers who are to support literacy across the curriculum in post-primary schools. The CPD consisted of a one-day seminar and is to be followed by further CPD for these teachers in the first half of 2013. A range of other literacy and numeracy related CPD opportunities are also available and the Department of Education strongly encouraged principals and teachers to avail of these relevant CPD opportunities and supports.

59 Information received by the Children's Rights Alliance from the Department of Education and Skills, 28 January 2013.

60 Department of Education and Skills, 'Address by the Minister for Education and Skills, Ruairi Quinn TD, to IBEC members' [press release], 21 November 2012, <http://www.education.ie/en/Press-Events/Speeches/2012-Speeches/SP2012-11-22.html> [accessed 18 January 2013].

61 Department of Education and Skills, 'Minister Ruairi Quinn launches Guidelines on School Self-evaluation' [press release], 19 November 2012, <http://www.education.ie/en/Press-Events/Press-Releases/2012-Press-Releases/PR2012-11-19.html> [accessed 18 January 2013]

62 Information received by the Children's Rights Alliance from the Department of Education and Skills, 28 January 2013.

63 Department of Education and Skills (2011), Circular 0056/2011. From January 2012 all primary schools will be required to increase the time spent on the development of literacy skills, particularly in the first language of the school, by one hour overall for language (Irish and English) per week (i.e. to 6.5 hours for infants with a shorter day, and to 8.5 hours per week for students with a full day).

64 Information received by the Children's Rights Alliance from the Department of Education and Skills, 28 January 2013.

65 Ibid.

66 Department of Education and Skills, 'Address by the Minister for Education and Skills, Ruairi Quinn TD, to IBEC members' [press release], 21 November 2012, <http://www.education.ie/en/Press-Events/Speeches/2012-Speeches/SP2012-11-22.html>

67 See www.schoolself-evaluation.ie for more details. Department of Education and Skills, 'Minister Ruairi Quinn launches Guidelines on School Self-evaluation' [press release], 19 November 2012, <http://www.education.ie/en/Press-Events/Press-Releases/2012-Press-Releases/PR2012-11-19.html>

68 Department of Education and Skills (2012), *Circular No. 0025/2012*.

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

70 UN Committee on the Rights of the Child (2001), General Comment No.1: The aims of education, CRC/GC/2001/1, paragraph 9.

71 LOCAL FOCUS: *The Sligo Champion*, 'The importance of literacy and numeracy in early childhood', 11 September 2012.

countries.⁷² While above average, Ireland was not placed among the top performing countries in any of the tests.⁷³ The rankings in relation to mathematics and science in particular expose the need for a focus on numeracy in schools.

Family, community and parental engagement is a central pillar of the *National Literacy and Numeracy Strategy*.⁷⁴ The involvement of parents in developing their child's language and literacy skills cannot be underestimated. Implementation of this element of the Strategy should be prioritised.

Since 2005, the DEIS programme⁷⁵ has offered a range of literacy and numeracy programmes with lower pupil-teacher ratios and an enhanced allocation of teachers under the General Allocation Model for learning support in certain DEIS schools, as well as initiatives including the Community Liaison Scheme and the School Completion Programme.⁷⁶ The results of an evaluation of DEIS, published in January 2012, showed that the programme is having a positive effect on combatting disadvantage in education and improvements in the learning achievements of pupils in DEIS primary schools in urban areas. Improvements were also shown in reading and mathematics at 2nd, 3rd and 6th class levels.⁷⁷ The Department is currently conducting a survey of selected schools on spending of DEIS funding. This is to identify supports provided under the DEIS grant that are key to the school's delivery on its DEIS Action Plan. The outcome of this and other evaluations will assist with planning future educational disadvantage strategies.⁷⁸ At present, existing DEIS schools continue to operate under year-to-year funding. The commencement of specialised initiatives in literacy and numeracy development under the Strategy, with targeted CPD opportunities for teachers in DEIS schools in particular, is most welcome.

It is also important to ensure a focus exists on literacy and numeracy for children in mainstream non-DEIS schools. In 2009, ESRI research showed that DEIS's focus on 'concentrated' rather than 'dispersed' disadvantage meant that 61% of students from disadvantaged backgrounds did not attend DEIS schools.⁷⁹ Literacy and numeracy is not just about disadvantage: children with special educational needs, children with speech and language difficulties or children in detention schools all have specific literacy and numeracy needs that must be addressed.⁸¹



Immediate actions for 2013

Continue rollout of the National Literacy and Numeracy Strategy

Continued investment and focus is needed to ensure successful rollout of the National Literacy and Numeracy Strategy in 2013.

Develop a follow-up strategy for the Delivering Equality of Opportunity in Schools (DEIS) programme

DEIS has been found to positively impact on disadvantage in education. It has a key role to play in tackling literacy and numeracy difficulties. Due to the persistent lack of clarity as to the future of the DEIS programme, a strong commitment to the future of the programme should be made. A strategy should be developed that clearly outlines the future strategic direction of the programme based on long-term funding. As DEIS Schools were originally designated eight years ago, in 2005, there is a need to re-assess and potentially re-designate the DEIS status, as the level of disadvantage experience in an area may change.

72 TIMSS and PRILS International Study Center and International Association for the Evaluation of Educational Achievement (2012), *International Reading Literacy Study and the Trends in International Mathematics and Science Study 2011*, Boston: International Study Center.

73 *Ibid.*

74 Chapter 3: Enabling parents and communities to support children's literacy and numeracy development.

75 The DEIS Programme aims to address the educational needs of children and young people from disadvantaged communities, from pre-school through second-level education. It is implemented on a phased basis at a total cost of over €900 million.

76 These supports are available in DEIS Band 1 Schools. Supports available in DEIS schools through the Home School Community Liaison Scheme and the School Completion Programme include Reading Recovery, First Steps, Mathematics Recovery, Ready and Steady Go Maths. Information received by the Children's Rights Alliance from the Department of Education and Skills, 28 January 2013.

77 Department of Education and Skills (2011) *An Evaluation of Planning Processes in DEIS primary schools, An Evaluation of Planning Processes in DEIS Post-Primary Schools*, Dublin: Inspectorate, Department of Education and Skills and Educational Research Centre ; Educational Research Centre (2011) *A report on the first phase of the evaluation of DEIS*, Dublin: Educational Research Centre

78 The evaluation report in relation to rural schools was completed and published in 2009: S. Weir, P. Archer and D. Millar (2009) *Educational Disadvantage in Primary Schools in Rural Areas Report No. 1: Analysis of English Reading and Mathematics Achievement in Schools in the Rural Dimension of the Schools Support Programme*, Dublin: Education Research Centre.

79 Economic and Social Research Institute (2008) *The School Leavers' Survey 2007*. Dublin: Economic and Social Research Institute.

80 E. Smyth and S. McCoy (2009) *Investing in Education, Combating Educational Disadvantage*, Dublin: Economic and Social Research Institute.

81 Children's Rights Alliance (2011) *Children's Rights Alliance Submission in relation to A Draft National Literacy Plan to Improve Literacy and Numeracy in Schools*, Dublin: Children's Rights Alliance.

2.3 Children with Special Educational Needs

Government Commitment

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

Progress

Very Slow



What's happening?

The new plan for implementing the Education for Persons with Special Educational Needs (EPSEN) Act 2004 is yet to be published. Funding remains in Budget 2013. The NCSE is developing policy options.

A detailed Implementation Plan for the Education for Persons with Special Educational Needs (EPSEN) Act 2004 was published in 2006⁸², but its delivery was put on hold due to cost. Further implementation of the Act itself was deferred by the previous government in 2008 due to the prevailing economic circumstances.⁸³ An estimate from the National Council for Special Education (NCSE) on the cost of the full implementation of the EPSEN Act suggests that an additional investment of up to €235m a year over a period of years, across the education and health sectors, would be required.⁸⁴ The Department of Education and Skills is of the opinion that the level of investment required would be greater than that envisaged in the NCSE report.⁸⁵

In June 2012, the Minister for Education and Skills announced that he has sought advice from the NCSE on policy options on how best to provide educational supports for students with special educational needs with the opportunity to participate and benefit from education as well as to develop his or her potential in line with provisions of the EPSEN Act.⁸⁶ It is also expected to address how additional resources might be allocated and utilised for the provision of individual education plans for students. The NCSE conducted consultations with relevant stakeholders to ascertain their views on the service provision and to inform the advice which is expected to be provided to the Minister in early 2013. It will assist in the development of a plan to bring into effect elements of the EPSEN Act through policy developments across a range of areas.⁸⁷

82 National Council for Special Education (2006), *Implementation Report: Plan for the Phased Implementation of the EPSEN Act 2004, as submitted to the Minister for Education and Science*, 1 October 2006, Kildare: NCSE.

83 Batt O'Keeffe TD, Minister for Education and Science, Parliamentary Questions: Written Answers, [45337/08], Dáil Debate, 9 December 2008, Vol. 670 No. 1.

84 Ruairí Quinn TD, Minister for Education and Skills, Parliamentary Questions: Written Answers [19162/11], Dáil Debate, 7 July 2011, Vol. 738 No. 1. The NCSE estimate was made in 2006.

85 Ibid.

86 Section 4(6) and section 7(3) EPSEN Act 2004.

87 Information received by the Children's Rights Alliance from the Department of Education and Skills, 28 January 2013.

There was no reduction in Budget 2013 in the overall number of whole time equivalent Special Needs Assistants (SNAs) (10,575 posts)⁸⁸ or Resource Teachers (9,950 posts).⁸⁹ In December 2010, the previous Government placed a cap on the number of SNAs at 10,575 whole-time equivalent posts under the *National Recovery Plan*⁹⁰: this cap remains in place. Allocations will continue to be managed within existing resources.

Two major policy pieces were published in 2012 by the National Council for Special Education, *the Education of Children with Challenging Behaviour arising from Severe Emotional Disturbance and Behavioural Disorders and the Education of Deaf and Hard of Hearing Children in Ireland*.⁹¹

Comment

Children with Special Educational Needs, gets a 'D' grade this year, a decrease from last year's 'C' grade to reflect the lack of action on the commitment to further the implementation of the EPSEN Act. This is despite the *Programme for Government* commitment to publish a plan for the implementation of the EPSEN. The section was not given a lower grading in light of the protection of supports for children with special educational needs in Budget 2013.

The right to education under Article 28 of the UN Convention on the Rights of the Child extends to all children. Children have the basic right to development and the State must ensure that every child's right is vindicated to the maximum extent possible regardless of ability. One of the aims of education under the Convention is the development of the child's personality, talents and mental and physical abilities to their fullest potential.⁹² Children with disabilities have the right to assistance, appropriate to the child's condition that is designed to ensure that the child has effective access to education and receives that education in a manner conducive to the child's achieving the fullest possible social integration and individual development.⁹³

An estimated 25% of children in Ireland have special educational needs.⁹⁴ Historically, many of these children were isolated from mainstream education, as they were not expected to achieve at school, either academically or socially. Now, it is recognised that children with special educational needs can thrive in a mainstream education environment, once they are properly supported; indeed their presence has been shown to have a positive impact on classmates and the school as a whole.⁹⁵ Exceptionally able or 'gifted' children may also have special educational needs, but they are not included in the figure above; these children can become bored and frustrated in school and are often uncomfortable or self-conscious about their ability.⁹⁶ There is no national policy or standardised special educational provision to cater for this group of children in Irish schools.

88 LOCAL FOCUS: Wexford People, 'Mother fears Government will wield axe on more SNAs', 2 May 2012.

89 This figure cannot be exceeded under the Employment Control Framework (ECF) agreed by the Department of Education and Skills for the period 2011-2014.

90 This is a small increase on the 10,543 SNA posts in place in December 2010. Department of Education and Skills (2011), *Circular 0006/2011*, http://www.education.ie/en/Circulars-and-Forms/Active-Circulars/cl0006_2011.pdf [accessed 18 January 2013].

91 National Council for Special Education, 'Policy Advice', http://www.ncse.ie/policy_advice/policy.asp [accessed 18 January 2013].

92 UN Convention on the Rights of the Child, A/RES/44/25 (20 November 1989), Article 29.

93 *Ibid.*, Article 23.

94 This estimate is based on the definition of special educational needs found in the EPSEN Act 2004 and interpreted in broad terms taking into account the perspective of both parents and teachers. Boys show a higher prevalence at 29% with girls at 21%. National Council for Special Education (2011) *A Study on the Prevalence of Special Educational Needs: National Council for Special Education Research Report No.9*, Dublin: National Council for Special Education, p. 96.

95 S. Griffin and M. Shevlin (2007), *Responding to Special Educational Needs: an Irish Perspective*, Dublin: Gill and MacMillan, p. 76.

96 National Council for Curriculum and Assessment (2007), *Exceptionally Able Students: Draft Guidelines for Teachers*, Dublin: NCCA.

The EPSEN Act 2004 provides the legislative framework for the assessment of need for children with special educational needs; the preparation and implementation of individual education plans; and the delivery of services.⁹⁷ *The Programme for Government* commits to publishing a revised implementation plan which will prioritise access for children with special needs to an individual education plan. In 2011, the Department of Education and Skills indicated that it was reviewing the parts of the EPSEN Act that have not been implemented; preparing a plan for implementation recognising the fiscal situation; and looking at the elements that can be implemented on a cost neutral basis.⁹⁸ Sustained energy is needed to ensure such a plan is launched in 2013 and substantial progress is made by 2014, the ten year anniversary of the passing of the Act.

To date, only certain sections of the Act have been commenced, primarily those concerned with the establishment of the National Council for Special Education.⁹⁹ The key provisions that would make a real difference to the daily lives of children with special educational needs¹⁰⁰ – on individual education plans and the appeals process – remain outstanding. When commenced in full, the EPSEN Act will provide additional entitlements to children with special educational needs, and benefit a larger cohort of children than those deemed to have had entitlements under previous statutory provisions.

Supports: Children with special care needs arising from a disability, attending a mainstream school, can be allocated a Special Needs Assistant (SNA). SNAs provide care (rather than educational) support, such as assisting a child with eating or visiting the bathroom.¹⁰¹ Over 10,400 SNAs were deployed in 2012 in mainstream and special schools to meet the needs of over 22,000 children.¹⁰² The remaining posts are withheld to respond to urgent applications for support throughout the school year.¹⁰³ Entitlement to SNA support remains problematic as posts are allocated to schools on the basis of the assessed care needs of children, rather than attaching to a particular child, thus entitlement to SNA support does not transfer automatically with a child from one school to the next.¹⁰⁴ In addition, training is not mandatory and a large number of SNAs have not undertaken training programmes¹⁰⁵, and issues have arisen on the clarity of the role among teachers, parents and SNAs themselves.

An additional 430 Resource Teacher posts were allocated to approximately 1,700 schools in 2012. Children with special educational needs, attending a mainstream school, are provided with additional resource teaching hours. These posts are an early intervention measure and are vital to support children struggling with a particular aspect of learning – for example literacy or mathematics. Almost 10,000 learning support/resource teacher posts were allocated to schools to provide additional support to pupils with special educational needs in 2012, including those provided under the General Allocation Model.

- 97 In the absence of full commencement of the EPSEN Act, some steps have been taken: in 2006 the NCSE published guidelines on the individual education plan process and issued them to all schools. The Special Education Support Service (SESS) has commenced a series of training programmes for teachers on the individual education planning process.
- 98 Information received by the Children’s Rights Alliance from the Department of Education and Skills through the Community and Voluntary Pillar Education Linkage Group, October 2011.
- 99 The following sections of the Education for Persons with Special Education Needs Act, 2004 [no. 30 of 2004] have been commenced – 1, 2, 14(1)(a), 14(1)(c), 14(2) to 14(4), 19 to 37, 40 to 53. These cover the adoption of the policy of inclusive education, the establishment of the NCSE, its staff, functions, etc, the adoption of the policy of detailed record keeping by the NCSE in the interest of provision to children with special educational needs, where requested, the support of local health boards in the work of the NCSE, the establishment of the duty of schools with respect to children with special educational needs and some amendments to the Education Act (1998), e.g. the definition of disability.
- 100 A child is deemed to have a special educational need if he or she requires substantial additional educational provision in comparison with his/her peers (definition in S. Griffin and M. Shevlin (2007) *Responding to Special Educational Needs: An Irish Perspective*, Dublin: Gill and Macmillan).
- 101 For full details see: Department of Education and Skills (2002), Circular SP. ED 07/02, <http://www.education.ie/en/Circulars-and-Forms/Archived-Circulars/Applications-for-Full-or-Part-time-Special-Needs-Assistant-Support-to-Address-the-Special-Care-Needs-of-Children-with-Disabilities-.pdf> [accessed 18 January 2013].
- 102 National Council for Special Education, ‘A further €28m provided for additional teaching and care supports for children with special educational needs’, [press release] 13 November 2012, http://www.google.ie/url?sa=t&rc=1&q=&esrc=s&source=web&cd=1&ved=0CCOQFjAA&url=http%3A%2F%2Fwww.ncse.ie%2Fuploads%2F1%2F_Press_Release.doc&ei=enr2UP3qD9GEhQfj_oCwCg&usq=AFQjCNEbkSRw8WPrRnBSOUwndnuH-8_sdQ&sig2=GBrJivtwpao2KwTGkKriw&bv=41018144.d.ZG4 [accessed 18 January 2013].
- 103 Ibid.
- 104 Joint Oireachtas Committee on Education and Skills (2010), *First Report –Staying in Education: A New Way Forward, school and out-of-school factors protecting against early school leaving*, http://www.oireachtas.ie/documents/committees30thdail/j-educationscience/reports_2008/20100525.pdf [accessed 18 January 2013], p. 110.
- 105 The minimum educational requirement for SNAs is a grade ‘D’ at Junior Certificate, the job description states that this is a care role only. The Department of Education and Skills provides an accredited 20 hour induction programme (one week in August and weekend seminars during the year). FETAC level 5-6 training courses are also available, as are courses by private providers. In 2010, just 1,484 SNAs undertook an introductory training programme and 480 had undertaken a certificate programme. Department of Education and Skills (2011), *The Special Needs Assistant Scheme: A Value for Money Review of Expenditure of the Special Needs Assistant Scheme 2007/08-2010*, Dublin: Department of Education and Skills.

The protection of SNAs and Resource Teachers in Budget 2013 at 2012 levels is welcome. The request for advice from the National Council for Special Education on policy options for the future allocation of SNAs and Resource Teachers is also a positive step. Given the cap in the allocation of SNAs and Resource Teachers, future decisions on support for children with special educational needs must take into account how best to meet increased demand due to the rising enrolments figures in schools.¹⁰⁶

While the current Government commitment focuses on children with special needs in schools, it is important that the Government takes a holistic approach to supporting children with special needs. 2012 saw much concern raised about the lack of future supports for young people with special needs on leaving school (school-leavers with disabilities are four times less likely to progress to higher education).¹⁰⁷ There was also dismay regarding the cut to the Respite Care Grant for carers in Budget 2013, many of whom are caring for a child with special needs.

Effective coordination and integrated working between the Department of Education and Skills and the Health Service Executive is essential to providing appropriate, timely and effective services to children with special educational needs, yet anecdotal evidence suggests that on the ground, communication between these two bodies is challenging and taking time to develop.¹⁰⁸ Now, as resources are tighter, collaborative working, integrated services and information sharing is vital. Children with special educational needs rely heavily on State supports – appropriately provided and administered early – to improve their educational experience and outcomes. The distress and frustration felt by children and their parents, when access to these supports is not clear or straightforward is significant. Provision of special educational needs services to the children that need them is not an optional extra; it is a basic right that must be vindicated by the State. There should be stronger integration between the policies for the assessment of health and special educational needs which should be both congruent and complementary.

Immediate actions for 2013



Publish and begin action on the plan to fully implement the EPSEN Act 2004, on foot of the National Council for Special Education policy advice

The forthcoming NCSE policy advice, based on consultation, is a welcome step however, the ongoing delay in publishing a revised EPSEN implementation plan means that significant provisions of the Act remain uncommenced. The current level of investment and supports for children with special educational needs must be maintained in Budget 2014.



106 For more details on the expected increase in the number of school-goers over the next 5 years, see: Department of Education and Skills, 'Minister Quinn announces details of 275 major school building projects – More than 15,000 jobs to be created over five years' [press release], 12 March 2012, <http://www.education.ie/en/Press-Events/Press-Releases/2012-Press-Releases/PR12-03-12.html> [accessed 14 January 2013].

107 Association for Higher Education Access Disability and Féach (2008), *Seeing Ahead: A Study of Factors Affecting Blind and Visually Impaired Students going on to Higher Education*, Dublin: AHEAD, p.64.

108 Information received by the Children's Rights Alliance from Disability Federation Ireland, January 2013.

B

2.4 School Buildings

Government Commitment

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

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

Progress**On Track****What's happening?**

A major capital investment programme has been launched to build new schools and replace rented prefabs. Some schools have difficulties funding necessary repairs.

Budget 2013 provided for €414 million in capital expenditure in education, with €370 million to be spent on the Schools Building Programme¹⁰⁹, above the multi annual investment commitment for 2013 which was €364 million.¹¹⁰ In March 2012, a €2 billion, five-year capital investment programme was launched by the Minister for Education and Skills, Ruairi Quinn TD, involving over 275 new major school projects that are planned to proceed to construction over the duration of the plan.¹¹¹ It is the first time the Department of Education and Skills has published such a plan for school buildings. The programme will provide over 171 new school buildings and major extensions at primary level, over 92 new school buildings and large scale extensions¹¹² and 12 new special schools buildings and large scale. In September 2012, six new school buildings were delivered under the Department of Education and Skills' 'Rapid Delivery' programme.¹¹³

A major initiative to replace rented prefabs in schools in almost 200 schools was announced in March 2012 with an allocation of €35 million in 2012.¹¹⁴ Over a third of all schools that currently rent prefabs (almost 200 schools) were offered grants to build permanent accommodation for

- 109 In July 2012, the European Investment Bank provided a loan of €100 million to support the Department of Education and Skills' capital investment programme in educational infrastructure. Department of Education and Skills, 'Minister Quinn protects frontline education services in Budget 2013' [press release], 5 December 2012, <http://www.education.ie/en/Press-Events/Press-Releases/2012-Press-Releases/PR2012-12-05.html> [accessed 18 January 2013]. See also, Department of Education and Skills, 'Minister Quinn welcomes €100m loan from the European Investment Bank in support of the Department's School Building Programme', [press release], 6 July 2012, <http://www.education.ie/en/Press-Events/Press-Releases/2012-Press-Releases/PR12-07-06.html> [accessed 18 January 2013].
- 110 Department of Public Expenditure and Reform (2011), *Infrastructure and Capital Development 2012-2016: Medium Term Exchequer Framework*, Dublin: Stationery Office.
- 111 Department of Education and Skills, 'Minister Quinn announces details of 275 major school building projects – More than 15,000 jobs to be created over five years' [press release], 12 March 2012, <http://www.education.ie/en/Press-Events/Press-Releases/2012-Press-Releases/PR12-03-12.html> [accessed 18 January 2013]. *The Department's Statement of Strategy 2011-2014*, published in April 2012, contains several specific objectives in relation to school buildings in the context of a five year plan for educational infrastructure at primary and second level. Department of Education and Skills (2011), *Statement of Strategy 2011-2014*, Dublin: Department of Education and Skills, p. 13.
- 112 Information received by the Children's rights Alliance from the Department of Education and Skills, 28 January 2013.
- 113 The 'Rapid Delivery' programme was established to provide a response to the need for schools to be delivered quickly to areas experiencing rapid population growth where there is no existing provision or that provision is inadequate.
- 114 Department of Education and Skills, 'Minister Quinn announces €35 million initiative to replace rented prefabs with permanent classrooms in schools' [press release], 1 March 2012; <http://www.education.ie/en/Press-Events/Press-Releases/2012-Press-Releases/PR12-03-01c.html> [accessed 18 January 2013].

the approximately 6,000 pupils that are currently being taught in 1,531 prefabs rented at primary and post-primary schools. This initiative is intended to result in savings on the rental of prefabs amounting to approximately €5 million per annum. Spending on renting temporary accommodation at primary and post-primary schools in 2012 was €24.7 million a reduction of almost €10 million on the €39 million spent in 2009. In April 2012, approval was given for construction to begin in 77 schools to replace the rented prefabs with permanent accommodation.¹¹⁵

In June 2012, tenders were invited for the development of inventories of school accommodation in a pilot study.¹¹⁶ The study involves a detailed survey of existing school facilities in five pilot areas, an appraisal of school site and school site options and an overview of wider educational facilities, community assets and public amenities in each of the areas.

The Minor Works Grant, received by 93% of schools and used for essential maintenance work was no longer made available in 2012 and is not expected to be available over the coming years.¹¹⁷

Comment

School Buildings gets a 'B' grade in *Report Card 2013*, the same as last year's 'B' grade to reflect the launch of a significant five year €2 billion programme to build and upgrade school buildings and replace prefabricated accommodation, bringing to life the *Programme for Government* commitment. Overall, this grade reflects a very good effort that will have a positive effect on children's experience of school.

Total enrolment in Irish schools is expected to increase by approximately 70,000 pupils between 2012 and 2018 – 45,000 at primary level (almost 31,000 before 2014) and 25,000 students at post-primary level with second level enrolment expected to continue to grow until 2024 at the earliest.¹¹⁸ The building programme will provide 100,000 additional permanent school places, over 80,000 of which will be new school places with the remainder replacing temporary or unsuitable accommodation. The launch of the pilot study for the development of inventories of school accommodation is welcome in order to ensure that adequate information is available to decision-makers in school planning at a local level. However, with over 3,000 primary schools in the State, an overarching long-term school replacement programme should be developed to ensure that decisions are not solely made in response to impending crises in the short to medium-term.

In its most recent review of Ireland, the UN Committee on the Rights of the Child recommended that the State ensure that budgetary allocations are directed at improving and upgrading school buildings, recreational equipment and facilities, and the sanitary conditions in schools.¹¹⁹ The Government is to be praised for its commitment and investment in this area.

115 Department of Education and Skills, 'Minister Quinn announces funding of €14 million allowing almost 80 schools to replace prefabs with permanent classrooms' [press release], 23 April 2012, <http://www.education.ie/en/Press-Events/Press-Releases/2012-Press-Releases/23%20April,%202012%20-%20Minister%20Quinn%20announces%20funding%20of%20%E2%82%AC14m%20allowing%20almost%2080%20schools%20to%20replace%20prefabs%20with%20permanent%20classrooms.html> [accessed 18 January 2013].

116 Department of Education and Skills, 'Pilot Study on School Accommodation to commence' [press release], 12 June 2012, <http://www.education.ie/en/Press-Events/Press-Releases/2012-Press-Releases/12-June-2012-Pilot-Study-on-School-Accommodation-to-commence.html> [accessed 18 January 2013].

117 Ruairi Quinn TD, Minister for Education and Skills, Parliamentary Questions: Written Answers [49949/12], Dáil Debate, Vol. 774 No. 5, November 2012.

118 Department of Education and Skills, 'Minister Quinn announces details of 275 major school building projects – More than 15,000 jobs to be created over five years' [press release], 12 March 2012, <http://www.education.ie/en/Press-Events/Press-Releases/2012-Press-Releases/PR12-03-12.html> [accessed 18 January 2013].

119 UN Committee on the Rights of the Child (2006), *Concluding Observations: Ireland*, CRC/C/IRL/CO/2, paragraph 59(b).

Concerns remain as to the process of procurement of school building contracts. Relative marks applicable to 'school design quality' rank below the 'cost of architectural services' in the list of criteria in the process, for example.¹²⁰ The result is that architectural firms bidding for contracts offer fees at unrealistically low prices leading to concerns that corners are cut in order to complete the task. There are also fears that the prescriptive nature of school design briefs given to architects by the Department of Education and Skills do not allow for the changing nature of teaching and learning, in particular relating to IT developments in education.¹²¹ Revised procedures for tendering for design teams have been published by the Department of Education and Skills on its website which will come into force early in 2013.¹²² In addition, whilst the process of building new schools is complicated, in particular in complying with procurement requirements, the process should continue to be streamlined in as far as is possible.

It is also worrying that while some schools will benefit from new and upgraded buildings, over half of schools in a 2012 survey reported that they are operating under a budget deficit with regard to general funding.¹²³ The Minor Works Grant was reported as being 'absolutely necessary' to the maintenance of buildings and grounds by 72% of respondents. Every effort should be made to restore the grant in Budget 2014 or to put in place an equivalent mechanism. Shifting the burden of payment to parents to fix continuing problems such as leaking roofs is unsustainable, particularly in disadvantaged areas with over half of school respondents in these areas reporting having difficulties in funding maintenance and repair works to deteriorating buildings.¹²⁴



Immediate actions for 2013

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

The investments made as part of the five-year building programme to build new classrooms and to replace unsatisfactory or prefab accommodation are significant. Funding for this programme should be maintained in order to ensure that it is brought fully to fruition. Quality of design should also be a priority in the selection of firms bidding for contracts for school building design contracts.



120 In the award process, a total of 75 marks may be awarded for fees, hourly rates and resources with only a 25 marks total for architecture design. Frank McDonald, 'Building schools: could do better' *The Irish Times*, 6 November 2012. Original source requested from RIAI - unavailable before going to print.

121 *Ibid.*

122 Information received by the Children's rights Alliance from the Department of Education and Skills, 28 January 2013.

123 Catholic Primary Schools Management Association, Survey on School Funding carried out by Amárach Research, November 2012. The survey received 540 responses from a total of 2,900 primary schools nationwide. 86% of primary schools reported to rely on ad-hoc funding to make up shortfalls in funding; 43% asked parents to make an annual 'voluntary contribution' and 25% were forced to rent out property to raise funds.

124 *Ibid.*

LOCAL FOCUS: *Clare Champion*, 'Crowe unaware of conditions at Parteen National School', 21 June 2012.

2.5 Patronage and Pluralism in Education

Grade: **B+**

Government Commitment

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

Progress Completed

Government Commitment

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

Progress On track

What's happening?

The final report of the Forum on Patronage and Pluralism has been published. The Ministerial action plan has been issued and pilot parental surveys completed.



The Forum on Patronage and Pluralism in the Primary Sector, launched in April 2011¹²⁵ has completed its work, keeping within its one year remit.¹²⁶ The final report of the Forum's Advisory Group was published by the Minister for Education and Skills, Ruairí Quinn TD, in April 2012.¹²⁷ In June 2012, the Minister released an action plan in response to the recommendations of the Advisory Group's report. The Government has also committed to drawing up a White Paper in relation to promoting inclusiveness in all schools.

The Forum on Patronage and Pluralism in the Primary Sector focused on three themes.¹²⁸ The Forum's Advisory Group engaged with stakeholders on a number of occasions between April and November 2011.¹²⁹ In total, the forum received 220 submissions and consulted with 81 children.

125 The Forum comprised Professor John Coolahan (Chair); Dr Caroline Hussey and Fionnuala Kilfeather.

126 Patronage refers to the ownership and management of schools. In Ireland, the vast majority of primary schools are privately owned and supported by different churches. The State pays the bulk of the building and running costs and a local contribution is made towards the running costs.

127 J. Coolahan et al. (2012) *The Forum on Patronage and Pluralism in the Primary Sector: Report of the Forum's Advisory Group* (2012), <http://www.education.ie/en/Press-Events/Conferences/Patronage-and-Pluralism-in-the-Primary-Sector/The-Forum-on-Patronage-and-Pluralism-in-the-Primary-Sector-Report-of-the-Forums-Advisory-Group.pdf> [accessed 18 January 2013].

128 Department of Education and Skills (2011), *Launch of the Forum on Patronage and Pluralism in the Primary Sector: Speech by Minister for Education Ruairí Quinn TD*, <http://www.education.ie/en/Press-Events/Conferences/Patronage-and-Pluralism-in-the-Primary-Sector/19-April-2011-Address-by-the-Minister-for-Education-and-Skills-at-the-launch-of-the-Forum.pdf> [accessed 18 January 2013].

129 The Forum invited initial submissions from 13 key stakeholders in April 2011 and from other interest groups and the public in June. Public working sessions took place in June and November 2011 and further written submissions invited from attendees. See: Department of Education and Skills, 'Diversity of Patronage: Information', <http://www.education.ie/en/Schools-Colleges/Information/Diversity-of-Patronage/Diversity-of-Patronage-Survey-of-Parents.html> [accessed 12 December 2012]. See also: Children's Rights Alliance (2012), *Forum on Patronage and Pluralism: Letter to Minister Quinn*, <http://www.childrensrights.ie/resources/forum-patronage-and-pluralism-letter-ministerquinn> [accessed 18 January 2013].

In its final report, the Advisory Group put forward three key recommendations. The first recommendation related to the divesting of patronage, which would take place in a phased process. The process begins with the Department of Education and Skills gathering information on the demand for divestment through a parental survey: work has begun on parental surveys in 44 areas (now 43) across Ireland.¹³⁰ A report on the options for patronage would then be compiled and patrons¹³¹ will be required to respond within a definite timeframe. This will occur alongside a programme of provision of new schools in areas of population growth, the patronage of which would be based on parental demand.

Secondly, the Advisory Group made a number of recommendations concerning the provision of Irish (language) medium schools, including the piloting of the concept of a 'satellite' school, which would be linked to a well-established 'parent' Irish medium school.

The Advisory Group's third recommendation drew attention to the issues affecting 'stand-alone' schools (where there is no other choice of school nearby) and focused on how these schools can be more inclusive and respect the constitutional rights of all children.

In addition to these three central aspects of the Forum report, Minister Quinn announced his intention to request the National Council for Curriculum and Assessment (NCCA) to explore the development of an Education about Religion and Beliefs (ERB) and Ethics programme, with education partners and religious interests.¹³² The NCCA envisages incorporating into the new programme lessons learnt from the 'Goodness Me, Goodness You' multi-belief programme¹³³, which it has managed since October 2012. The project is not expected to commence until late 2013, due to current resource constraints at the NCCA.¹³⁴ However approval has been granted for the appointment of an Education Officer for Ethics and Religious Beliefs, with a three year fixed term contract, which is now to be filled.¹³⁵

In June, the Department of Education and Skills commenced the survey of parents regarding the possible divestment of existing patronage in 43 areas across Ireland.¹³⁶ These areas were identified as suitable for some divestment from existing denominational patronage by virtue of having few or no multi-denominational primary schools, and because the option of building a new school is not feasible due to insufficient population growth.¹³⁷

The parental survey was initially piloted in five of the 43 identified areas. Over a period of three weeks in autumn 2012, parents were invited to respond to an online survey seeking their views on patronage, and the Department ran an accompanying helpline. Approximately 40% of parents in these five areas participated.¹³⁸ A report on this initial pilot phase was published in December 2012, showing sufficient parental demand to support some changes in school patronage in each of the five areas.¹³⁹ In early January 2013, eligible parents within the remaining 38 areas were invited to provide their contributions to the survey. The existing patrons will be given three months to provide an interim response to the Department after consulting with their local school communities, and six months for a final response.¹⁴⁰

130 The figure of 44 has now been reduced to 43.

131 Patrons are bodies which establish schools, appoint the Board of Management of the school and also determine the ethos of the school. Their responsibilities are set out in law under the Education Act, 1998.

132 Department of Education and Skills, 'Minister Quinn outlines his Action Plan in response to the report of the Advisory Group to the Forum on Patronage and Pluralism in the Primary Sector' [press release], 20 June 2012, <http://www.education.ie/en/Press-Events/Press-Releases/2012-Press-Releases/20-June-2012-Minister-Quinn-outlineshis-Action-Plan-in-response-to-the-report-of-the-Advisory-Group-to-the-Forum-on-Patronage-and-Pluralism-in-the-Primary-Sector-.html> [accessed 19 November 2012].

133 'Goodness Me, Goodness you' is a common multi-belief programme run by the VEC in the six community national schools across Ireland.

134 Information received by the Children's Rights Alliance from the NCCA, December 2012.

135 Information received by the Children's Rights Alliance from the Department of Education and Skills, 28 January 2013.

136 The list of areas is available in a press release at Department of Education and Skills, 'Minister Quinn outlines his Action Plan in response to the report of the Advisory Group to the Forum on Patronage and Pluralism in the Primary Sector' [press release], 20 June 2012, <http://www.education.ie/en/Press-Events/Press-Releases/2012-Press-Releases/20-June-2012-Minister-Quinn-outlineshis-Action-Plan-in-response-to-the-report-of-the-Advisory-Group-to-the-Forum-on-Patronage-and-Pluralism-in-the-Primary-Sector.html> [accessed 19 November 2012].

137 Department of Education and Skills, 'Minister Quinn asks parents for their views on patron options for primary schools' [press release], 22 October 2012, <http://education.ie/en/Press-Events/Press-Releases/2012-Press-Releases/PR12-10-22.html> [accessed 19 November 2012].

138 Katherine Donnelly, 'Just 40pc vote on handover of schools', *Irish Independent* [online], 14 November 2012; Department of Education and Skills, Report on the pilot surveys regarding parental preferences on primary school patronage (2012), <http://www.education.ie/en/Publications/Education-Reports/Report-to-New-Schools-Establishment-Group-on-the-pilotsurveys-regarding-parental-preferences-on-primary-school-patronage.pdf> [accessed 17 December 2012].

139 Department of Education and Skills (2012) *Report on the pilot surveys regarding parental preferences on primary school patronage* (<http://www.education.ie/en/Publications/Education-Reports/Report-to-New-Schools-Establishment-Group-on-the-pilot-surveys-regarding-parental-preferences-on-primary-school-patronage.pdf> [accessed 17 December 2012].

140 Department of Education and Skills, 'Pilot surveys on parental patronage preferences show demand for diversity' [press release], 12 December 2012, <http://www.education.ie/en/Press-Events/Press-Releases/2012-Press-Releases/PR12-12-12.html> [accessed 13 December 2012].

Comment

Patronage and Pluralism in Primary Education gets a 'B+' grade in *Report Card 2013*, a rise from last year's 'B' grade. This is a very positive grade, reflecting the timeliness of the action taken to finalise the Advisory Group's report; the openness with which the Forum's activities have taken place, including the degree of consultation at local level; the comprehensive action plan put forward by the Minister in response to the Advisory Group's report; and the speed with which the pilot survey of parents was concluded and its findings published. This grade reflects a very good effort that will bring us closer to respecting diversity in education.

Every child's right to education is guaranteed under the UN Convention on the Rights of the Child (Article 28), as is the right to 'freedom of thought, conscience and religion' (Article 14). Of specific relevance to the issue of patronage is Article 2, which states that 'State Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion [...]'¹⁴¹ *General Comment No.1* (2001) of the UN Committee on the Rights of the Child notes that Article 29 (1) (aims of education) provides that education should be directed by a wide range of values, overcoming the boundaries of religion, nation and culture. The Committee continues by stating that 'the school environment itself must thus reflect the freedom and the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin called for in Article 29 (1) (b) and (d).'¹⁴²

The Committee's 2006 *Concluding Observations* on Ireland called for the establishment of multi-denominational and non-denominational schools and recommended that the existing legislative framework be amended to eliminate discrimination in school admissions.¹⁴³ Similarly, in their *Concluding Observations* on Ireland in 2011, the Committee for the Elimination of Racial Discrimination (CERD) recommended that the State accelerate its efforts to establish alternative, non-denominational or multi-denominational schools and to amend the existing legislation that inhibits students from enrolling into a school because of their faith or belief.¹⁴⁴ In March 2012, the Government accepted a recommendation made during the Universal Periodic Review process requesting that efforts be accelerated in establishing a national network of schools to guarantee equal access to children irrespective of their religious, cultural or social background.¹⁴⁵

The parental survey initiative is to be welcomed. However despite efforts to publicise the survey, the 40% rate of participation could be considered low¹⁴⁶ and thus may not be seen as representative.¹⁴⁷ Comprehensive reform of the 180 year-old primary education system to accommodate the diversity now present within the Irish population, both among Irish and migrant families, is clearly needed. Today, 96% of schools have a religious patron, with 89.6% under the patronage of the Catholic Church.¹⁴⁸ The challenge is not to re-design the primary system, but to adapt it to be more inclusive and to devise new forms of patronage.¹⁴⁹

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

142 UN Committee on the Rights of the Child (2001), *General Comment No.1: The aims of education*, CRC/GC/2001/1.

143 UN Committee on the Rights of the Child (2006), *Concluding Observations: Ireland*, CRC/C/IRL/CO/2, paragraph 61.

144 UN Committee on the Rights of the Elimination of Racial Discrimination (2011), *Concluding Observations: Ireland*, CERD/C/IRL/CO/3-4, paragraph 26.

145 Department of Justice and Equality (2012), *Addendum to the Report of the Working Group on the UPR*, <http://www.upr.ie/Clients/CEGA/UPRWeb.nsf/page/reports-en> [accessed 7 December 2012].

146 Department of Education and Skills (2012), *Report on the pilot surveys regarding parental preferences on primary school patronage*, <http://www.education.ie/en/Publications/Education-Reports/Report-to-New-Schools-Establishment-Group-on-the-pilot-surveys-regarding-parental-preferences-on-primary-school-patronage.pdf> [accessed 7 January 2013].

147 Katherine Donnelly, 'Just 40pc vote on handover of schools', *Irish Independent* [online], 14 November 2012, <http://www.independent.ie/national-news/just-40pc-vote-on-handover-of-schools-3293724.html> [accessed 29 November 2012]; Breda O'Brien, 'Skewed statistics do little to promote choice in education', *The Irish Times*, 15 December 2012.

148 Department of Education and Skills (2011), 'Public Submissions: Forum on Patronage and Pluralism in the Primary Sector, themes for written submissions', http://www.education.ie/servlet/blobServlet/fpp_themes_for_written_submissions.pdf [accessed 12 December 2011].

149 Irish Human Rights Commission (2011), *Religion and Education: A Human Rights Perspective*, Dublin: Irish Human Rights Commission.

In 2010, the Roman Catholic Church authorities, as lead patron, accepted the need for change and endorsed the principle of parental choice in education.¹⁵⁰ In October 2012, the Bishops' Council for Education reiterated its commitment to parental choice with regard to education.¹⁵¹ A 2012 paper by the Catholic Schools Partnership stated that 'if sufficient demand for a school under different patronage [from denominational] can be demonstrated then all of the stakeholders should work in partnership towards this goal.'¹⁵²

The commitment to develop a new programme, Education about Religion and Beliefs (ERB) and Ethics, with education partners and religious interests, is welcome. To address issues of diversity, many schools with religious patrons have developed practical solutions and good practice guidelines on how to accommodate the rights and needs of all pupils. While this remains ad hoc, it is evidence of how many schools are successfully accommodating greater cultural, ethnic, linguistic and religious diversity within their pupil bodies, and should be acknowledged and drawn upon when devising the new programme.

Finally, it is important to note that the work of the Forum applies to primary education only, and an important next step will be to take lessons learned and consider how they can be applied at second-level.



Immediate actions for 2013

Complete the 43 parental surveys and commence divestment when appropriate

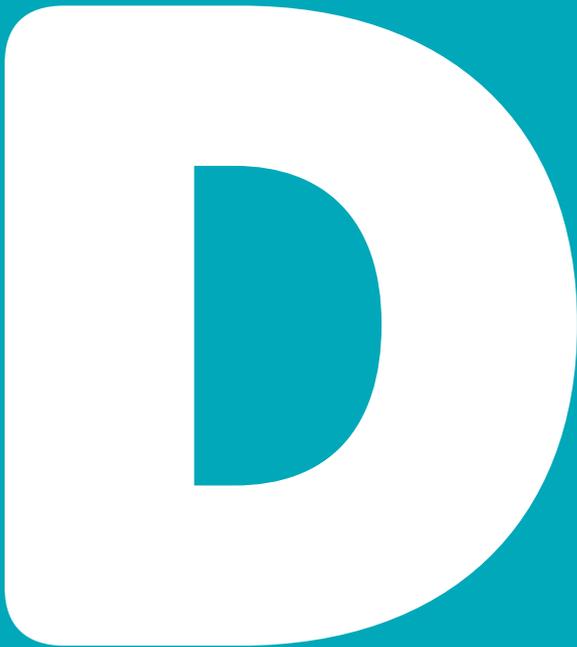
A strong momentum has gathered around this issue over the past two years; this should be built on to bring to completion the parental surveys and process of divestment when appropriate. In addition, as was called for in *Report Card 2012*, the Government should publish the White Paper on Patronage and Pluralism in Primary Education.

Commence the development of a programme on Education about Religion and Beliefs (ERB) and Ethics

For many children the only local option will be a denominational school, the right of these children to access education in a manner which reflects their cultural, ethnic, linguistic and religious beliefs must be upheld. It is essential that the programme on Education about Religion and Beliefs be developed and implemented within schools in a timely manner.

- 150 Cardinal Sean Brady, Archbishop of Armagh, 'Full text of address at the launch of Catholic Schools Week and the inauguration of Catholic Schools Partnership, in the Emmaus Centre, Swords, Co Dublin', *Irish Times* [online], 28 January 2010, <http://www.irishtimes.com/focus/2010/bradyspeech/index.pdf> [accessed 14 January 2013]. See also: Irish Catholic Bishops' Conference, 'Catholic Church reiterates importance of parental choice in school provision' [press release], 5 March 2010, <http://www.catholicbishops.ie/2010/03/08/catholic-church-reiterates-importance-of-parental-choice-in-schoolprovision/> [accessed 14 January 2013].
- 151 Irish Catholic Bishops' Conference, 'Bishops' Council for Education welcomes survey of parental opinion' [press release], 22 October 2012, <http://www.catholicbishops.ie/2012/10/22/bishops-council-education-welcomes-survey-parental-opinion/> [accessed 14 January 2013].
- 152 Catholic Schools Partnership (2012), *Catholic Primary Schools: Looking to the future*, Kildare: Catholic Schools Partnership. LOCAL FOCUS: *The Westmeath Independent*, 'Diversity in education must be welcomed', 11 April 2012.

Chapter 3: Right to Health



“Young people in distress need support to craft a pathway through whatever crisis they are in. We need mental health services targeted at young people in every community in Ireland, to ensure they can access this support.”

Dr. Tony Bates, Founder Director, Headstrong

Local Eye

Children facing year wait for mental health services

Galway Independent

It was reported that children and adolescents in West Ireland were being forced to wait over a year for mental health services. HSE Head of Mental Health Services Martin Rogan warned that there was a limit to how far he could stretch the limited budget “before it snaps”.

Declan Breen, western spokesperson with the Psychiatric Nurses Association, said that one of the saddest aspects of the waiting times was that “the quickest way to get off the list is to turn 18”.

Mr Breen said a state-of-the-art children’s mental health service at Merlin Park is ideal for tackling the issue but is not operating to full capacity due to the HSE recruitment embargo. He said: “This isn’t someone working in a warehouse where you can’t get your product out on time; these are children we are talking about. You can’t get something more precious than looking after the State’s children, particularly with the history that Ireland has.”

Marie Madden, ‘Children facing year wait for mental health services’,
Galway Independent, 9 January 2012

Overview

Health is awarded an overall 'D' grade this year, a fall from last year's 'C', to reflect a barely acceptable performance overall. Disappointingly, in Primary Care, there was an ongoing political debacle during 2012, slow progress in establishing Primary Care Teams and the funding for GP care was reallocated to make up for other financial deficits in the HSE. The positive steps taken in mental health were overshadowed by the fact that, of the €35 million allocated, only approximately €6 million of this was spent, with the remaining used to tackle cost overruns in the health services. The performance on addressing addiction to alcohol and drugs continues to be disappointing, as the Government has failed to take meaningful steps to curb alcohol consumption and drug use among children. The lack of political action to address alcohol misuse is deeply concerning. It is also very regrettable that the new National Children's Hospital was delayed for a further two-and-a-half years.

There is a continued lack of overall strategic direction in relation to the development and implementation of child health policy. In health, as in all aspects of childhood, the early years are vital. To truly improve children's right to health, especially among the most vulnerable, Government must invest early.

In its 2006 *Concluding Observations*, the UN Committee on the Rights of the Child welcomed the development of a Primary Care Strategy, but noted the lack of a comprehensive legal framework, as well as the absence of statutory guidelines safeguarding the quality of, and access to health care services, particularly for children in vulnerable situations.¹⁵³ The Committee also raised concerns about the ongoing practice of treating children with mental health issues in adult in-patient units and the failure to address harmful levels of alcohol consumption by adolescents.¹⁵⁴

In addition, there is still no political commitment or strategy to address the childhood obesity epidemic.¹⁵⁵ This is a serious oversight and will have devastating, long-term implications for children's health. The forthcoming National Children and Young People's Policy Framework must address this extremely concerning issue. We are also concerned about the prevalence of eating disorders among children, and the lack of strategy to tackle this problem. On a positive note, the appointment of a new post of Child Health Specialist, Seán Denyer, is to be welcomed. This is a joint position between the Department of Children and Youth Affairs and the Department of Health and offers the potential for many of these issues to be better addressed.

Bullying is touched upon in a number of sections of *Report Card 2013*, including Mental Health, Travellers and Inequalities in Family life. There is a *Programme for Government* commitment in this area and greater focus will be given to it in next year's Report Card. We welcome the newly-published Action Plan for Bullying, released by the Minister for Education and Skills, Ruairi Quinn TD.¹⁵⁶

The Right to Health

Every child has the right to life and development, to enjoy of the highest possible standard of health, to access health and other related services and to facilities for the treatment of illness and rehabilitation of health. Children with disabilities have the right to a full and decent life within the community, and to special care. *Summary of Article 24 of the UNCRC*

153 For a discussion on this issue see U. Kilkelly (2008) *Children's Rights in Ireland: Law, Policy and Practice*, Dublin: Tottel Publishing.

154 United Nations Committee on the Rights of the Child (2006) *Concluding Observations: Ireland* (CRC/C/IRL/CO/2 paragraphs 50 and 51).

155 Paul Cullen 'Children showing heart risk factors' *The Irish Times*, 17 January 2013.

156 Department of Education and Skills (2013) *Action Plan On Bullying Report of the Anti-Bullying Working Group to the Minister for Education and Skills*, Dublin: Department of Education and Skills.

3.1 Primary Care

Grade:

D

Government Commitment

The *Programme for Government* commits to introducing Universal Primary Care and removing fees for General Practitioner (GP) care within this Government's term of office.

It also commits that:

- the legislative basis for Universal Primary Care will be established under a Universal Primary Care Act.
- Universal Primary Care will be introduced in phases so that additional doctors, nurses and other primary care professionals can be recruited.

Progress

Unsatisfactory

What's happening?

There has been a failure to spend allocated money on Primary Care Teams. Slow steps have been taken towards free GP care.



In January 2012, the then Minister of State for Primary Care, Róisín Shortall TD, established the Universal Primary Care Project team, whose mandate includes resolving the issues relating to the *Programme for Government* commitments on primary care.¹⁵⁷ The *National Service Plan 2013* states that the primary care budget for 2013 will be €400 million, an increase of €28 million from 2012.¹⁵⁸

The Government pledged to create 530 Primary Care Teams by the end of 2011.¹⁵⁹ The target was revised down to 489 by the end of 2012.¹⁶⁰ In September 2012, 417 Primary Care Teams were in operation across the country.¹⁶¹ These teams are at different levels of functioning and development. The *HSE National Service Plan 2012* commits that 19 new Primary Care Centres will be completed and/or become operational in 2012¹⁶², but by December 2012, the HSE indicated that 11 of these would not be at a functioning stage by end of year.¹⁶³

In July 2012, the then Minister for State at the Department of Health, Róisín Shortall TD, developed a list of 20 Primary Care Centres based on criteria including deprivation and the availability of local accommodation. In September 2012, Minister Shortall tendered her resignation and in November 2012 the list of Primary Care Centres became the subject of intense political debate when it was revealed that Minister for Health, James Reilly TD, had placed 15 additional Centres onto the existing list, two of which were in his own constituency.¹⁶⁴

The Government's plan to remove GP fees is to be achieved on a phased basis¹⁶⁵, starting with free GP care for people with certain prescribed illnesses.¹⁶⁶ However, the extension of free

157 Niamh Cahill, 'Minister establishes universal primary care project team' *Irish Medical News* [online], 10 February 2012, <http://www.imn.ie/news/4608-minister-establishes-universal-primary-care-project-team>

158 Health Service Executive (2013) *National Service Plan 2013*, Dublin: Health Service Executive, p. 14. Budget 2013 made savings to Primary Care Schemes of €323 million. The financial allocation for Primary Care and the Primary Care Reimbursement Service (PCRS) was reduced from €2,835 million in 2011 to €2,787 million in 2012.

159 Health Service Executive, http://www.hse.ie/eng/services/Find_a_Service/Primary/ [accessed 19 December 2012].

160 Health Service Executive (2012) *Update on Comptroller and Auditor General Report Chapter on Primary Care Teams for PCA Meeting*, Dublin: Health Service Executive, p. 7.

161 Irish Government News Service (2012) *Speech for Minister Reilly National Primary Care Conference Mallow 14th November 2012*, <http://www.merrionstreet.ie/index.php/2012/11/speech-for-minister-reilly-national-primary-care-conference-mallow-14th-november-2012/> [accessed 9 December 2012].

162 Health Service Executive (2012) *National Service Plan 2012*, Dublin: Health Service Executive, p.30.

163 Niamh Cahill, 'HSE fails to meet objectives', *Irish Medical News*, 7 December 2012.

164 Martin Wall and Paul Cullen, 'Primary care list altered evening before launch', *The Irish Times*, 24 November 2012.

165 The Programme for Government commits: "Access to primary care without fees will be extended in the first year to claimants of free drugs under the Long-Term Illness scheme at a cost of €17 million. Access to primary care without fees will be extended in the second year to claimants of free drugs under the High-Tech Drugs scheme at a cost of €15 million. Access to subsidised care will be extended to all in the next phase. Access to care without fees will be extended to all in the final phase."

166 Department of Health, 'Minister Reilly pledges service protection a key priority as savings are made' [press release], 5 December 2012 <http://www.dohc.ie/press/releases/2012/20121205.html> [accessed 5 December 2012].

primary care requires legislation to be put in place¹⁶⁷, and this has been delayed. Budgets 2012 and 2013 allocated €15 million each year for this measure; however the Budget 2012 allocated funds were used to make up for other financial deficits in the HSE.¹⁶⁸

In July 2012, the Minister for Health announced the recruitment of 272 key frontline health staff with €20 million set aside to fund these posts.¹⁷⁰ However, to date, none of these posts have been filled and the funding has been redirected elsewhere by the HSE.

There is no update on *Your Health is Your Wealth: a Policy Framework for a Healthier Ireland 2012 – 2020*,¹⁷² which was due to be commenced in 2012. This initiative aims to refocus health services in terms of preventative care, and to lead to the development of a new public health policy.¹⁷³

Comment

Primary care gets a 'D' grade in *Report Card 2013*, a fall from last year's 'C-' grade. This barely acceptable performance reflects the slow progress in providing primary care services and the lack of transparency in the development of Primary Care centres. The delay in drafting legislation for the provision of free GP care for those with long-term illnesses, is also unacceptable. This grade reflects limited positive impact on children's lives.

The UN Convention on the Rights of the Child calls for States to provide necessary health care to all children with an emphasis on the development of primary health care (Article 24).¹⁷⁴ The UN Committee on the Rights of the Child in its *Concluding Observations* on Ireland in 2006 acknowledged that it was concerned about the lack of guidelines safeguarding access to healthcare. It also stated that Ireland should 'ensure that availability and quality of health care services are maintained throughout the country by providing targeted resources and by establishing statutory guidelines for the quality of these services'.¹⁷⁵

Primary care is the most basic building block of a successful health service. As a child's first point of contact with the health system, a well-resourced, responsive and effective primary care service has the potential to prevent the development of conditions that may later require more intensive treatment or hospitalisation, at greater cost to the child and the State. The UN Committee on the Rights of the Child has emphasised that primary care services should be accessible by self-referral and have a strong focus on working with communities and individuals to improve their health and social wellbeing.¹⁷⁶ Community-based, early intervention and preventive healthcare services, provided within a primary care structure, are critical so that children can access effective services close to home and when they need them.¹⁷⁷

A lack of progress and re-direction of funding for the promised 272 key frontline staff¹⁷⁸ is wholly unacceptable. The downward revision in the target number of primary care teams, the fact that less than half the new Primary Care Centres promised for 2012 were functioning by the end of the year, the delay in drafting the required legislation to provide for the extension of free care to people with certain prescribed illnesses and the re-allocation of the €15 million which had been ear-marked for this extension, are all worrying indications of a slow rate of progress.

167 Irish Government News Service, 'Minister Róisín Shortall announces Primary Care measures in Budget 2012' [press release], 2 December 2011 <http://www.merriestreet.ie/index.php/2011/12/minister-roisin-shortall-announces-primary-care-measures-in-budget-2012/> [accessed 20 December 2012].

168 Paul Cullen 'Legal issues delay free GP care for long-term ill' *The Irish Times*, 14 September 2012.

169 This included Clinical Nurse Specialists to support the Integrated Care Diabetes Programme; Speech and Language Therapists; Public Health Nurses, Registered General Nurses, Physiotherapists and Occupational Therapists.

170 Department of Health, 'Recruitment of New Staff for Primary Care', [press release], 17 July 2012, <http://www.dohc.ie/press/releases/2012/20120717c.html> [accessed 9 December 2012].

171 Paul Cullen, 'Deadlines and deficits key to Reilly road map', *The Irish Times*, 16 November 2012.

172 Department of Health 'Your Health is Your Wealth: a Policy Framework for a Healthier Ireland 2012 – 2020' [press release] 13 June 2011 <http://www.dohc.ie/press/releases/2011/20110613.html> [accessed 19 January 2013].

173 Department of Health 'Your Health is Your Wealth: a Policy Framework for a Healthier Ireland 2012 – 2020' [press release] 13 June 2011 <http://www.dohc.ie/press/releases/2011/20110613.html> [accessed 19 January 2013].

174 UN Convention on the Rights of the Child, A/RES/44/25 (20 November 1989), Article 24 (b).

175 UN Committee on the Rights of the Child (2006), *Concluding Observations: Ireland*, CRC/C/IRL/CO/2, para 45(b).

176 *Ibid.*

177 Sheila Greene (2011) 'Getting the First Steps Right', *Presentation at the Department of Health and Children Consultation*, Dublin: Trinity Research Centre.

178 Department of Health, 'Recruitment of New Staff for Primary Care', [press release], 17 July 2012, <http://www.dohc.ie/press/releases/2012/20120717c.html> [accessed 9 December 2012].

Anecdotal evidence indicates that only one third of primary care teams are operating as intended – many do not provide a range of services¹⁷⁹ or are spread across different sites,¹⁸⁰ due to the recruitment embargo, a lack of resources and facilities.¹⁸¹

The removal of GP fees would greatly benefit children's right to access healthcare and support an early intervention approach to health. The delay in drafting the necessary legislation is seriously stalling this commitment.

During 2012, children still faced long waiting lists to access basic services,¹⁸² with geographical variation in HSE service provision proving problematic.¹⁸³ Some GPs are reporting substantial waiting list delays when referring patients to community services.¹⁸⁴ In September 2012, 16 Local Health Offices were performing under target in relation to Child Development Health Screening for babies aged ten months. In August 2012, in Dublin North, 29% (390) of patients accepted for Speech and Language Therapy were waiting four to eight months for treatment.¹⁸⁵ Delays in accessing services like these can have devastating life-long consequences, affecting a child's right to health and education, as well as their social development and emotional wellbeing.¹⁸⁶ In addition, the Budget 2013 increase in prescription charges will cause problems for some families needing access to medication, which in turn may lead to even worse health problems.¹⁸⁷

The debacle that occurred during 2012 in relation to the list of Primary Care Centres is regrettable. Of the 15 new centres added to the list by Minister for Health, five were added with no mention made of deprivation in their selection,¹⁸⁸ despite this being a selection criterion. Transparency should be a key feature in all future actions in this area if confidence in reform of the health system is to be restored.



Immediate actions for 2013

Ring-fence multi-annual funding for the delivery of the promised Primary Care Teams

This has been an immediate action since Report Card 2009 and remains unaddressed. To ensure this vital service is funded on a multi-annual basis, a new allocated sub-head should be introduced under the HSE vote (number 39) entitled 'Primary Care'.

179 Priscilla Lynch, 'Just what happened to plans for care centres?' *The Irish Times*, 13 March 2012.

180 For example, in March 2012, only 18 of HSE South's 111 PCTs were operating from the same building.

181 Niamh Cahill, 'Slow progress in PCT development' *Irish Medical News*, 14 October 2012.

182 LOCAL FOCUS: Wexford People, 'A disgrace: mum slams speech therapy waiting list', 23 May 2012.

183 Ombudsman for Children (2011), Annual Report 2010, Dublin: Ombudsman for Children's Office.

184 Dr Muiris Houston, 'Primary care teams – why have they struggled?', *Your Practice*, Vol 1(1), September 2012.

185 Health Service Executive, 'HealthStat - Improving Performance', http://www.hse.ie/eng/staff/Healthstat/communityservicesresults/dublinnorth/August_2012_Dublin_North.pdf [accessed 12 December 2012].

186 Irish Association of Speech and Language Therapists (2007), *Position Paper, Specific Speech and Language Impairment in Children: Definition, Service Provision and Recommendations for Change*, <http://www.iaslt.ie/docs/public/exec/IASLT%20SSL%20Position%20Paper%20Oct%202007.pdf> [accessed 25 January 2013], p. 8; and Fiona Gartland, 'Almost 24,000 children on hospital waiting lists', *The Irish Times*, 3 January 2012.

187 Gary Culliton, 'New cut in GP fees following Budget', *Irish Medical Times* [online], 11 December 2012, <http://www.imt.ie/features-opinion/2012/12/new-cut-in-gp-fees-following-budget.html> [accessed 12 December 2012].

188 Paul Cullen 'Care centres list grew to 35 locations after reviews', *The Irish Times*, 21 September 2012.

3.2 Mental Health

Government Commitment

The *Programme for Government* commits to ring-fencing €35 million annually from within the health budget to develop community mental health teams and services as outlined in *A Vision for Change*, to ensure early access to more appropriate services for adults and children and improved integration with primary care services.¹⁸⁹

Progress Unclear

Government Commitment

The *Programme for Government* commits to review the Mental Health Act 2001 in consultation with service users, carers and other stakeholders, informed by human rights standards.

Progress On Track



What's happening?

There has been a failure to spend allocated money in mental health. There have been delays in filling posts on child and adolescent mental health teams. The Interim Report on Mental Health Act 2001 has been published.

Budget 2012 allocated €35 million to mental health. However, only approximately €6 million of this was spent on mental health services in 2012,¹⁹⁰ with the funds being used to tackle cost overruns in other parts of the health service.¹⁹¹ Budget 2013 commits an additional €35 million for the continued development of mental health services.

CAMH: A Vision for Change recommended the establishment of 107 specialist Child and Adolescent Mental Health (CAMH) teams.¹⁹² By the end of 2012, there were 63 CAMH teams in operation,¹⁹³ an increase of two teams since November 2011. However, staffing is at just 38.1% of that recommended by *A Vision for Change*.¹⁹⁴ Of the 414 promised mental health posts, 150 are for CAMHS teams. This recruitment has been greatly delayed with only 14 CAMH staff appointed by the end of 2012.¹⁹⁵ The HSE has admitted that current funding is considerably strained, given rising demands on its services for children and adolescents.¹⁹⁶ There was an 8% rise in the number of adolescents waiting to be seen at the end of September 2012, compared to the same stage in 2011. On a positive note, the total number waiting longer than 12 months decreased by 9%.¹⁹⁷

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

190 Fiachra Ó Cionnaith, 'Older people face waiting lists for nursing homes' *Irish Examiner* [online], 13 January 2013, <http://www.irishexaminer.com/text/ireland/cwksfnmhauoj/> [accessed 21 January 2013].

191 Carl O'Brien, 'Funds for suicide prevention diverted', *The Irish Times* [online], 29 December 2012, <http://www.irishtimes.com/newspaper/frontpage/2012/1229/1224328254932.html> [accessed 2 January 2013].

192 Department of Health (2006), *A Vision for Change*, Dublin: Stationery Office, revised as per Census 2011: Health Service Executive (2012), Fourth Annual Child and Adolescent Mental Health Service Report 2011-2012, Dublin: Health Service Executive, p. 9.

193 Health Service Executive (2012) *Fourth Annual Child and Adolescent Mental Health Service Report 2011-2012*, Dublin: Health Service Executive. There are 58 community teams, two day-hospital teams and three paediatric hospital liaison teams.

194 Health Service Executive (2012) *Fourth Annual Child and Adolescent Mental Health Service Report 2011-2012*, Dublin: Health Service Executive.

195 Information received by the Children's Rights Alliance from Mental Health Reform, January 2013; Carl O'Brien, 'Funds for suicide prevention diverted', *The Irish Times* [online], 29 December 2012, <http://www.irishtimes.com/newspaper/frontpage/2012/1229/1224328254932.html> [accessed 2 January 2013].

196 Judith Crosbie, 'Mental health of young at risk over cuts, HSE warns', *The Irish Times* [online], 3 January 2013, http://www.irishtimes.com/newspaper/frontpage/2013/0103/1224328379516.html#_UOVCjYeEiP8 [accessed 3 January 2013].

197 Health Service Executive (2012) *Fourth Annual Child and Adolescent Mental Health Service Report 2011-2012*, Dublin: Health Service Executive.

In November 2012, the HSE issued *Access Protocols for 16 and 17 year olds to Mental Health Services*. The protocol provides that, from 1 January 2013, CAMHS will accept referrals of all new cases of children up to their 17th birthday, and from 1 January 2014, or earlier where feasible, up to their 18th birthday.¹⁹⁸

ACTS: After a delay in 2011, the promised recruitment of a national specialist multi-disciplinary team for children in special care and detention – the Assessment, Consultation and Therapeutic Service (ACTS) – has now commenced. The National Manager for the service is now in place, as are a small number of the 29.5 posts. A full staff complement will be in place early in 2013.¹⁹⁹

Mental Health Act: In June 2012, the *Interim Report of the Steering Group on the Review of the Mental Health Act 2001* was published.²⁰⁰ The Interim Report stressed the need for a rights-based approach, including a greater allowance for consent and participation of children in their own mental healthcare and treatment, a proposition supported by Minister for State for Disability, Equality and Mental Health, Kathleen Lynch TD.²⁰¹ The Interim Report also recommended a standalone part of the Act that 'should open with a set of guiding principles reflecting human rights principles enshrined in international human rights law including the United Nations Convention on the Rights of the Child.'²⁰² It did not recommend the drafting of legislation to underpin *A Vision for Change*. An Expert Group has been put in place to complete the second phase of the review, expected in March 2013.²⁰³

Bullying and Well-Being: Guidelines are due to be launched in late January 2013 on a whole-school approach in discussing and promoting mental health in post-primary schools. The *Well-Being in Post-Primary Schools: Guidelines for Mental Health Promotion and Suicide Prevention* were developed by the Department of Education and Skills and the Department of Health, with the assistance of the HSE, the National Office for Suicide Prevention and the National Educational Psychological Service (NEPS).²⁰⁴ In addition, in May 2012, the Minister for Education, Ruairi Quinn TD, held an Anti-Bullying Forum on tackling bullying in schools, including homophobic, cyber and racist bullying. A Working Group was established and called for public submissions. The National Anti-Bullying Action Plan, developed by the Working Group, was launched in early 2013 with €500,000 allocated to fund actions arising from the plan.²⁰⁵

Government Commitment

The Programme for Government commits to, 'endeavour to end the practice of placing children and adolescents in adult psychiatric wards'.

Progress

Unsatisfactory

What's happening?

There has been some reduction in the number of children admitted to adult psychiatric units.



By the end of 2012, just 60 of the promised 108 in-patient beds in child and adolescent in-patient units were available.²⁰⁶ In the period January to September 2012, there were a total of 303 admissions of children and adolescents under the age of 18 years.²⁰⁷ 228 (75%) were

198 Kathleen Lynch TD, Minister of State at the Department of Health, Parliamentary Questions: Written Answers [51940/12], Dáil Debate, 27 March 2012, Vol. 783 No. 4.

199 Information received by the Children's Rights Alliance from Children and Family Services, HSE, 22 January 2013.

200 Department of Health (2012) *Interim Report of the Steering Group on the Review of the Mental Health Act 2001*, Dublin: Department of Health.

201 Pamela Duncan, 'Enhance patient autonomy, advises report', *The Irish Times* [online], 22 June 2012, <http://www.irishtimes.com/newspaper/ireland/2012/0622/1224318456479.html> [accessed 2 January 2012].

202 Department of Health (2012) *Interim Report of the Steering Group on the Review of the Mental Health Act 2001*, Dublin: Department of Health, p. 15.

203 Kathleen Lynch TD, Minister of State (2012), *Reply from Ms Kathleen Lynch, Minister of State with special responsibility for Disability, Equality, Mental Health and Older People of Ireland, to Nils Muižnieks, Council of Europe Commissioner for Human Rights*, <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2196526&SecMode=1&DocId=1960466&Usage=2> [December 2012].

204 Information received by the Children's Rights Alliance from the Health Service Executive, January 2013.

205 Department of Education and Skills (2013) *Action Plan On Bullying Report of the Anti-Bullying Working Group to the Minister for Education and Skills*, Dublin: Department of Education and Skills; Niall Murray, '€500,000 action plan to tackle bullying', *Irish Examiner* [online], 8 December 2012, <http://www.irishexaminer.com/ireland/500000-action-plan-to-tacklebullying-216350.html> [accessed 3 January 2013].

206 Health Service Executive (2012), *Fourth Annual Child and Adolescent Mental Health Service Report 2011-2012*, Dublin: Health Service Executive.

207 *Ibid.*

admitted to child and adolescent units and 75 (25%) to adult units.²⁰⁸ A quarter of admissions (75) were to adult units; 67% (50) of these admissions were 17 years of age, 28% (21) were 16 years of age and 5% (4) were 15 years of age. The highest number of admissions to adult units was in the HSE West region.²⁰⁹ A fifth of adolescents (15) admitted to adult in-patient units were subsequently transferred to child and adolescent units in St. Joseph's, Merlin Park, Galway and Eist Linn, Cork.²¹⁰

A *Vision for Change* recommended that four in-patient child and adolescent mental health units be provided nationally. Units in Galway and Cork were delivered in 2010.²¹¹ In May 2012, the unit at Warrenstown, Dublin, transferred to the eight-bed interim Linn Dara unit in Palmers-town, Dublin. This unit will transfer, together with the planned six-bed older adolescent unit, to a new purpose-built, 24-bed unit in the grounds of Cherry Orchard Hospital which is due to be completed in 2015.²¹² In September 2012, the second phase of development of the adolescent in-patient services at St. Vincent's Hospital, Fairview, Dublin, was completed with the opening of the new 12-bed adolescent unit.²¹³

Comment

Mental health gets a 'D-' grade in *Report Card 2013*, a fall from last year's 'C+'. This barely acceptable performance reflects the continued delays in filling the promised 150 posts for child and adolescent mental health teams. While there has been some reduction in the number of children admitted to adult psychiatric units, the Mental Health Commission deadline of 2011 has been missed. It is totally unacceptable that much of the €35 million budget allocated to mental health in Budget 2012 was used to tackle cost overruns in other parts of the health services. This disappointing grade reflects a limited positive impact on children's lives.

The UN Committee on the Rights of the Child has issued *General Comment No. 4* on adolescent health in which they note the obligations on States to ensure the availability of mental health services that are of appropriate quality and sensitive to adolescents' concerns; and the implementation of preventative and mental health promotion measures for adolescents.²¹⁴ This General Comment should be reviewed and considered by the Department of Health and HSE in the future development of mental health services for children and adolescents

Unfortunately, 2012 was a traumatic year for many families and communities who lost a child or young person to suicide. Children in the 2012 *The Life as a Child and Young Person in Ireland* report noted that they believe bullying and peer pressure are among the worst eight things about being a child in Ireland, along with the economy, finances and crime.²¹⁵ Urgent action is needed to address bullying and suicide among Ireland's youth. The *My World Survey*, published in 2012, found that nearly 10% of adolescents and 20% of young adults reported significant personal problems they felt needed professional help but did not seek it.²¹⁶ These findings illustrate the continued importance of an effective, accessible and targeted mental health service for children and young people.

The issuing by the HSE of *Access Protocols for 16 and 17 year olds to Mental Health Services* is welcome. It is unacceptable that some CAMH teams remain unable to take on new referrals of 16- and 17-year-olds, due to a lack of resources.²¹⁷ This gap in care must be resolved as a matter of priority, and certainly by the target date of 1 January 2014. It would be greatly beneficial if the next edition of the excellent *Annual Child and Adolescent Mental Health Service Report* could include information on the numbers of 16- and 17-year-olds who remain unable to gain access to CAMH teams to allow this issue to be monitored.

Mental Health Act: On admission to hospital for mental health treatment, children are categorised as either 'voluntary' or 'involuntary' patients. The term 'voluntary' is a misnomer, as by law those under 18 years cannot consent to enter – or to leave – hospital and it is their parent or guardian that have the legal entitlement to provide consent on behalf of their child.²¹⁸ In addition, 'voluntary' patients do not have the same level of automatic protections and safeguards as those afforded to 'involuntary' patients.²¹⁹ The Law Reform Commission examination

208 *Ibid.* In the same period in 2011, (199) 65% of admissions were to child and adolescent units and (105) 35% to adult units. Health Service Executive (2011) *Third Annual Child and Adolescent Mental Health Service Report 2010-2011*, Dublin: Health Service Executive.

209 Health Service Executive (2012) *Fourth Annual Child and Adolescent Mental Health Service Report 2011-2012*, Dublin: Health Service Executive.

210 *Ibid.*

211 Merlin Park in Galway and Eist Linn in Cork were opened in December 2010, each with 20-bed capacity.

212 Health Service Executive (2012) *Fourth Annual Child and Adolescent Mental Health Service Report 2011-2012*, Dublin: Health Service Executive.

213 *Ibid.*

214 UN Committee on the Rights of the Child (2003), *General Comment No. 4: Adolescent Health*, CRC/GC/2003/4.

215 Department of Children and Youth Affairs (2012) *Life as a Child and Young Person in Ireland*, Dublin: Department of Children and Youth Affairs, p. 30.

216 University College Dublin and Headstrong (2012), *Emerging Themes from My World Survey*, Dublin: University College Dublin and Headstrong.

217 Information received by the Children's Rights Alliance from the Health Service Executive, January 2013.

218 A parallel concern is that children on care orders have to be admitted under Section 25 of the Mental Health Act if they wish to voluntarily enter a mental health hospital. This practice has been criticised as stigmatising children in care

of this issue found that 'children are being made to fit within the parameters of a law that was drafted with adults in mind.'²²⁰

Adult units: The UN Committee on the Rights of the Child says that, where placement in a psychiatric unit is necessary, adolescents should be separated from adults, where appropriate; and any decision on their care should be made in accordance with the best interests of the child.²²¹ Placing children in such units, as a consequence of the shortage of age-appropriate mental health facilities, is therefore a clear violation of their rights. This practice also exposes children to situations which pose a risk to their physical and psychological wellbeing and thus contravenes the child's right to protection from abuse and neglect (Article 19).²²² The practice of placing children in adult units must end urgently and the remaining 48 beds must be made available to children who need this support.

The Children's Mental Health Coalition has called for the 2001 Act to be amended to specifically provide that no child under 18 years be admitted to an adult in-patient unit, save in exceptional circumstances where it would be in his or her best interests to do so.²²³ The Mental Health Commission's *Code of Practice* sought to phase-out the placement of children in inappropriate settings, including adult units, between July 2009 and the end of 2011, except in 'exceptional circumstances'.²²⁴ Clearly, given the admission of 75 children to adult units in the first nine months of 2012, the non-legally binding Code has not been successful. The use of existing capacity also needs to be examined. Two independent adolescent units hold an additional 26 beds but have unfilled capacity on an annual basis, while children are still inappropriately being placed in adult units.²²⁵



Immediate actions for 2013

Ring-fence multi-annual funding for mental health

Allocated funding for mental health is continually in dispute. An allocated sub-head for 'Mental Health' should be introduced under the HSE vote (number 39) in the national budget. The specific allocation within mental health can then be provided in the HSE's annual Service Plan, and the child and youth proportion accounted for in the annual *Child and Adolescent Mental Health Services Report*.

Ensure all children under 18 years receive age-appropriate and timely mental health services and treatment²²⁶

The practice of treating children in adult mental health facilities must be ended as a matter of urgency and the HSE's *Access Protocols for 16 and 17 year olds to Mental Health Services* must be complied with. Achieving this requires the appropriate provision of in-patient beds and ongoing investment in the development of Child and Adolescent Community Mental Health teams, including the staffing of the promised 150 posts.

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

The Mental Health Act 2001 should be amended to address issues affecting children, including the anomaly regarding a young person's ability to consent to psychiatric treatment, in line with the principles and provisions of the UN Convention on the Rights of the Child.²²⁷

Complete recruitment of a specialist therapeutic team for children in special care and detention

The mental health needs of children in care and within the youth justice system are well documented.²²⁸ The establishment of Assessment, Consultation and Therapeutic Service must be prioritised to ensure that a placement in either a Special Care Unit or a Children Detention School is therapeutic rather than merely containment.

219 Evelyn Ring, 'Children's consent on treatment urged' *Irish Examiner* [online], 27 June 2012, <http://www.irishexaminer.com/ireland/childrens-consent-on-treatment-urged-198795.html>; Pamela Duncan, 'Enhance patient autonomy, advises report' *The Irish Times* [online], 22 June 2012, <http://www.irishtimes.com/newspaper/ireland/2012/0622/1224318456479.html>

220 Law Reform Commission (2011), *Children and the Law: Medical Treatment*, Dublin: Law Reform Commission.

221 UN Committee on the Rights of the Child (2003) *General Comment No. 4: Adolescent Health*, CRC/GC/2003/4.

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

223 Children's Mental Health Coalition (2011) *Submission to the Department of Health on the Review of the Mental Health Act 2001*, http://childrensrights.ie/sites/default/files/submissions_reports/files/CMHCSubDeptHealthReviewMentalHealthAct2001_071011.pdf

224 It is expected that children and adolescents who live a considerable distance from the approved centres for children will fall under the 'exceptional circumstances' category and will continue to be treated in local approved centres for adults in order to remain close to family support.

225 Twelve beds exist at St John of God's, Dublin and fourteen at St Patrick's University Hospital, Dublin.

226 LOCAL FOCUS: *Galway Independent*, 'Children facing year wait for mental health services', 9 January 2013.

227 The updated Act should provide a guarantee that an assessment of the child's best interests (Article 3) is informed by the views of the child; the child's evolving capacities (Article 5) are respected as a legislative principle; and the child has access to information and participates in decision making in relation to their mental health (Article 12).

228 Dr. J.M Hayes and Dr. G. O'Reilly (2007) *Emotional Intelligence, Mental Health and Juvenile Delinquency*, Cork: Juvenile Health Matters.

3.3 Alcohol and Drugs

Government Commitment

The *Programme for Government* commits to ensuring that every Government department, agency or task force responsible for implementing elements of the *National Addiction Strategy* will be required to account to the Minister for their budget annually and to demonstrate progress on achieving targets.

Progress

Unsatisfactory



What's happening?

The publication of a National Addiction Strategy is not expected until 2016. There is no Government policy on tackling alcohol misuse; no Government decision has been made on recommendations of the Steering Group.

The commitment to develop a National Addiction Strategy, more commonly referred to as the National Substance Misuse Strategy, to address alcohol and drug use in a single strategy for the first time will not be delivered until after 2016.²²⁹ In the interim alcohol and drug policy continue to be addressed in separate documents.

The drugs section of the National Substance Misuse Strategy, an *Interim National Drugs Strategy 2009-2016*, was published in 2009.²³⁰ In 2012, funding in the region of €245 million was allocated to the National Drugs Strategy.²³¹ In December 2012, Budget 2013 increased the excise duty on alcohol, bringing it back to roughly 2009 levels.

In 2009, a Steering Group, chaired by Dr. Tony Holohan,²³² was established by the Department of Health to develop proposals on the alcohol section of the National Substance Misuse Strategy.²³³ The Group was originally due to submit its report by October 2010. Over a year later, the *Steering Group Report on a National Substance Misuse Strategy* was published in February 2012.²³⁴ The Report made a range of recommendations focused on alcohol, including proposals on the minimum pricing for alcohol; a corporate social responsibility on the drinks industry; a ban on all outdoor advertising; and phasing out sponsorship of sports events by 2016.

There is at present no Government or departmental strategy to tackle alcohol misuse. The Department of Health is finalising proposals²³⁵ based on the Steering Group's recommendations which will be submitted to Government for consideration and approval in 2013.²³⁶ It has been reported in the media that there is a divergence of opinion in Government as to what measures from the Steering Group Report need to be implemented.²³⁷

- 229 Please note that while the *Programme for Government* refers to this as the National Addiction Strategy, the Steering Group established by the Department of Health and others generally refer to the strategy as the 'National Substance Misuse Strategy'.
- 230 The 2011 Progress Report can be found at: Department of Health (2011), *National Drugs Strategy 2009-16: Implementation of Actions: Progress Report End 2011*, http://www.dohc.ie/other_health_issues/national_drugs_strategy/NDS2009-2016.pdf?direct=1 [accessed 2 January 2013].
- 231 Information received by the Children's Rights Alliance from the Department of Health, 21 December 2012.
- 232 Originally the Steering Group was jointly chaired by the Department of Health and Children and the Department of Community, Rural and Gaeltacht Affairs (which later became the Department of Community, Equality and Gaeltacht Affairs) and its membership included representatives from the Departments of Arts, Sport and Tourism, Environment, Heritage and Local Government, Justice and Equality and Education and Skills.
- 233 The Steering Group's terms of reference include undertaking a review of evidence and best practice, identifying effective policies and actions to tackle alcohol-related harm; and deciding on appropriate structures and frameworks for implementation of the Strategy. Department of Health (2009), *Steering Group to develop proposals for a National Substance Misuse Strategy*, http://www.dohc.ie/consultations/closed/substance_misuse_strategy/terms.pdf?direct=1 [accessed 22 December 2011].
- 234 Department of Health Steering Group (2012), *Report on a National Substance Misuse Strategy*, <http://healthupdate.gov.ie/wp-content/uploads/2012/02/Steering-Group-Report-on-a-National-Substance-Misuse-Strategy-7-Feb-11.pdf> [accessed 5 December 2012].
- 235 These proposals cover all areas of the report, including: legislation on minimum unit pricing to set a statutory floor price per gram of alcohol; access and availability of alcohol, including structural separation in retail unit where alcohol is sold; advertising and sponsorship. Monitoring of actions to deal with the misuse of alcohol will be centred on key indicators. Information received by the Children's Rights Alliance from the Department of Health, 21 December 2012.
- 236 Information received by the Children's Rights Alliance from the Department of Health, 21 December 2012.
- 237 Esther Hayden, 'Government urged to prioritise health', *Bray People*, 21 November 2012.

In a parallel development, in January 2012, the Joint Oireachtas Committee on Health and Children published a *Report on the Misuse of Alcohol and Other Drugs*.²³⁸ The Report sets out a number of recommendations, including bans on alcohol advertising on social networking sites; the presentation and sale of alcohol alongside groceries; and alcohol sales in supermarkets and garages. The Committee's intention is that its recommendations will be taken in conjunction with the Steering Group Report to help formulate a major overhaul of public legislation in the area of alcohol and drug misuse.²³⁹

In relation to smoking, in May 2012, Senators John Crown, Jillian van Turnhout and Mark Daly introduced a private member's Bill to provide a ban on the smoking of tobacco in vehicles when any child under 18 years is present. The Protection of Children's Health from Tobacco Smoke Bill 2012 is at present stalled in Seanad Éireann.²⁴⁰

Comment

Alcohol and Drugs gets a 'D' grade in *Report Card 2013*, the same as last year's grade. This barely acceptable performance reflects the fact that, despite the *Programme for Government* commitment, a combined National Substance Misuse Strategy will not be produced until 2016 and we remain without a national policy on alcohol misuse. To get a higher grade next year, there must be an action plan on alcohol misuse, the introduction of a legislative ban to protect children from alcohol marketing, the enactment of the Protection of Children's Health from Tobacco Smoke Bill 2012, and sustained investment in alcohol- and drug-free spaces for young people.

Publication of a National Substance Misuse Strategy, addressing both alcohol and drug misuse, is long overdue. From 1990 to 2012, there have been eleven official committees on alcohol producing 16 reports.²⁴¹ Despite the hundreds of recommendations contained in these reports (the two Reports of the Strategic Taskforce on Alcohol alone – 2002 and 2004 – made 100), and the UN Committee on the Rights of the Child 2006 recommendations,²⁴² positive policy change has been minimal.

Alcohol: The World Health Organization states that alcohol consumption is now considered to be a significant risk factor for global health.²⁴³ In Ireland, alcohol-related crime and the impact on the health service of alcohol-induced problems cost the Irish taxpayer €3.7 billion annually.²⁴⁴ Family breakdown, neglect, abuse, financial struggle and stress are just some of the effects that alcohol can have on children's lives.²⁴⁵ The UN Committee on the Rights of the Child recommends the development of a strategy to raise awareness of the problems of children misusing alcohol and to prohibit the advertising of alcohol that targets children.²⁴⁶ It has been proven that the top three key actions that have a positive effect on alcohol-related harm are: alcohol pricing; the availability of alcohol; and the marketing of alcoholic beverages.²⁴⁷

Marketing shapes children's attitudes to alcohol from a very early age²⁴⁸ and leads them to start drinking at a younger age, and to drink more.²⁴⁹ Of concern is the changing and increased nature of the availability of alcohol marketing, including through social media. In line with

238 Joint Oireachtas Committee on Health and Children (2012) *Report on the Misuse of Alcohol and Other Drugs*, <http://www.drugsandalcohol.ie/16818/1/Report-on-The-Misuse-of-Alcohol-and-Other-Drugs.pdf>

239 *Ibid*, p. 6.

240 *Protection of Children's Health from Tobacco Smoke Bill 2012: Second Stage Wednesday*, Seanad Debate, 9 May 2012, Vol. 215, No. 5.

241 Dr. Ann Hope (2008) '*Protecting Children*', presentation at the Children's Rights Alliance AGM. This presentation quotes ten official committees but since then, there has been an eleventh – the 2012 *Steering Group Report on a National Substance Misuse Strategy*.

242 UN Committee on the Rights of the Child (2006) *Concluding Observations: Ireland*, CRC/C/IRL/CO/2, paragraph 51.

243 World Health Organization, WHO Expert Committee on Problems Related to Alcohol Consumption (2007), *Second report. WHO technical report series 944*. Geneva: World Health Organization, p. 1.

244 Sean Byrne (2010), *Costs to Society of Problem Alcohol Use in Ireland*, Dublin: Health Service Executive, p. 5.

245 For a detailed analysis of this issue, see: The Children's Society (2010), *Swept Under the Carpet: Children Affected by Parental Alcohol Misuse*, London: Alcohol Concern.

246 UN Committee on the Rights of the Child (2006), *Concluding Observations: Ireland*, CRC/C/IRL/CO/2, paragraph 49.

247 World Health Organisation (2009) Handbook for action to reduce alcohol-related harm, p. 13.

248 Dr. Ann Hope (2009), *Get 'em Young: Mapping Young People's Exposure to Alcohol Marketing in Ireland*, Dublin: National Youth Council of Ireland.

249 Alcohol Action Ireland, 'Marketing alcohol - children under the influence', <http://alcoholireland.ie/alcohol-policy/marketing-alcohol-children-under-the-influence/> [accessed 4 December 2012]. See also Peter Anderson et al (2009), 'Impact of alcohol advertising and media exposure on adolescent alcohol use: a systematic review of longitudinal studies', *Alcohol and Alcoholism*, 44: 229-43.

LOCAL FOCUS: *Western People, 'Alcohol a problem for teenager since he was aged 7, Court told'*, 11 December 2012.

recommendations from the Irish Medical Organisation, the Government should implement not just advertising restrictions, but a total ban on alcohol advertising.²⁵⁰ At the same time, Irish society must focus on the need for cultural change in its collective attitude to alcohol. Key to this is gaining the political will to challenge the powerful lobby that is the drinks industry.

The phenomenon of binge drinking is evident in Irish childhoods.²⁵¹ Not only does alcohol have an immediate impact on children's health in the form of accidents, public safety and violence, it also affects long-term health development and mental health. The Irish Association of Suicidology lists substance abuse as a risk factor for youth suicide,²⁵² and the UN Committee has expressed concern about the link between substance abuse and the Irish suicide rate.²⁵³ World Health Organisation 2012 research shows that the adolescent brain is particularly susceptible to alcohol, and the older a young person is before they begin to drink the less likely it is that alcohol-related problems will emerge in adult life.²⁵⁴

The 2012 *Report of the Independent Child Death Review Group*, found that parental alcohol and drugs misuse was a factor in a number of the cases,²⁵⁵ contributing to children being exposed to poor parenting, neglect, abuse and psychological harm.²⁵⁶ Alcohol in the home was a prevalent issue in one third (37) of the 112 unnatural deaths reviewed, in some cases the children themselves went on to misuse alcohol and drugs.²⁵⁷ The reforms in service delivery and establishment of the Child and Family Support Agency provide an important opportunity to focus on risk factors such as parental substance misuse, as well as to provide the necessary early intervention and family support.²⁵⁸

Drugs: Recent studies of adolescent drug users have shown that attitudes towards drug taking are becoming more liberal.²⁵⁹ Polydrug use is commonplace and those who drink alcohol and use other drugs place themselves at greater risk.²⁶⁰ In addition, there is a growing availability of illicit drugs online. This normalisation of drug use is seen within urban and rural society alike,²⁶¹ and is attributed to easier access to drugs and a wider range of substances on offer. The Citywide campaign has highlighted the emerging problem of drug dealers and gangs employing teenagers to carry out illegal activities on their behalf, such as dealing drugs and collecting money.²⁶² In recent years, a number of teenagers have been killed or have witnessed their parents being killed in suspected gang and/or drug-related violence.²⁶³ This phenomenon is deeply concerning. The UN Convention on the Rights of the Child has affirmed that states must introduce legislative, administrative, social and educational measures to protect children from illicit drug use and to prevent them becoming used in the illicit production and trafficking of such substances (Article 33).

- 250 'IMO supports calls for total ban on alcohol advertising' *The Irish Times* [online], 9 September 2009, <http://www.irishtimes.com/newspaper/health/2009/0915/1224254543757.html> [accessed 1 December 2012].
- 251 Health Research Board (2012), *Alcohol: Public Knowledge, Attitudes and Behaviours*, http://www.hrb.ie/uploads/tx_hrbpublications/Alcohol_-_Public_Knowledge_Attitudes_and_Behaviours_Report.pdf [accessed 8 January 2013]; ESPAD (2012), *The 2011 ESPAD Report: Substance Use Among Students in 36 European Countries*, http://www.espad.org/Uploads/ESPAD_reports/2011/The_2011_ESPAD_Report_FULL_2012_10_29.pdf [accessed 8 January 2013].
- 252 The Irish Association of Suicidology, 'Risk Factors - Youth Suicide', http://www.ias.ie/index.php?option=com_content&view=article&id=38%3Arisk-factors-youth&catid=7&Itemid=18 [accessed 4 December 2012].
- 253 UN Committee on the Rights of the Child (2006) *Concluding Observations: Ireland*, CRC/C/IRL/CO/2, paragraph 50.
- 254 World Health Organization (2012) *Alcohol in the European Union, Consumption, Harm and Policy Approaches*, Denmark: WHO Regional Office for Europe, p. 6. See also M. Bellis, et al (2009) 'Teenage drinking, alcohol availability and pricing: a cross-sectional study of risk and protective factors for alcohol-related harms in school children', *BMC Public Health*, 9(1), 380.
- 255 Dr. G. Shannon & N. Gibbons (2012) *Report of the Independent Child and Death Review: Executive Summary*. Dublin: Department of Children and Youth Affairs, p. 6 and 23. The report details 196 children who died between the years 2000 and 2010 who were in the care of the state at the time of their death, young adults who were in aftercare and other children who were not in care but were known to the HSE.
- 256 *Ibid* p. 22-23.
- 257 *Ibid*. Alcohol Action Ireland called on the Government to produce a report similar to the Hidden Harm Report published in Northern Ireland, which focuses specifically on the needs of children. Health and Social Care Board and Public Health Agency (2008), *Hidden Harm Action Plan: Responding to the needs of children born to and living with parental alcohol and drug misuse in Northern Ireland*, <http://alcoholireland.ie/wp-content/uploads/2011/04/northern-ireland-hidden-harm-actionplan-public-health-agency-and-the-health-and-social-care-board-october-2009.pdf>
- 258 An assessment of HSE child care datasets indicate that the primary reason for 14% of children being taken into state care was "a family member abusing drugs/alcohol". Department of Children and Youth Affairs (2012), *Statement by Minister Frances Fitzgerald: Early intervention and family support services*, <http://www.dcy.gov.ie/viewdoc.asp?Docid=1820&CatID=12&mn=8&StartDate=1+January+20127>.
- 259 Marie Claire van Hout (2009), 'Drug and alcohol use among rural Irish adolescents: a brief exploratory study', *Drugs and Alcohol Today*, 9 (1). p.20-26.
- 260 Polydrug use is the consumption of a number of different substances at the same time. These substances can include alcohol, cannabis, cocaine, heroin, methadone, 'legal highs' and prescription drugs.
- 261 Marie Claire van Hout (2009), 'Youth alcohol and drug use in rural Ireland: parents' views'. *Rural and Remote Health*, 9:1171.
- 262 CityWide Drugs Crisis Campaign (2012), *The Drugs Crisis in Ireland: A New Agenda for Action*, http://www.citywide.ie/download/pdf/the_drugs_crisis_in_ireland_a_new_agenda_for_action.pdf, p. 12.
- 263 Conor Lally, 'Gardaí identify two men linked to murder of Tallaght teenager', *The Irish Times* [online], 10 February 2012, <http://www.irishtimes.com/newspaper/ireland/2012/0210/1224311576260.html> [accessed 2 January 2013]; 'Gardaí to speak to child who saw father shot dead in Dublin', *RTE News* [online], 26 September 2012, <http://www.rte.ie/news/2012/0925/declan-oreilly-dublin.html> [accessed 3 January 2013].

Youth work: Nine per cent of child respondents to a Department of Children and Youth Affairs' consultation in 2012 stated they were unhappy with the level of anti-social behaviour in their communities, including illicit drug use, misuse of alcohol, smoking and crime.²⁶⁴ Drug- and alcohol-free spaces for young people to socialise in locally can provide structured or informal support, from preventive measures, brief interventions and referrals to other services, as appropriate.²⁶⁵ Funding in this area is hard to decipher. Budget 2013 saw €5 million allocated by the Department of Children and Youth Affairs to a number of initiatives, including a new capital programme for Youth Cafés and other youth projects as well as schemes funding play, recreation and Parent and Toddler groups. But it also saw a cut to youth work funding of €5.4 million, resulting in a 30% cut to youth services since 2008. The severe budget cuts to the youth work sector must be examined to fully understand its impact.

Smoking: The effects of smoking on children's health are widely known and in a recent report, Irish Health Behaviour in School-aged Children (HBSC), 12% of children report that they smoke.²⁶⁶ The effects on passive smoking on children are well documented, and the Protection of Children's Health from Tobacco Smoke Bill 2012 is welcome.²⁶⁷



Immediate actions for 2013

Urgently adopt a national strategy to tackle alcohol misuse and ensure it is coherent with the Interim National Drugs Strategy 2009-2016

The strategy should have a clear focus on the impact of alcohol and drugs on children, including to reduce children's access to alcohol and drugs; curb the widespread availability of cheap alcohol;²⁶⁸ restrict the promotion of alcohol; raise awareness of the potential harmful effects of alcohol and drugs and develop youth appropriate addiction treatment services.²⁶⁹ It must also address harmful parental drinking and its impact on children. The Strategy must be accompanied by a clear plan, with targets, timeframes and accountability structures.

Introduce a legislative ban to protect children from alcohol marketing

This was an immediate action of *Report Card 2012* and *2011* and remains unaddressed. The current voluntary advertising code is not effective and fails to protect children from the harmful effects of alcohol exposure.

Sustain investment in non-alcohol and drug free spaces for young people

Adequate provision of alcohol- and drug-free spaces for young people in their communities is key to ensuring we create an alternative to the 'pub culture'.

Enact the Protection of Children's Health from Tobacco Smoke Bill 2012

This legislation is a welcome move in the protection of children's health and should be enacted without delay.



264 Department of Children and Youth Affairs' (2012) *Life as a child and young person in Ireland: Report of a National Consultation*, Dublin: Government Publications.

265 Youth Cafés are only effective in this regard if they provide tailored services; simply being there and being open late is not, on its own, sufficient to address adolescent substance misuse. T. Byrne et al (November 2006), *Free Time and Leisure Needs of Young People living in Disadvantaged Communities*, Dublin: Children's Research Centre, Trinity College, p. 61.

266 C. Kelly, A. Gavin, M. Molcho and S. Nic Gabhainn (2012) *The Irish Health Behaviour in School-aged Children Study 2010* Health Promotion Research Centre, National University of Ireland, Galway.

267 Protection of Children's Health from Tobacco Smoke Bill 2012, Second Stage, Seanad Debate, 9 May 2012, Vol. 215 No.5.

268 The price of alcohol in off-licences has fallen dramatically in recent years, it now costs more than 50% less to drink at home than it did in 1996. Conor Pope, 'Is alcohol too cheap?' *The Irish Times*, 18 October 2010.

269 Department for Health and Children (2004), *Strategic Taskforce on Alcohol: Second Report*, Dublin: Stationery Office, p. 23-4.

3.4 Children's Hospital

Government Commitment

The *Programme for Government* commits that the National Children's Hospital will be built.

Progress

Delayed



What's happening?

Planning permission has been refused for the Mater site. St James's Hospital will be new location. The change of sites has delayed the project by two-and-a-half years and incurred a loss of €26 million.

The new National Children's Hospital is intended to be the core component of an integrated healthcare system, by amalgamating acute paediatric services into a single hospital, located alongside a leading adult teaching hospital. An independent review of the project to build the National Children's Hospital on the site of the Mater Hospital, Dublin, commissioned by the Minister for Health James Reilly, TD in May 2011, found in favour of this site. However, in February 2012, An Bord Pleanála turned down planning permission by reason of its height and scale.

A Review Group was established on 6 March 2012, chaired by Dr. Frank Dolphin. The Dolphin Report was submitted to Minister Reilly on 8 June 2012. It was initially tasked with reporting within 56 days of its first meeting on 29 March. This was extended by a further 14 days given the workload of the group and the number of submissions received. The group received over 30 site offers and met 21 groups, representatives and professional bodies.

On 6 November 2012, a memo was brought to Cabinet by the Minister for Health approving the new site location to be St. James's Hospital.²⁷⁰ Planning permission has been sought from An Bord Pleanála for the St. James's site. Completion of the hospital at a site other than the Mater has delayed the process by at least two-and-a-half years, with a current completion date of 2018.²⁷¹ Since the decision in November 2012 to locate the new hospital on the St. James's site, no further progress has been made and there is therefore a danger that the completion date will be later than announced.

The Government's Capital Development Plan pledges funding (though it does not state how much) for the development of the new National Children's Hospital.²⁷² The cost of this large-scale project will be generated from an upfront payment of €200 million arising from the sale of the National Lottery, complemented by Exchequer funding from the capital budget. The Minister for Health had indicated that the hospital will cost an additional sum of between €120 million and €140 million,²⁷³ with a final figure of €478 million as a 'tight' estimate.²⁷⁴ Approximately €39 million has been spent on preparing to develop the children's hospital at the Mater Hospital. Of that, €13 million can be reused on the St. James's Hospital site but €26 million will not be recovered.²⁷⁵

270 LOCAL FOCUS: *Evening Echo*, 'Reilly announced Children's Hospital to be built on St. James's site', 6 November 2012.

271 Frank McDonald, 'Massive project will not be completed before 2018' *Irish Times*, 7 November 2012.

272 Department of Public Expenditure and Reform (2011), *Infrastructure and Capital Development 2012-2016: Medium Term Exchequer Framework*, Dublin: Stationery Office.

273 Martin Wall, 'New children's hospital not to open in Coalition's lifetime, says Minister', *Irish Times*, 6 November 2012.

274 Paul Cullen, 'Reilly declines to say how much new hospital will cost', *Irish Times*, 7 November 2012.

275 Martin Wall, 'Planning risks a major factor in choice of St. James's for hospital' *Irish Times*, 7 November 2012.

Comment

Children's Hospital gets a 'D' grade in *Report Card 2013*, a significant fall from last year's 'B' grade. This barely acceptable performance on the *Programme for Government* commitment reflects the disappointing two-and-a-half-year delay in this project. The grade would have been lower except for the establishment of a Review Group and the quick decision on a new site location in 2012. However, the change of sites results in a loss of €26 million. This grade reflects a limited positive impact on children's lives.

The UN Convention on the Rights of the Child must underpin all work undertaken in the field of children's health. This is not limited to the achievement of the 'highest attainable standard of health' but crucially to 'facilities for the treatment of illness and rehabilitation of health' (Article 24), as well as all other aspects of a child's life in the hospital setting, including the right of the child to participate in matters relating to them (Article 12); the best interests of the child (Article 3); the child's right not to be separated from his/her parents (Article 9); the child's right to rest, leisure, play and recreational activities (Article 31); and the right to education (Article 28).²⁷⁶ The UN Committee on the Rights of the Child has said that, in the event of hospitalisation, the child should be given the maximum possible opportunity to enjoy all his or her rights as recognised under the Convention, including the rights to education and to access recreational activities.²⁷⁷ These rights are far from being realised in healthcare settings at present.

There is much concern about the speed with which the hospital project is progressing. A new, single national children's hospital was recommended in a 2006 report;²⁷⁸ since then its location has been subject to ongoing debate and review. Last year's Report Card reported that the Mater site had been chosen as the location for the Children's Hospital, its failure to achieve planning permission has resulted in further delay of two-and-a-half-years. This delay and the wasting of public money are regrettable: they have resulted in a further delay in providing an adequate health facility for sick children.

The two main children's hospitals in Ireland (Our Lady's Hospital for Sick Children in Crumlin, Dublin and the Children's University Hospital, Temple Street, Dublin) provide excellent care, but facilities fall well below today's standards for the care of children, and they are in poor structural condition.²⁷⁹ As an immediate measure, investment must be made to these existing hospitals to ensure they can still provide the necessary level of care to sick children, many of whom spend significant periods of their childhoods in hospital.

Hospital design and experience: The design of the new children's hospital must have the best interests of the child as its underpinning principle. There was extensive consultation with children and families in the designing of the Mater site.²⁸⁰ It is vital that ongoing consultation is undertaken in relation to the new St. James's Hospital site to ensure that the new location is world-class, innovative and child-centred in design. All aspects of the hospital – from the basic design, to medical procedures and day-to-day practice and running of the hospital – must centre upon the needs of the child, and must ensure that for a child their environment will never cause distress or fear. Instead, it should facilitate calm and a sense of homeliness, and be accessible and navigable for all children. The hospital must facilitate parents and children to stay together, especially when children are very ill. It is important, too, that hospital services and design are sympathetic to the changing needs of children as they grow older; for example, teenagers' desire for privacy should be recognised and respected.

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

277 UN Committee on the Rights of the Child (2003), *General comment No. 4: Adolescent Health*, CRC/GC/2003/4.

278 Mc Kinsey and Company (2006), *Children's Health First*, <http://www.google.ie/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CC0QFjAA&url=http%3A%2F%2Fwww.newchildrenshospital.ie%2Findex.cfm%2Fpage%2Fassociateddocuments%3Ftwfld%3D141%26download%3Dtrue&ei=KHr1UPTpC8LlhAeqYC4Bw&usq=AFQjCNFV99N4njLz4h0qRayL5EHMGV1WEw&sig2=Rumt33iMOmWBIC-4vFMFZA&bv=bv.41018144,d.ZG4> [accessed 13 December 2011].

279 Department of Public Expenditure and Reform (2011) *Infrastructure and Capital Development 2012-2016: Medium Term Exchequer Framework*, Dublin: Stationery Office.

280 Consultations were undertaken in 2009 in relation to the design and experience of the new National Children's Hospital. For further details see: Ireland's New Children's Hospital, 'Children's Consultation', http://www.newchildrenshospital.ie/index.cfm/page/_for_parents [accessed 6 January 2012].

Age issues: The National Children's Hospital should provide facilities and treatment for all children up to 18 years,²⁸¹ consistent with the definition of a child under the UN Convention on the Rights of the Child²⁸² and with the provisions in legislation affecting children such as the Child Care Act, 1991 and the Children Act, 2001. Children's hospitals currently impose a cut-off age of 16 years, with some flexibility for those already in the system. The new children's hospital provides an opportunity to address the well-documented gap in adolescent health services in existing children's hospitals.²⁸³

A related, positive development has been the appointment in 2011 by the HSE of a Clinical Lead for Paediatrics, Prof. Alf Nicholson who, along with the Clinical Lead for Neonatology, Dr. John Murphy, is responsible for the delivery of paediatric services. In 2012, they established a Paediatric Services Reference Group which is calling for the adoption of a 'Charter for Healthcare – Paediatrics' based on the European Charter for Children in Hospital (EACH).²⁸⁴ This is a welcome development.



Immediate actions for 2013

Begin and expedite the process of building the new National Children' Hospital

This was an immediate action of *Report Card 2012* and remains unaddressed. The St. James's Hospital site in Dublin has now been confirmed as the location for the National Children's Hospital. The hospital's design and ethos must uphold the rights of children. It is vital that ongoing consultation is undertaken in relation to the new St. James's Hospital site to ensure that the new location is world-class, innovative and child-centred in design. This should build on the consultation completed to date. Plans must translate into action during 2013. The amended design must be completed in 2013 and planning permission must be secured. Construction work must begin in 2014 for delivery in 2018.



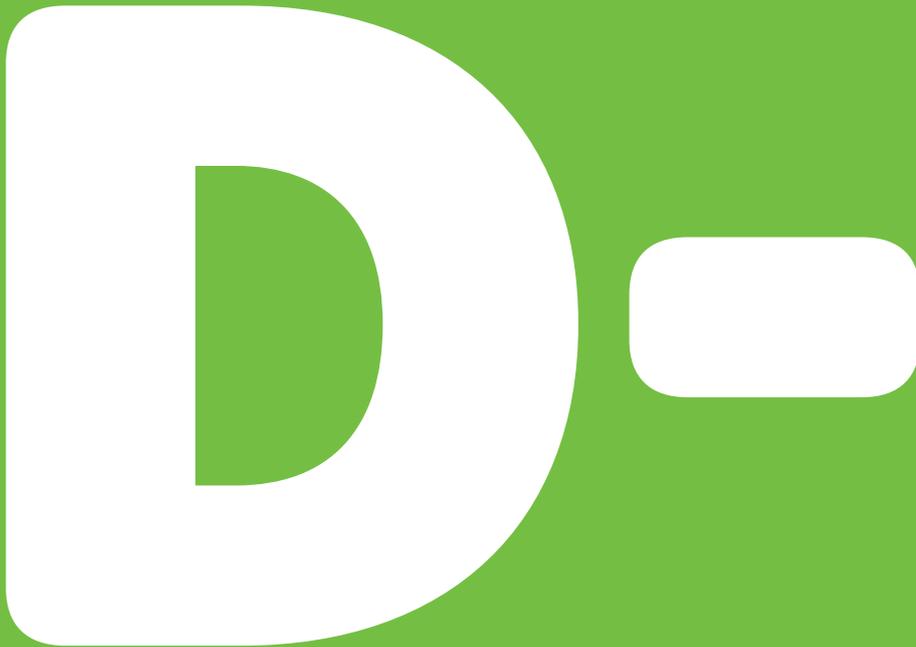
281 Beyond this, some flexibility is required in the case of certain young people over 18 years, for example those with intellectual disabilities.

282 Article 1 of the UN Convention on the Rights of the Child states that a child means every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier.

283 Council for Children's Hospital Care (2005) *Background Information on Cut-off age for admission to the Children's Hospital*.

284 Children in Hospital, 'European Charter for Children in Hospital', <http://www.childreninhospital.ie/each-charter>

Chapter 4: Right to an Adequate Standard of Living



“Recent Budget cuts aimed at lone parents have had real negative effects on their children, who form 65% of the poorest children in Ireland. All children should have a fair chance to reach their full potential.”

Karen Kiernan, Director, One Family

Local Eye

Family's New Year struggle

Northside People

Antoinette Norris, a mother of two special needs children from Finglas, spoke to Northside People about her fears of losing more than €1,700-a-year after Budget 2013. She cares for her autistic six-year-old son Adam and her 15-year-old daughter Demi, who is non-verbal and has suspected Cohen's Syndrome. She is assisted by her other daughter, Amanda, and son, Sam, both of whom were presented with a Young Carers of the Year Award in May 2012.

Ms Norris said she had braced herself for a harsh budget but never imagined that she would be hit from all angles.

“We are living from hand to mouth as it is and just managing to stay afloat. I've never used the respite grant for a break. It's used to pay bills or maybe to treat my kids who do so much to help and care for Adam and Demi throughout the year. The politicians making these decisions in the Dáil have no idea of the expense. It's a battle every year to make ends meet with the limited financial support I get.”

Aoibhinn Twomey, 'Family's New Year struggle',
Northside People, 31 December 2012

Overview

The Right to an Adequate Standard of Living gets a 'D-' grade this year, a slight fall from last year's 'D' grade. Child poverty remains high: figures released in 2012 show that almost 9% of children in Ireland are living in consistent poverty and almost 20% at risk of poverty.²⁸⁵ EU Survey of Income and Living Conditions (EU SILC) figures, published in 2012, indicate that households with children are more likely to experience poverty than those without.²⁸⁶

Child Poverty gets an 'F' grade this year – the lowest grade given in this edition. This is due to the harsh measures adopted in Budget 2013, which clearly undermine the child's right to an adequate standard of living. Area Based Approach to Tackling Child Poverty gets a 'C-' grade in recognition of the allocation of €2.5 million in Budget 2013 to commence an important Initiative. In Children and the Social Welfare System, the report of Advisory Group on Tax and Social Welfare remains unpublished, rendering a barely acceptable 'D' grade.

Once again, the choices made in Budget 2013 hit families hard: Child Benefit was cut for all children – the fourth cut in four years – with more serious cuts targeting larger families. The severe cut to the Back to School Clothing and Footwear Allowance for all eligible children will hinder children from fulfilling their right to education under Article 28. These cuts to vital supports will push more children and families into poverty: 2010 UNICEF research found that without government intervention in the form of social transfers and taxes, child poverty rates in Ireland would triple.²⁸⁷

The UN Committee on the Rights of the Child, in its 2007 day of General Discussion on 'Resources for Rights' made clear the obligation on States to undertake targeted measures to move as expeditiously and effectively as possible towards the full realisation of economic, social and cultural rights of children and that a financial crisis should not be used as a reason to delay.²⁸⁸ The UN Independent Expert on Human Rights and Extreme Poverty reiterated this point on her trip to Ireland in 2011.²⁸⁹ Despite this, Government continues to cut socio-economic rights-related programmes and services, asserting it is justifiable to bring about economic recovery.²⁹⁰

The Right to an Adequate Standard of Living

Every child has the right to a standard of living that is adequate to their development – physical, mental, spiritual, moral and social. While parents and guardians have the primary responsibility to provide for the child's material needs, the State also has the responsibility to assist parents and guardians to alleviate poverty where needed. *Summary of Article 27 of the UNCRC*

285 Central Statistics Office (2012) *Survey on Income and Living Conditions: Thematic Report on Children 2004-2010*. Dublin: Stationery Office.
286 *Ibid.*

287 UNICEF (2010) *The Children Left Behind: A league table of inequality in child well-being in the world's rich countries*, Florence: Innocenti Research Centre, p. 22.

288 UN Committee on the Rights of the Child, 46th session (2007) 'Day of General Discussion on 'Resources for the Rights of the Child – Responsibility of States'', <http://www2.ohchr.org/english/bodies/crc/discussion.htm> [accessed 14 March 2012].

289 UN General Assembly (2011) *Report of the Independent Expert on the Question of Human Rights and Extreme Poverty*, A/HRC/17/34/Add.2.

290 Aoife Nolan (2011) *Human Rights Law in Perspective: Children's Socio-Economic Rights, Democracy and the Courts*, Oxford: Hart Publishing.

4.1 Child Poverty

F
Grade:

Government Commitment

The *Programme for Government* states that the elimination of poverty is an objective of this Government and that it is committed to achieving the targets in the *National Action Plan for Social Inclusion* to reduce the number of people experiencing poverty.

Progress since January 2012

Unsatisfactory

What's happening?

A new national sub-target to reduce child poverty was promised but has not yet been set. The Child Benefit payment has been cut for all families; the Back to School Clothing and Footwear Allowance was further reduced.



Budget 2013 introduced two measures that will impact significantly on children and families experiencing, or at risk of, poverty. The Child Benefit payment was cut by €10 per month (from €140 to €130) for the first and second child, by €18 per month (from €148 to €130) for the third child, and by €20 (from €160 to €140) for fourth and subsequent children. This was the fourth consecutive budget to reduce the Child Benefit payment.²⁹¹

The Back to School Clothing and Footwear Allowance (BSCFA) was cut by €50 for all eligible children.²⁹² For the second year in a row, the payment has suffered a severe cut reducing it from an annual payment of €305 to €200 (almost 35%) for children aged over 12 years and from €200 to €100 (50%) for children aged four to 11 years. Budget 2013 also introduced further measures that will impact on families with children, including a change in maternity benefit, so that it is now treated as taxable income, a 20% cut to the respite care grant and abolition of the deductions from income with regard to children associated with the Farm Assist payment.²⁹³

In the *National Action Plan for Social Inclusion 2007-2016*, the Government committed to reduce the number of people experiencing consistent poverty to between 2% and 4% by 2012, with the aim of eliminating consistent poverty by 2016.²⁹⁴ In 2012, the Department of Social Protection revised this figure, following publication of a review of the national poverty target.²⁹⁵ The target has been renamed the 'national social target for poverty reduction' and is now set at reducing consistent poverty to 4% by 2016 (interim target) and to 2% or less by 2020, from the 2010 baseline rate of 6.2%.

A new national sub-target for the reduction of child poverty will be introduced, in consultation with relevant stakeholders, to reduce the differential in the rate of consistent poverty between children and adults (8.2% and 5.5% respectively in 2010).²⁹⁶

Finally, under the EU 2020 Strategy EU Member States are required to set a national poverty target that will contribute to meeting the EU poverty target of lifting at least 20 million people out of poverty by 2020. Ireland's contribution to reaching the EU target is to lift a minimum of 200,000 people out of poverty by 2020.²⁹⁷

291 Budget 2012 cut the Child Benefit Payment by €19 monthly for the third child and €27 monthly for the fourth and subsequent child. Budget 2011 introduced a €10 cut across for all children and a €20 cut for third child. Budget 2010 introduced a €16 cut with compensation for those on Family Income Support and Qualified Child Increase. Budget 2009 restricted eligibility for the Child Benefit Payment for those over 18 years (regardless of their status as in full time education).

292 The number of BtSCFA beneficiaries (children) in 2011 was estimated to be 377,000.

293 For full analysis of Budget 2013 and its impact on children see: Children's Rights Alliance (2012) *Analysis of Budget 2013 and its Impact on Children*, Dublin: Children's Rights Alliance.

294 Office for Social Inclusion (2007) *National Action Plan for Social Inclusion 2007-2016*, Dublin: Stationery Office.

295 The Review focused on developing and adopting appropriate and achievable national poverty targets in line with national and EU commitments. See: Department of Social Protection (2012) *National Social Target for Poverty Reduction: Policy Briefing on the Review of the National Poverty Target*, Dublin: Department of Social Protection.

296 Department of Social Protection (2012) *National Social Target for Poverty Reduction: Policy Briefing on the Review of the National Poverty Target*, Dublin: Department of Social Protection, p.8.

297 The EU will be tracking the 'at risk of poverty' measure. The Irish figure is based on the 2010 baseline rate of 6.2%. Department of Social Protection (2012) *National Social Target for Poverty Reduction: Policy Briefing on the Review of the National Poverty Target*, Dublin: Department of Social Protection, p.3.

Comment

Child Poverty gets an 'F' grade in *Report Card 2013*, a fall from last year's 'E' grade. This is due to the harsh measures adopted in Budget 2013, which will certainly see more families with children fall into poverty, and the delay in setting a national sub-target for the reduction of child poverty.

In relation to economic, social and cultural rights, under Article 4 of the UN Convention on the Rights of the Child States are obliged to undertake measures to implement the Convention rights to the maximum extent of their available resources. Understanding the principle of 'progressive realisation' is central to assessing states' economic and social rights obligations in both 'normal' times and periods of crisis.²⁹⁸ The Committee on Economic, Social and Cultural Rights (CESCR) has established that although the full realization of economic, social and cultural rights may be achieved progressively, state have 'immediate obligations' that are not dependant on availability of resources, such as ensuring non-discrimination.²⁹⁹ The Committee has also affirmed that States Parties have a core obligation to protect 'minimum essential levels' of economic and social rights. The core objective of this principle is to establish that states must ensure a basic minimum floor of economic and social rights protection as a priority over other economic and policy considerations. Evaluating a country's 'available resources' entails not only looking at government expenditures but also revenue generation, including the extent and progressiveness of the tax structure and the resources that may be obtained through international development assistance.³⁰⁰

The Child Benefit payment is the State's income mechanism for supporting parents with their child rearing duties.³⁰¹ This is in line with Article 18 of the UN Convention on the Rights of the Child, which obliges states to support parents and legal guardians in caring and providing for their children. Cuts to Child Benefit in four consecutive budgets have reduced monthly child income supports by almost €100 for families with three or more children. The failure in Budgets 2011, 2012 and 2013 to compensate those on the lowest incomes for these cuts interferes with a child's right to an adequate standard of living (Article 27).

The year-on-year cuts to the Back to School Clothing and Footwear Allowance, the only payment dedicated to supporting low-income parents with the cost of school, will hinder children from fulfilling their right to education under Article 28, and their right to an adequate standard of living under Article 27 of the UN Convention on the Rights of the Child. Barnardos research found that, in 2012, going back to school cost €355 for a child in senior infants and €770 for a first year pupil in secondary school.³⁰² The payment of €100 for children from four to 11 years and €200 for children over 12 years leaves a significant shortfall for families with limited incomes.

The cuts to Child Benefit and the Back to School Clothing and Footwear Allowance in Budget 2013 amount to savings of €153 million in 2013, but only €18.5 million – 11.6% – was redirected into services and programmes for children under the new Childcare Plus Initiative.³⁰³

Rates of child poverty are alarmingly high in Ireland, with almost 20% of households with children at risk of poverty and nearly 8% living in consistent poverty.³⁰⁴ Children in Ireland are more likely than adults to be persistently poor, to experience recurrent poverty, and to be exposed to sustained persistent poverty.³⁰⁵ Published in 2012, an analysis of figures relating to child poverty from the EU Survey of Income and Living Conditions (EU SILC) between 2004 and 2010 indicates that households with children are more likely to experience poverty than those without.³⁰⁶

298 Center for Economic and Social Rights (2012) *Mauled by the Celtic Tiger: Human rights in Ireland's economic meltdown*, Rights in Crisis Briefing Paper.

299 *Ibid.*

300 *Ibid.*

301 LOCAL FOCUS: Sligo Champion 'I'm angry... I can only take so many cuts' Sligo Families React to Child Benefit reductions, 11 December 2012.

302 Barnardos (2012) *School Costs Survey 2012*, Dublin: Barnardos.

303 Saving over a full year to Child Benefit are worth €142 million and to the Back to School Clothing and Footwear Allowance amount to €17 million.

304 Central Statistics Office (2012) *Survey on Income and Living Conditions: Thematic Report on Children 2004-2010*. Dublin: Stationery Office.

305 H. Frazer and M. Devlin (2011) *An Assessment of Ireland's Approach to Combating Poverty and Social Exclusion among Children from European and Local Perspectives*, Maynooth: Department of Applied Social Studies, National University of Ireland Maynooth.

306 Central Statistics Office (2012) *Survey on Income and Living Conditions: Thematic Report on Children 2004-2010*. Dublin: Stationery Office.

2012 research undertaken by the Vincentian Partnership for Social Justice examining the cost of raising a child, established that child income supports do not reflect the varying needs of a child and that, depending on a child's age, location and employment status of their parents, the payments are mostly inadequate.³⁰⁷ Furthermore, the Nevin Economic Research Institute found that a 33% of houses have a gross income of less than €30,000.³⁰⁸

Children in certain situations are particularly at risk of poverty, including children in lone parent families and children in jobless households. In addition, Traveller and Roma children, migrant children, children living in direct provision centres,³⁰⁹ young care leavers, children with a disability and homeless children experience high levels of poverty, but large scale studies, such as the EU SILC, fail to capture these children's experiences.³¹⁰

Indeed, current measures of poverty are, with some exceptions, household-focused, rather than child-focused. By using indicators that primarily relate to adults' lives they do not give a clear or full picture of children's lived experiences.³¹¹ Using a direct measure of child deprivation would provide a more complete understanding of child poverty.³¹² There are currently three official national measures of poverty in Ireland: at-risk-of-poverty; material deprivation; and the overlap of the two, consistent poverty.

Poverty targets: Since 1997, five targets have been set by Government to reduce poverty. The first target was the 1997 *National Anti-Poverty Strategy* aimed to reduce the consistent poverty rate from 9% to 5% and the at-risk of poverty rate from 15% to 10%, in the period 1997-2007.³¹³ *Building an Inclusive Society*, the 2002 review of the national anti-poverty strategy, set a second target aimed to reduce consistent poverty from 6.2% to 2%, and if possible to 0% between 2002 and 2007.³¹⁴ A third target was set by the *National Action Plan for Social Inclusion 2007-2016* aimed to reduce consistent poverty from 7% to 0% by 2016, with an interim target of between 2% and 4% by 2012.³¹⁵

In 2012, a fourth target was set (a revision of the third target) to reduce consistent poverty to 4% by 2016 (interim target) and to 2% or less by 2020. The setting of a new national social target for poverty reduction in October 2012 is to be welcomed. 2012³¹⁶ also saw the setting of a fifth target (to be reached in tandem with the fourth target), 200,000 people are to be lifted out of poverty by 2020, in line with Ireland's obligations under the *EU 2020 Strategy*, which commits to lift at least 20 million people out of at-risk of poverty in the EU.³¹⁷

Child poverty target: Children are the group most at risk of poverty, and, without earning capacity, they are reliant on their parents' income and on the State for support. The UN Committee, in its *General Comment Number 5*, is clear that implementation of children's socio-economic rights is not a charitable process but a basic obligation of Government.³¹⁸ The Alliance, as part of the End Child Poverty Coalition, called for a specific child poverty target linked to the national target; the Government has committed to introduce such a sub-target.³¹⁹ The target for reducing poverty among children should be announced as a matter of priority, following consultation with relevant stakeholders, including children's NGOs. The new sub-target will act as a means through which progress on child poverty can be measured and as a tool to inform children's policy development. To ensure the target is met it must be accompanied by an implementation plan. Furthermore, achieving the target must be seen as a whole of Government target and not solely the concern of the Department of Social Protection.

307 Dr. B. Mc Mahon et al (2012) *Cost of a Child: A consensual budgets standards study examining the direct cost of a child across childhood*, Dublin: Vincentian Partnership for Social Justice.

308 Nevin Economic Research Institute (2013) *Quarterly Economic Observer*, Dublin: Nevin Economic Research Institute.

309 Direct provision is a scheme whereby asylum seekers and people seeking other forms of protection are provided with accommodation on a full board basis with all their basic needs apparently provided for directly. Direct provision residents receive a weekly payment of €19.10 for an adult and €9.60 for a child.

310 H. Frazer and M. Devlin (2011) *An Assessment of Ireland's Approach to Combating Poverty and Social Exclusion among Children from European and Local Perspectives*, Maynooth: Department of Applied Social Studies, National University of Ireland Maynooth.

311 L. Swords et al (2011) *All you need is... Measuring children's perceptions and experiences of deprivation*, Dublin: Trinity Children's Research Centre.

312 Eurostat (2012) *Measuring material deprivation: Indicators for the whole population and child-specific indicators*.

313 Department of Social, Community and Family Affairs (1997) *Sharing in Progress: the National Anti-Poverty Strategy*, Dublin: Stationery Office.

314 Department of An Taoiseach (2002) *Building an Inclusive Society: Review of the National Anti-Poverty Strategy under the Programme for Prosperity and Fairness*, Dublin: Stationery Office.

315 Office for Social Inclusion (2007) *National Action Plan for Social Inclusion 2007-2016*, Dublin: Stationery Office.

316 Department of Social Protection (2012) *National Social Target for Poverty Reduction: Policy Briefing on the Review of the National Poverty Target*, Dublin: Department of Social Protection.

317 Department of An Taoiseach (2011) *National Reform Programme for Ireland under the EU 2020 Strategy*, Dublin: Stationery Office.

318 UN Committee on the Rights of the Child (2003) *General Comment No. 5: General measures of implementation of the Convention on the Rights of the Child*, CRC/GC/2003/5, Arts. 4, 42 and 44, paragraph 6.

319 For further detail on the Alliance position on a child poverty target see: Children's Rights Alliance (2011) *Submission to the Department of Social Protection in relation to the Review of the National Poverty Target*, www.childrensrighs.ie.



Immediate actions for 2013

Poverty proof Budget 2014 to protect children and families

Measures taken in Budget 2013 were, yet again, damaging to children and families. The UN Committee is clear that, even in a crisis, it is not permissible to take steps that disproportionately impact on vulnerable groups, including children. Budget 2014 must be subject to comprehensive child poverty proofing, to ensure that children and families are protected from unnecessary cuts and associated distress.

Prioritise introduction of the promised child poverty target

This was an immediate action in *Report Card 2012* and remains unaddressed. The commitment to set a national sub-target for child poverty reduction is welcome. Consultation with relevant stakeholders must happen in early 2013, with a target agreed in advance of Budget 2014. This target should be named in both the *National Action Plan for Social Inclusion and the forthcoming National Children and Young People's Policy Framework*. It should be accompanied by a Child Poverty Target Implementation Plan, outlining the objectives, actions and agreed timelines for each Department or Agency with responsibility for delivery, though overall monitoring responsibility should rest with the Minister for Children and Youth Affairs.



4.2 Area Based Approach to Tackling Child Poverty



Grade:

Government Commitment

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

Progress

Initial Step Taken

What's happening?

A commitment has been made and funding allocated in Budget 2013 for an Area Based Approach to Child Poverty Initiative, but few specifics are available on the nature of the initiative.



Budget 2013 saw the announcement of a new 'Children Plus' initiative, under which €2.5 million will be provided by the Department of Social Protection to the Department of Children and Youth Affairs for the establishment of an Area Based Approach to Child Poverty Initiative, which builds on and continues the work of the Prevention and Early Intervention Programme (PEIP). The initiative involves a number of Government Departments – Departments of Social Protection; Environment Communities and Local Government; Education and Skills; and the Office of the Tánaiste, led by the Department of Children and Youth Affairs. They will work together in 2013 to add three new sites to the original three Prevention and Early Intervention Programme (PEIP) sites, to bring to a total of six sites.³²⁰ The selection criteria for the three new sites (and the additional four that will follow after 2013) are as yet unknown. By 2015, the Exchequer funding for the initiative is expected to reach approximately €4.75 million.

Three Prevention and Early Intervention Programmes are currently operating in Dublin on a five-year pilot basis: the Childhood Development Initiative in Tallaght; Preparing for Life in the Northside communities of Darndale, Belcamp and Moatview; and *youngballymun* in Ballymun. A fund of €36 million has been provided by the Department of Children and Youth Affairs and The Atlantic Philanthropies for these projects over a five year period. This investment is due to end in 2013. These projects are currently being evaluated by national and international experts.

The Minister for Children and Youth Affairs, in welcoming this new investment, was clear that the area-based child poverty initiative will not simply be a continuation of the PEIP scheme but will instead seek to implement programmes that have been evaluated and proven to work in improving outcomes for children and families at risk of disadvantage.³²¹

Comment

An Area Based Approach to Tackling Child Poverty gets a 'C-' grade in *Report Card 2013*, a rise from last year's 'D' grade. The rise in the grade is in recognition of the allocation of €2.5 million in Budget 2013 to commence an Area Based Approach to Child Poverty Initiative. To improve next year, the selection of the three new sites must be made in a transparent manner and the programmes rooted in evidence and best practice.

The UN Committee on the Rights of the Child recognise the negative impacts of growing up in both relative and absolute poverty, noting that absolute poverty poses a threat to a child's survival and their health. Growing up in relative poverty also 'undermines children's wellbeing,

320 Department of Children and Youth Affairs, 'Minister for Children and Youth Affairs announces new supports for children and families' [press release], 5 December 2012, <http://www.dcy.gov.ie/viewdoc.asp?DocID=2516> [accessed 29 December 2012].

321 *Ibid.*

social inclusion and self-esteem and reduces opportunities for learning and development.³²² Commenting on obligations arising from Article 27 (standard of living) the Committee has called on States to implement systematic strategies to reduce poverty in early childhood as well as combat its effects on children's wellbeing. All possible means should be employed, including 'material assistance and support programmes' for children and families, to assure young children a basic standard of living consistent with rights.³²³

International evidence: Achieving the new national sub-target to reduce child poverty (once it is set – see section 4.1) will require a move away from an exclusive focus on income support, as has traditionally been the case, and towards an approach that spans a variety of policy areas, as called for by the UN Committee. The 2010 UK Government *Child Poverty Review* found overwhelming evidence that children's life chances are most heavily predicated on their development in the first five years of life, and recommended a shift in Government policy and spending towards children's early years, specifically calling for investment in providing high quality, integrated services to support parents and improve the abilities of the poorest children during the period when it is most effective to do so.³²⁴ Doing this, the review states, will enhance each child's educational and employment prospects, thus addressing the intergenerational cycle of poverty. This approach is in line with the 2005 National Economic and Social Forum (NESF) report, which proposed the establishment of Child and Family Centres in Ireland based on the UK Sure Start Children's Centres;³²⁵ and a 2011 OECD Report, *Doing Better for Families*, that recommends the development of integrated services for children and families, to embody 'the three 'C's of efficient service delivery: cascading, co-operation and co-location'.³²⁶

Area-based projects: The Government and philanthropic investment in area-based projects is to be welcomed. However, this initiative must be part of a broader suite of measures to tackle child poverty, including addressing parental unemployment, household debt and access to housing and health care.

Poverty exists in communities across Ireland, but the experience of a child may differ depending on the community. The experience of a child growing up in a densely populated urban area with a concentration of families living in poverty and with a high rate of criminality and anti-social behaviour will differ from the experience of a child growing up in a small rural townland, whose family live in consistent poverty, but whose neighbours, for the most part, do not. The social context of poverty may result in a multiplier effect.

PEIP projects do include addressing poverty as an explicit aim, yet it is clear that they are focused on breaking the cycle of disadvantage, and improving the life chances of children and families living in the chosen communities, which is inextricably linked to addressing intergenerational poverty.³²⁷ The projects take a multi-pronged approach, focusing on a range of issues, including improving literacy;³²⁸ improving mental and physical health and speech and language; increasing school-readiness; increasing pro-social behaviour; and providing early years' education and care and parenting. The projects aim to "prevent children from succumbing to the risks associated with disadvantage as well as providing them with the resilience to overcome those risks".³²⁹

The three projects have not applied the same, standardised model, rather they have used a range of pilots that will be benchmarked and evaluated, to provide learning for future policy and service development, and direct Government investment in children. Initial programme findings within these projects are starting to emerge and the final evaluation of the three projects is due in 2013.³³⁰

322 UN Committee on the Rights of the Child (2005) *General Comment No. 7: Implementing Child Rights in Early Childhood*, CRC/C/GC/7/Rev.1, paragraph 10.

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

324 Frank Field (2010) *The Foundation Years: preventing poor children becoming poor adults: the Report of the Independent Review on Poverty and Life Chances*; London: Cabinet Office.

325 National Economic and Social Forum (2005) *Early Childhood Care and Education: NESF Report 31*, Dublin: National Economic and Social Forum.

326 Organisation for Economic Cooperation and Development (2011) *Doing Better for Families*, Paris: OECD, p.60.

327 Department of Children and Youth Affairs, 'Prevention and Early Intervention Programme for Children (Dormant Accounts Funded)', <http://www.dcy.gov.ie/viewdoc.asp?fn=%2Fdocuments%2Fpolicy%2Fprevproject.htm&mn=chid&nID=3> [accessed 8 December 2011].

328 LOCAL FOCUS: *irishtimes.com*, 'Programme "helped child literacy"', 6 November 2012.

329 Department of Children and Youth Affairs, 'Prevention and Early Intervention Programme for Children (Dormant Accounts Funded)', <http://www.dcy.gov.ie/viewdoc.asp?fn=%2Fdocuments%2Fpolicy%2Fprevproject.htm&mn=chid&nID=3> [accessed 8 December 2011].

330 *Ibid.*

It is vital that the evidentiary lessons from the existing pilot sites form the basis for the design of the new initiative. The programme design must take into account the specific conditions that led to the successful outcome of the pilot phase, for example a successful two-year programme may not yield the same level of success if reduced to a one-year programme.

Furthermore, research has shown that the effects of early investment in disadvantaged children is lessened if not followed up by later investment at later ages: investments appear to be complementary and require follow-up to be effective.³³¹ There must be a connection to other key sites of investment, for example the DEIS programme, which also adopts an area based approach. How a child fares in education is the single most important determinant of his or her future success and a proven route out of poverty.³³² Continued and sustained investment must be made to prepare children for school and reduce the incidences of early school leaving.

The Minister for Children and Youth Affairs has acknowledged that the learnings from these projects must be mainstreamed "so that proven and effective supports for children and families could be delivered right through the country, including through the range of services to be provided by the new Child and Family Support Agency".³³³ This is a very encouraging statement as it is only by mainstreaming good practice will it be possible to reach the broader child population and the significant number of children living in poverty dispersed across the country.

Immediate actions for 2013



Clarify the criteria for selection of communities for the area-based child poverty initiative

Many communities across Ireland have much to gain from participation in the Area Based Child Poverty Initiative. It is vital that selection criteria for communities are transparent, available and accessible to the public, and open to challenge; to ensure that the selection process is fair. A small working group of relevant statutory and independent experts should be formed to agree the criteria and oversee the selection of areas.

Design a programme based on national and international evidence and best practice

A challenge to Government lies in deciphering the numerous evaluations and identifying which interventions from the existing three sites had the greatest impact and can be scaled up in a cost effective manner. The projects run in the new initiative must be informed by national and international evidence and best practice.

331 F. Cunha and J.J. Heckman (2010), Investing in Our Young People, Working Paper 16201, Cambridge: National Bureau of Economic Research, p 5.

332 UK Cabinet Office (2009) *Getting On, Getting Ahead: a discussion paper analysing the trends and drivers of social mobility*, London: Cabinet Office.

333 Department of Children and Youth Affairs, 'Minister for Children and Youth Affairs announces new supports for children and families' [press release], 5 December 2012, <http://www.dcy.gov.ie/viewdoc.asp?DocID=2516> [accessed 29 December 2012].

Grade:

D

4.3 Children and the Social Welfare System

Government Commitment

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

Progress since January 2012

Unsatisfactory



What's happening?

A report on child and family income supports by the Advisory Group on Tax and Social Welfare has been submitted to the Minister for Social Protection. This has not yet been made public.

An Advisory Group on Tax and Social Welfare was established by the Minister for Social Protection, Joan Burton TD, in June 2011. The Group's terms of reference "constitute a forum to which the Minister [...] may refer specific issues around income supports and tax systems so that they provide good incentives to take up work and to contribute to the reduction of poverty and child poverty in particular."³³⁴ The Group, chaired by Ita Mangan, comprises 15 members, drawn from the public service, including a representative from the Department of Children and Youth Affairs, as well as from academia, business and trade unions.³³⁵ There is no community and voluntary sector representative.

The Advisory Group prioritised the issue of child and family income supports (in particular Child Benefit, Qualified Children Increases and the Family Income Supplement) and submitted its first modular report on this issue to the Minister for Social Protection in December 2011.³³⁶ This report was not made public. The Advisory Group has since submitted its report on child and family income supports to the Minister for Social Protection, who has discussed the Report with the Minister for Children and Youth Affairs, the Minister for Finance and the Minister for Public Expenditure and Reform. Cabinet is expected to review the Report in early 2013 and it will be published shortly thereafter.³³⁷

Comment

Children and the Social Welfare System gets a 'D' grade, which is down from last year's 'C' grade. As stated in *Report Card 2012*, to improve the grade the Group's report must be published and concrete steps taken towards implementing its recommendations on the interaction between taxation and the welfare system to make a positive impact on the lives of children and their families.

Article 27 of the UN Convention on the Rights of the Child provides that every child has the right to a standard of living adequate for the child's physical, mental, spiritual, moral and social development. While the provision recognises that parents and guardians have the primary role in providing financially for a child, the State must take appropriate measures to assist parents and guardians according to its means, including the provision of material assistance and support

334 Department of Social Protection (2011) *Advisory Group on Tax and Social Welfare: Terms of Reference*, http://www.welfare.ie/EN/AboutUs/Documents/Terms_of_reference.pdf [accessed 7 November 2011].

335 Membership as of May 2012: Ita Mangan, Chairman of the Advisory Group; John Bohan, Department of Social Protection; Gerry Harrahill, Office of the Revenue Commissioners; Micheál Collins, Department of Economics, Trinity College Dublin (since moved to a position with the Nevin Economic Research Institute); John Conlon, Department of Public Expenditure and Reform; Catherine Hazlett, Department of Children and Youth Affairs; Paul Kealy, Department of Jobs, Enterprise and Innovation; Geralyn McGarry, Citizens Information Board; Aebhric McGibney, Dublin Chamber of Commerce; Pat Mahon, Pricewaterhouse Coopers (PwC); Brenda McVeigh, Department of Finance; Mary P. Murphy, Department of Sociology, National University of Ireland, Maynooth; Brian Nolan, School of Applied Social Science in UCD; Marie Sherlock, SIPTU; John Sweeney, National Economic and Social Council.

336 Department of Social Protection (2011) *Advisory Group on Tax and Social Welfare: Terms of Reference*, http://www.welfare.ie/EN/AboutUs/Documents/Terms_of_reference.pdf [accessed 7 November 2011].

337 Aengus O'Snodaigh TD, Parliamentary Question [44636/12], Dáil Debate, 16 October 2012, Vol. 773 No.15.

programmes. This is a qualified right, subject to the economic conditions of the State. That said, children and struggling families should not disproportionately bear the brunt of budgetary cuts, nor should there be delays in receiving payments to which they are entitled.³³⁸ The UN Committee has stated that States should not take backward steps in a recession.

The recession has had a deep impact on families and children, with many experiencing poverty for the first time as a result of job losses, falling incomes and cuts to take home pay. The social welfare system, however, continues to provide a vital safety net and is responsible for protecting many families from being pushed even deeper into poverty.³³⁹ A recent longitudinal study of children showed that in 2008 only 7% of the children reported that their families had some or great difficulties in making ends meet. When asked the same questions in 2012, the figure had tripled to 23%.³⁴⁰ Central Statistics Office Household Budget Survey showed an increase of 70% in State financial supports to families since 2005, from €125.41 to €217.00, to support them through wage cuts and job losses.³⁴¹ A 2010 UNICEF report found that, in Ireland, without social assistance payments and tax system reliefs, child poverty would be higher than in any of the other 21 OECD country.³⁴² Figures from the 2010 European Survey of Income and Living Conditions (EU SILC) show that, without social welfare payments, 51% of Ireland's population would be at risk of poverty – a steady increase from 39.8 % in 2004.³⁴³

Addressing child poverty means ensuring that the social welfare system works for those that need it most, namely vulnerable children and families. The Alliance has long advocated on this issue, calling for greater coordination between the tax and social welfare systems to allow for more efficient targeting of child income supports, by facilitating a move towards an integrated child income support payment. Our position is built on learning from the United Kingdom, where the Government, having considered integration of tax and social welfare systems, opted for strategic (partial) rather than structural (full) integration. This approach means greater coordination between tax and welfare systems, with closer cooperation on policy, standardisation of information systems and more transfer of information between the agencies concerned, but not full integration of systems and services.³⁴⁴ A similar shift, here in Ireland, would ensure that the tax and welfare systems work together in relation to child income supports and that poverty and unemployment traps are avoided.

Towards an integrated child income support payment: The debate over the last number of years has centred on the issues related to taxing or means testing the Child Benefit payment, which is paid to an estimated 600,000 families in 2012 at a cost of over €2 billion to the Exchequer, 86% of the total amount spent on child income supports.³⁴⁵

However, the package of income supports is larger than Child Benefit alone and a change to this payment will automatically impact on others. To truly address this issue the current social welfare system, which is complex and cumbersome, must be reformed to become more responsive to individual families' needs, through more joined-up working between the tax and welfare systems.³⁴⁶ The successful introduction and administration of a new, integrated child income support payment, as outlined in the Department of Social Protection's 2010 *Policy and Value for Money Review of Child Income Supports and Associated Programmes*, would require significant cooperation between the Department of Social Protection and the Revenue Commissioners. There is precedence for such cooperation.³⁴⁷ In addition, the Revenue

338 Michael Creed TD, Parliamentary Question to the Minister for Social Protection [45146/12], Written Answers, 17 October 2012, Vol. 773 No.16.

339 LOCAL FOCUS: *The Connacht Sentinel*, Children 'going hungry' in Galway as families struggle, 18 September 2012.

340 Economic and Social Research Institute, Trinity College Dublin, Department of Children and Youth Affairs, *Growing Up In Ireland, National Longitudinal Study of Children, Child Cohort, Key Findings: 13 Year Olds, No. 3, November 2012*, Dublin: Department of Children and Youth Affairs.

341 Central Statistics Office, 'Household Budget Survey 2009-2010: first results' [press statement], 14 March 2012, <http://bit.ly/wyK3ng> [accessed 29 December 2012].

342 UNICEF (2010) *The Children Left Behind: A league table of inequality in child well-being in the world's rich countries*, Innocenti Report Card 9, Florence: UNICEF.

343 Central Statistics Office (2011) *European Survey of Income and Living Conditions (EU SILC) 2010*, Cork: CSO, p. 26.

344 D. Clinton et al (1994), *The Commission for Social Justice: Integrating Taxes and Benefits?* London: Institute of Public Policy Research. See also: Martin Taylor (1998), *The Modernisation of Britain's Tax and Benefit System, Number Two: Work Incentives*, London: HM Treasury.

345 Department of Finance, Department of Public Expenditure and Reform, (2012) *Expenditure Report 2013*, p. 183.

346 This would involve greater coordination between the Revenue Commissioners and the Department of Social Protection, with closer cooperation on policy, standardisation of information systems and more transfer of information between relevant agencies, but not full integration of systems and services.

347 The Revenue Commissioners and the Department of Social Protection currently cooperate in relation to two existing tax credits: the One-Parent Family Tax Credit and the Home Carers' Tax Credit. The Office of the Revenue Commissioners, 'Home Carer Tax Credit', <http://www.revenue.ie/en/tax/it/credits/home-carers.html> [accessed 1 March 2010].

Commissioners have taken on a broader role in relation to the local property tax. Given Ireland's economic situation and drive for efficiency in our public sector, administrative issues should no longer qualify as a barrier to joint working.³⁴⁸

Moving to a new system would, of course, incur initial costs and take time, but these costs must be considered in the context of the longer-term costs of failing to address child poverty and the Government's commitment to reduce poverty and make efficient and effective budgetary decisions, with positive long-term savings and impact. ESRI research in 2007, looking at a potential 'second tier' child income support payment similar to the integrated payment, estimated that this measure would reduce child poverty by 4.5%,³⁴⁹ thus ultimately generating Government savings that would reduce the need for State supports, specifically in relation to income, health and justice.

A key stumbling block is how to compensate low income families who currently receive the Family Income Supplement (FIS) who could face significant losses under an integrated child income support payment. FIS is not solely a child support payment, but an employment support, so reforming FIS requires both a child and an employment response. Reform of 'in-work' income supports – for example by introducing a refundable working tax credit – is urgently needed. It is understood that the Advisory Group is currently reviewing 'in work' income supports. This work should be completed as a matter of priority to ensure progress can be made on reforming FIS at the same time as introducing an integrated child income support payment.



Immediate actions for 2013

Urgently publish the Advisory Group's report, commit to coordination between the tax and welfare systems and commence reform of the child income support system

The report of the Advisory Group on Tax and Social Welfare should be published as a matter of urgency and its work on 'in work' support be fast-tracked to allow for a Government decision on child income reform. The Government should consult with community and voluntary representatives in making its decision. The process of deeper coordination between the tax and welfare systems to deliver this reform should be commenced as a matter of priority. Elements of this recommendation, called for as immediate actions in *Report Cards 2012* and *2011*, remain unaddressed.

348 Administrative issues are cited in: National Economic and Social Council (2007), *Ireland's Child Income Supports: The Case for a New Form of Targeting*, Research Series Paper no. 6, NESCC: Dublin, p. 77; T. Callan Et al (2006), *Child Poverty and Income Supports: Ireland in a Comparative Perspective* in Callan (ed.), *Budget Perspectives 2007*, Dublin: ESRI; and Department of Social and Family Affairs, *Child Income Support: Outline note for distribution to the National Children's Advisory Council*, April 2008.

349 T. Callan et al (2006), *Child Poverty and Income Supports: Ireland in a Comparative Perspective* in Callan (ed.), *Budget Perspectives 2007*, Dublin: ESRI.

Chapter 5: Right to Protection from Abuse and Neglect

B-1

“The new Child and Family Support Agency is an essential piece of the jigsaw that we hope will revolutionise the way the State works with children.”

Ashley Balbirnie, CEO, ISPCC

Local Eye

480 Cork children are awaiting social workers

Evening Echo

It was reported that approximately 480 children were waiting to be allocated a social worker in Cork city after being referred to the HSE from GPs, Public Health Nurses, A&E, families and other agencies. This emerged following the publication of the Independent Child Death Review Group’s report.

Fine Gael councillor John Buttimer was reported to have said: “The reality remains that the system is still struggling with the number of cases referred. While individual files are being reviewed and screened there are still significant numbers of children who have not been allocated a social worker for active intervention. It means that essential and possible life changing intervention is not being carried out. Responding to urgent child welfare cases is of the utmost importance but other aspects of child services need to take up some of the work with early intervention.”

‘480 Cork children are awaiting social workers’,
Evening Echo, 21 June 2012

Overview

The right to protection from abuse and neglect gets a 'B-' grade in *Report Card 2013*, which is a significant improvement on last year's 'D+'. This chapter again focuses on the Child and Family Support Agency, the *Ryan Report Implementation Plan* and three of its key commitments, youth homelessness and children in detention. A 'B+' grade for children in detention, the highest grade in this chapter, is a radical improvement on last year's 'F' grade. This reflects the very welcome commitment to end the blot on Ireland's human rights record of detaining children in St. Patrick's Institution, an adult prison.

In its 2006 *Concluding Observations*, the UN Committee on the Rights of the Child noted its concern at delays in accessing child protection services and at the detention of children aged 16- and 17-years-old in St. Patrick's. It recommended comprehensive vetting for those working with children, the development of a child abuse prevention strategy and a legislative ban on corporal punishment within the family, as well as giving consideration to putting the *Children First Guidance* on a statutory basis.³⁵⁰

2012 was once again an exciting year in the area of child protection and family support. There was continued action by the Department of Children and Youth Affairs to establish the Child and Family Support Agency, including the publication of a Task Force report on a recommended transition programme. The Cabinet approved the drafting of legislation during 2012. In parallel, the HSE Children and Family Services made headway in its reform programme, including the formation of an area structure and the creation of a national Service Delivery Framework. A key challenge is ensuring that the universal aspects of services are well communicated publicly and that the existing deficit from the HSE is not carried over to the new agency.

2012 saw the publication of the Heads and General Scheme of Children First Bill 2012 and the enactment of the National Vetting Bureau (Children and Vulnerable Persons) Bill 2012, both welcome developments and key commitments of the *Ryan Report Implementation Plan*. A final push must be made in 2013. It is disappointing that the review of Youth Homelessness Strategy was not published as planned, but it is understood that it will happen in early 2013.

A low point this year was the publication of *The Report of the Independent Child Death Review Group*,³⁵¹ reviewing HSE's investigations into the deaths of 196 children and young people in care,³⁵² which revealed that the State had utterly failed many of these children. Lessons must be learnt on how best to engage with seriously vulnerable children. Also we have seen no action on the banning of corporal punishment of children in the home. This is a core children's rights issue and a form of violence from which they have a right to be protected.

The Right to Protection from Abuse and Neglect

Every child has the right to be protected from all forms of abuse, violence, punishment and neglect, whether physical or mental. The State has the responsibility to provide support for children who experience abuse and their carers, as well as mechanisms for prevention, reporting, investigation and treatment. *Summary of Article 19 of the UNCRC*

350 UN Committee on the Rights of the Child (2006) *Concluding Observations: Ireland*, CRC/C/IRL/CO/2, paragraph 37.

351 Dr. G. Shannon and N. Gibbons (2012) *Report of the Independent Child and Death Review: Executive Summary*, Dublin: Department of Children and Youth Affairs, p. 6 and 23.

352 The report review cases of those who died between the years 2000 and 2010 who were in the care of the state at the time of their death, young adults who were in aftercare and other children who were not in care but were known to the HSE.

5.1 Child and Family Support Agency

Grade: **B-**

Government Commitment

The *Programme for Government* commits to fundamentally reform the delivery of child protection services by removing child welfare and protection from the HSE, and creating a dedicated Child Welfare and Protection Agency, reforming the model of service delivery and improving accountability to the Dáil.

Progress

On track

What's happening?

A shadow agency is in operation. The Task Force report has been published. Cabinet has approved the drafting of legislation to establish the Child and Family Support Agency. Planning for the new agency is ongoing.



The Government has continued its work throughout 2012 to create a new, dedicated Child and Family Support Agency. From January 2012, a shadow agency began to operate within the HSE with a ring-fenced budget. In July 2012, the Cabinet approved the drafting of legislation to establish the new agency³⁵³ under the remit of the Department of Children and Youth Affairs. In November 2012, detailed legislative proposals, in the form of a General Scheme and Heads of Bill, were approved by Government. Legislation is expected in early 2013.³⁵⁴

A Task Force was set up in September 2011 to advise the Department of Children and Youth Affairs on the transition programme leading to the establishment of the new agency.³⁵⁵ The Task Force produced a report in July 2012³⁵⁶ and its work is now concluded. The report made detailed recommendations on the development of the new agency, including the services that should be included under the agency's remit and for a service delivery model based on five national outcomes.

The Task Force also recommended that a dedicated transition team be resourced to embed the integration of the proposed services into the new agency.³⁵⁷ It recommended that the following services be brought under the scope of the new agency: Public Health Nursing; the children's component of Speech and Language Therapy; Child and Adolescent Mental Health Services (CAMHS); Psychology Services; Children Detention Schools; Domestic and Sexual Violence Services; Hospital Social Workers; and the National Educational and Welfare Board. The Task Force recognised that a phased implementation for the transfer of these services may be necessary. They recommended that the Young Persons' Probation Service should remain under the Department of Justice and Equality for now but its potential inclusion in the agency should be reviewed at a later date. It was also recommended that the agency develop a structured interface with the Gardai and youth organisations managing the Garda Youth Diversion Projects.³⁵⁸

The Task Force considered three options for governance of the agency: an executive agency within the Department that reports to the Minister for Children and Youth Affairs via the Secretary General; an executive agency of the Department operating at "arm's length"; and

353 Department of Children and Youth Affairs, 'Minister Frances Fitzgerald TD publishes Final Report of the Task Force on the Child and Family Support Agency' [press release], 20 July 2012, <http://www.dcy.gov.ie/viewdoc.asp?fn=/documents/press/PressRelease200712.htm>.

354 Gordon Jeyes, National Director, Children and Family Services, HSE, *Newsletter – 13: Vision into Practice*. November 2012.

355 The Task Force comprises ten members from the public, private and voluntary sectors and academia. Membership of the group included: Maureen Lynott (Chair) Management Consultant, and former Chair, Children First National Guidelines; Jim Breslin, Secretary General, Department of Children and Youth Affairs; Prof Pat Dolan, UNESCO Chair and Director, Child and Family Research Centre, NUI Galway; Norah Gibbons, Director of Advocacy, Barnardos; Gordon Jeyes, National Director, Child and Family Services, Health Service Executive; Sylva Langford, former Director General of the Office of the Minister for Children and Youth Affairs; Dr Kevin McCoy, former Chief Inspector, Northern Ireland Social Services Inspectorate; Pat McLoughlin, Chief Executive, Irish Payment Services Organisation Limited; Ellen O'Malley-Dunlop, Chief Executive, Dublin Rape Crisis Centre; Liam Woods, National Director, Finance, Health Service Executive; and Elizabeth Canavan, Assistant Secretary, Department of Children and Youth Affairs.

356 Department of Children and Youth Affairs (2012) *Report of the Task Force on the Child and Family Support Agency*, Dublin: Government Publications.

357 *Ibid.*, p. 32.

358 *Ibid.*, page xi.

an operationally independent body governed by a board of management; the Task Force chose the latter.³⁵⁹

The Government welcomed the Task Force Report³⁶⁰ and has indicated that the agency will develop its service responsibility on a phased basis.³⁶¹ At its commencement in 2013, the agency will be responsible for child welfare and protection services (including family support and alternative care); child and family related services (including pre-school inspections, and domestic, sexual and gender-based violence services); the Family Support Agency; the National Educational Welfare Board; and community-based psychology services.³⁶² Additional services may be transferred after 2013 following further consideration.³⁶³ These services may include Child and Adolescent Mental Health Services, Public Health Nursing and Speech and Language Therapy.³⁶⁴ Children Detention Schools are also to be considered for inclusion after the initial transfers.³⁶⁵

In August 2012, the Department of Children and Youth Affairs published *Review of the National Educational Welfare Board in the context of the Establishment of the Child and Family Support Agency*.³⁶⁶ This review is intended to support the Minister for Children and Youth Affairs in her decision-making regarding the future of the National Educational Welfare Board (NEWB) and sets out the suggested actions required if NEWB and its functions are to be integrated into the agency.

Budget 2012 introduced a new sub-head (B.15 Child and Family Services) to the HSE vote (number 39), linked to the establishment of the Children and Family Support Agency.³⁶⁷ Budget 2013 provided €546 million to the HSE's Children and Family Services programme. This funding line and budget vote will be transferred to the Department of Children and Youth Affairs once the new agency is established.³⁶⁸

Since 2008, the HSE has been undertaking a reform programme to modernise delivery of the HSE's Children and Families Social Services.³⁶⁹ Further positive developments in 2012 include the formation of an area structure comprising four Regional Service Directors and 17 Children and Families Area Managers, operating under the leadership of the National Director for Children and Family Services, Gordon Jeyes.³⁷⁰ Other developments include the creation of a national Service Delivery Framework³⁷¹ for children's services to differentiate between child welfare and protection cases and to offer support at various levels to children and families.³⁷² An intrinsic part of the new framework is the development of a single, consistent mechanism for assessment, referrals and tracking, supported by a new child protection notification system.³⁷³ This national framework has been finalised and will be rolled out over 2013. The framework will link with existing, local models of service delivery, such as the Differential Response Model (DRM) site in North Dublin.

359 *Ibid.*, Section 4, p. 9-19.

360 Department of Children and Youth Affairs, 'Minister Frances Fitzgerald TD publishes Final Report of the Task Force on the Child and Family Support Agency' [press release], 20 July 2012, <http://www.dcy.gov.ie/viewdoc.asp?fn=/documents/press/PressRelease200712.htm>.

361 Letter from the Minister for Children and Youth Affairs, Frances Fitzgerald TD to Gordon Jeyes, National Director, Children and Family Services, HSE, 15 November 2012.

362 *Ibid.*

363 *Ibid.*

364 Meeting of the Community and Voluntary Forum with Gordon Jeyes, National Director, Children and Family Services, HSE, 15 November 2012.

365 Information received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 28 January 2013.

366 Department of Children and Youth Affairs (2012) *Review of the National Educational Welfare Board in the context of the Establishment of the Child and Family Support Agency*, Dublin: Department of Children and Youth Affairs.

367 Department of Public Expenditure and Reform (2011), *Comprehensive Expenditure Report 2012-14*, Dublin: Government Publications.

368 Department of Public Expenditure and Reform (2012), *Expenditure Report 2013*, Mayo: Government Publications Postal Trade Section.

369 Health Service Executive (2010) *Report of The Task Force for Children and Families Social Services*, Dublin: Health Service Executive, p. 3-5.

370 Gordon Jeyes, National Director, Children and Family Services, HSE, September newsletter. September 2012.

371 HSE Child and Family Services (2012) *Universal Services SDF handout, September 2012*, Dublin: Health Service Executive.

372 Gordon Jeyes, National Director, Children and Family Services, HSE, September newsletter.

373 *Ibid.*

Comment

Child and Family Support Agency gets a 'B-' in *Report Card 2013*, a slight fall from last year's 'B' grade. This grade reflects the active steps taken this year to establish the new agency. It acknowledges a pledge from the Minister for Children and Youth Affairs to consult with civil society stakeholders on the agency's design but also the continuing uncertainty in relation to whether the agency will carry over a deficit from the HSE Children and Family Services. To improve next year, the agency should be established under statute and employees and civil society should have been consulted to ensure they 'buy into' the agency's design and ethos.

The Task Force's emphasis on early intervention and community based services is welcome. The UN Committee on the Rights of the Child has emphasised that child protection must begin with proactive prevention. Under the UNCRC, the child has a right to protection from abuse and neglect (Article 19), sexual and other forms of exploitation (Articles 34-36) and to rehabilitative care (Article 39).³⁷⁴ A rights-based approach to child protection starts with prevention and builds children's capacity to protect themselves, enhances their understanding of their right to protection, and promotes their participation. Central to this approach is the right of a child to be cared for by his or her parents,³⁷⁵ and not to be separated from their parents unless it is in their best interests.³⁷⁶

The Child and Family Support Agency is undoubtedly a welcome development³⁷⁷ but it is not without challenges. It is vital that careful and considerate action is taken now to ensure a robust agency design for the future. There is a once-in-a-generation opportunity to overhaul the State's child protection and family support services and to instil within its workforce a new culture of responsibility, accountability and consistency of service provision to children. The agency has the potential to be a powerful vehicle for reform, bringing responsibility for legislative and policy development; implementation and service delivery; and funding streams under one Minister – the Minister for Children and Youth Affairs.

The Task Force's report recommends under the heading 'principles governing the Agency's work' that: 'The policies and services of the Agency are rooted in the ethos of the UN Convention on the Rights of the Child.'³⁷⁸ However, it is disappointing that a rights based approach does not underpin the proposed principles governing the work of the new agency that are put forward by either the Task Force report or by the HSE's Children and Family Services.³⁷⁹

The vision and functions of the new agency should be firmly based on the principles of the UN Convention on the Rights of the Child, in particular its structures, governance, design and service delivery. It should also capture the duty on the State to take proactive measures to ensure the right of the child to be protected from abuse is upheld and the right of the child to have their views heard on issues affecting them. The UN Committee on the Rights of the Child recommends that States ensure that the child's views are gained, including decisions regarding placement in foster care, in the development of care plans and their review, and access visits with parents and family.³⁸⁰ It is welcomed that the new agency is seeking to develop an agenda around the voice of the child.³⁸¹ The agency's vision should also strike a balance between family support and child protection to ensure that this agency is for all children and families.

The Government's plan was to commence the new agency in January 2013. However, this has not happened as the legislation to establish the agency is not yet enacted. Such legislation is expected to be debated in the Oireachtas in 2013 and the agency established thereafter. It is vital that a comprehensive consultation takes place with NGOs, service providers and other stakeholders to ensure that the legislation sets out appropriate governance, structures, functions and ethos for the new agency and ensures the transfer of legislative responsibilities are appropriately enshrined in law. An Oireachtas debate on the legislation is also important. Appropriate time must be given to the critical phase of encapsulating the functions and purpose of the Act in statute; this process must not be unduly rushed in a bid to establish the agency by the deadline of early 2013.

374 Other relevant articles include the specific protections for children in the care system such as the child's right not to be separated from his parents and protection for children without families (Articles 9 and 20), the review of care placements (Article 25) and the best interests of the child in adoption cases (Article 21).

375 Under the UN Convention on the Rights of the Child, the term 'parent' is interpreted to mean genetic, birth and psychological parent, the latter referring to a person who is not biologically related to the child but cares for the child for significant periods of their childhood as they are 'intimately bound up in children's identity' and identity rights.

376 UN Convention on the Rights of the Child, A/RES/44/25 (20 November 1989), Art. 9.

377 LOCAL FOCUS: 'The Irish Times', 'Fresh hopes for better child protection services', 25 July 2012.

378 Department of Children and Youth Affairs (2012) *Report of the Task Force on the Child and Family Support Agency*, Dublin: Government Publications, p. 8.

379 Health Service Executive (2012) *Child and Family Support Agency – From Vision to Practice – The Compelling Story*, Dublin: Health Service Executive.

380 UN Committee on the Rights of the Child (2009) *General Comment No. 12: The right of the child to be heard*, CRC/C/GC/12, Section 54.

381 Health Service Executive (2012) *Child and Family Support Agency – From Vision to Practice – The Compelling Story*, Dublin: Health Service Executive.

The establishment of a dedicated sub-head under Budget 2012 for Child and Family Services was a positive step and has provided enhanced transparency and a clearer basis from which to plan the financial transition to the new agency. Funding of €1 million was identified as necessary to meet transitional start-up costs for the agency.³⁸² Some of these funds were made available in 2012 to recruit, through open competition, members of a management team for the new agency.³⁸³

Approximately €546 million was allocated to the Children and Family Services in Budget 2013. While it represents a reduction of €5 million, this reduction is due primarily to relocation of budgetary headings within the HSE budgeting system.³⁸⁴ In addition, the HSE has been carrying a historical deficit in Children and Family Services³⁸⁵ that has been successfully reduced over the last two years and currently stands in the region of €20 million by the end of 2012.³⁸⁶ Children and family services have historically been underfunded; an audit of services was due to be completed by the end of 2012. This audit should be available to inform the agency launch and give a clearer picture of current capacity.³⁸⁷ It is unclear at this stage if the new agency will carry over this deficit. Given the magnitude of its work and need to break with the past, the agency must begin life without a deficit.

At present, services currently delivered by a range of departments are flowing into the remit of the agency. An outline plan for the first three years is to be developed³⁸⁸ and this plan must contain clear deadlines. The Task Force recommended that a properly resourced dedicated transition team – a joint Department of Children and Youth Affairs and new Agency Implementation Team – is put in place during the transition period³⁸⁹ and, in the longer term, a National Office has responsibility for a range of functions, including the monitoring and evaluation of targets.³⁹⁰ A joint Project team and Oversight Group has been put in place across the Department of Children and Youth Affairs, the Child and Family Support Agency and the HSE, and staff have been supplemented by external expertise where required.³⁹¹ This is welcome.

Traditionally, contact with child protection services has aroused fear among families that their children will be taken into State care. Many of these fears were expressed during the recent children's referendum debate and indeed may have been exacerbated by 'No' campaigners. It is not clear how the new agency intends to convey its new persona to the public. The universal aspects of its services provides an opportunity to present the new agency in a non-stigmatising manner, casting it as an organisation that supports and assists parents in their parenting role.³⁹² A public campaign should be run to promote the full breadth of the agency's work communicating the agency's role to provide family support and services for children in care, as well as child welfare and protection. Ultimately, to win back the confidence of the public and boost staff morale, the agency must address waiting lists, deliver high-quality services and thus improve the experience and outcome for children and families using the services and those in its employment.

382 Department of Children and Youth Affairs (2011) *Comprehensive Review of Expenditure Vote 43, Report of the Department of Children and Youth Affairs*, Dublin: Department of Children and Youth Affairs, p. 39.

383 Information received by the Children's Rights Alliance from Child and Family Services, HSE, 19 December 2012.

384 Information received by the Children's Rights Alliance from the Department of Children and Youth Affairs, December 2012.

385 Department of Public Expenditure and Reform (2012) *Expenditure Report 2013*, Mayo: Government Publications Postal Trade Section.

386 Information received by the Children's Rights Alliance from Children and Family Services, HSE, 19 December 2012. This figure is provisional.

387 Department of Children and Youth Affairs (2012) *Ryan Report Implementation Plan Third Progress Report*, Dublin: Government Publications, p. 30.

388 Gordon Jeyes, National Director, Children and Family Services, HSE, Newsletter – 13: Vision into Practice, November 2012.

389 Department of Children and Youth Affairs (2012) *Report of the Task Force on the Child and Family Support Agency*, Dublin: Government Publications, p. 32.

390 *Ibid.*, p. 22.

391 Information received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 28 January 2013.

392 Department of Children and Youth Affairs (2012) *Report of the Task Force on the Child and Family Support Agency*, Dublin: Government Publications, p. 29.



Immediate actions for 2013

Consult comprehensively on the draft legislation to establish the new agency

The Government must consult on the draft legislation to underpin the new agency to ensure buy-in from stakeholders and service providers, promote transparency, ensure robust governance and clearly outline the functions of the agency and its statutory obligations. It is vital that children's rights based principles underpin the ethos and vision of the new agency and that the recommendations of the Task Force on the Child and Family Support Agency are completed to fulfil the agency's full intended scope.

Ensure the agency does not carry over any budgetary deficits and is adequately resourced

The agency must not begin life carrying over a deficit from the HSE Children and Family Services. In addition, it is critical that the necessary financial, capital, IT and human resources are transferred.

Universalism should be a hallmark of the new agency

The universal aspects of services, including not just child protection but also family support, psychological services and other early intervention and prevention services, provide a once-in-a-lifetime opportunity to present the agency publicly in a non-stigmatising manner and as an agency for all children and families.



5.2 Ryan Report Implementation Plan

Government Commitment

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

Progress

On track



What's happening?

The Heads and General Scheme of Children First Bill have been published for consultation. National Vetting Bureau Bill has been enacted.

The *Ryan Report Implementation Plan*, published in July 2009 to respond to the recommendations contained in the Ryan Report, identified key weaknesses in the Irish child care and protection system and provides a roadmap for reform.³⁹³ The *Third Progress Report*, published in November 2012,³⁹⁴ provided an update on each of the Implementation Plan's 99 actions along with a list of key actions to be progressed in 2013.³⁹⁵ It reported that, of the 99 actions, 59 were complete, 27 were not yet complete, and 13 were classed as ‘implementation ongoing’ (these are actions which by their very nature do not have a defined end date).³⁹⁶ Among other things, it sets as priorities for 2013 the strengthening of family support services within the new Child and Family Support Agency; reform and rationalisation of the Child Protection Notification System; establishment of a multidisciplinary team for children in special care and detention; and agree future policy for management and funding of the Guardian ad Litem service.

Progress made in 2012 includes publication of the Heads and General Scheme of Children First Bill 2012; the enactment of the National Vetting Bureau (Children and Vulnerable Persons) Bill 2012; and the introduction by HIQA of *National Standards for the Protection and Welfare of Children for HSE Child and Family Services*.³⁹⁷ A key disappointment was the delay in recruiting a multi-disciplinary team for children in special care and detention (See Section 3.2). In addition, a research project has commenced to examine the extent to which recommendations from past child abuse inquiries into interfamilial abuse have been implemented.³⁹⁸

Another significant development was the announcement in July 2012 by the Minister for Education, Ruairi Quinn TD, and Minister of State for the Office of Public Works (OPW), Brian Hayes TD, of the winner of a competition to provide a memorial to the victims of institutional abuse, as recommended by the Ryan Report and Implementation Plan.³⁹⁹ The winning entry, Studio Negri and Hennessy & Associates, ‘Journey of Light’, with a budget of €500,000, will be erected adjacent to the Garden of Remembrance in Parnell Square, Dublin. It will stand as the State's formal recognition of the abuse and suffering endured by thousands of children and young people.

393 The Report of the Commission to Inquire into Child Abuse (known as the Ryan Report) was published in May 2009, revealing horrific wrongdoings perpetrated against children living in institutions during the period 1936 to 2000.

394 Department of Children and Youth Affairs (2012) *Ryan Report Implementation Plan Third Progress Report*, Dublin: Government Publications.

395 €24 million was provided towards the rollout of the actions contained in the Implementation Plan: €15 million in 2010 and €9 million in 2011, it was allocated to the HSE (€23.27 million), HIQA (€0.63 million); and OMCYA/DCYA (€0.10). Department of Children and Youth Affairs (2012) *Ryan Report Implementation Plan Third Progress Report*, Dublin: Government Publications, p. 4.

396 Of the 99 actions in the Plan, 37 have a timeframe of ‘ongoing’ as they are not once off actions. Department of Children and Youth Affairs (2012) *Ryan Report Implementation Plan Third Progress Report*, Dublin: Government Publications, p.10.

397 Health Information and Quality Authority (2012), *National Standards for the Welfare and Protection of Children, for Health Service Executive Children and Family Services*, Dublin: Health Information and Quality Authority.

398 In 2012, the Department of Children and Youth Affairs awarded a grant to the School of Social Work and Social Policy in Trinity College Dublin to examine five interfamilial child abuse inquiries (Kilkenny, Kelly Fitzgerald, West of Ireland Farmer, Monageer and Roscommon). The Children's Rights Alliance recommended that such a mechanism be considered in its submission to the Ryan Report Implementation Plan process. Children's Rights Alliance (2009) *Learning from the Past: Responding to the Recommendations of the Commission to Inquire into Child Abuse Report*, Dublin: Children's Rights Alliance.

399 Department of Education and Skills ‘Ministers Quinn and Hayes announce winner of competition to provide a Memorial to the Victims of Institutional Abuse’ [press release] 20 July 2012, <http://www.education.ie/en/Press-Events/Press-Releases/2012-Press-Releases/PR12-07-20.html> [accessed 16 January 2013].

*Social Workers:*⁴⁰⁰ The *Ryan Report Implementation Plan* committed to recruit 270 social workers, with the objective of ensuring every child in care has an allocated social worker by December 2010. The HSE has completed the recruitment of an additional 264 additional social workers.⁴⁰¹ The HSE will complete recruitment of the full additional 270 social workers in 2013.⁴⁰² In addition, to the recruitment of additional staff the HSE has been filling the vacancies that have arisen due to individuals leaving the service or taking up posts elsewhere in the service.⁴⁰³ As of October 2012, 92.5% of children in care had an allocated social worker and 89.7% an up-to-date Care Plan.⁴⁰⁴

Also of note was the completion and independent evaluation of two out-of-hours social work pilot projects: one in Donegal and the other in Cork. An action plan for the further development of out-of-hours services nationally is being finalised and was to be submitted to the Department of Children and Youth Affairs by the end of 2012. A joint committee has been established between the HSE Emergency Place of Safety Service and An Garda Síochána to ensure that children found to be at risk out-of-hours are placed in specially commissioned foster care places pending the start of normal day social work services.⁴⁰⁵

Children First: The Heads and General Scheme of the Children First Bill were published by the Minister for Children and Youth Affairs, Frances Fitzgerald TD, in April 2012. The Heads of the Bill place specific aspects of the revised 2011 national child protection guidelines, *Children First Guidance*,⁴⁰⁶ on a statutory footing. It creates a legal duty on certain staff and professionals to report suspected child abuse, to share relevant information and co-operate with other relevant services in the best interests of the child. A range of sanctions for non-compliance are also included. The Joint Committee on Health and Children examined the Heads of Bill, invited public submissions⁴⁰⁷ and held hearings.⁴⁰⁸ The Committee presented a lengthy report to the Minister of Children and Youth Affairs in July 2012, which is currently under consideration by the Department.⁴⁰⁹ The Minister will revert to Government to seek approval on finalised Heads of Bill by the end of 2012.⁴¹⁰

In July 2012, HIQA published the *National Standards for the Protection and Welfare of Children for Health Service Executive Children and Family Services*.⁴¹¹ The Standards will be used, among other things, to monitor how the HSE child protection service is implementing the *Children First Guidance*. Inspections will begin in late 2012 and a program of inspections will be rolled out over the following three years.⁴¹²

Vetting/Soft Information: The National Vetting Bureau (Children and Vulnerable Persons) Bill 2012 was published by the Minister for Justice and Equality, Alan Shatter TD, in July 2012 and enacted in December 2012.⁴¹³ The Act places the vetting of people working with children and vulnerable adults on a statutory basis and allows for the exchange of 'relevant' or 'soft' information between the National Vetting Bureau and a registered organisation.

As part of the suite of legislative proposals to strengthen child protection, the Criminal Justice (Withholding of Information on Offences Against Children and Vulnerable Persons) Bill 2012 was enacted in July 2012. This creates an offence of withholding information relating to certain offences, including certain sexual offences, against children.

400 LOCAL FOCUS *Evening Echo*, '480 Cork Children are Waiting Social Workers', 21 June 2012.

401 Department of Children and Youth Affairs (2012) *Ryan Report Implementation Plan Third Progress Report*, Dublin: Government Publications, p. 37.

402 Information received by the Children's Rights Alliance from Children and Family Services, HSE, 22 January 2013.

403 Department of Children and Youth Affairs (2012) *Ryan Report Implementation Plan Third Progress Report*, Dublin: Government Publications, p. 37.

404 Health Service Executive (2012) October 2012 *Supplementary Report: National Service Plan 2012*, <http://www.hse.ie/eng/services/Publications/corporate/performance-reports/SupprepSept.pdf>.

405 This means that children are not being looked after in a hospital or other formal setting other than when that is appropriate. Information received by the Children's Rights Alliance from Children and Family Services, HSE, 22 January 2013.

406 Department of Children and Youth Affairs (2011) *Children First: National Guidance for the Protection and Welfare of Children*, Dublin: Department of Children and Youth Affairs. The Guidance is also accompanied by a practitioner handbook: Health Service Executive (2011) *Child Protection and Welfare Practice Handbook*, Dublin: Health Service Executive.

407 For a full list of submission and presentations, see: 'Submissions and Presentations to the Health and Children Committee' http://www.oireachtas.ie/parliament/ob/committees_list/health-andchildren/submissionsandpresentations/ [accessed 30 November 2012].

408 The Children's Rights Alliance made a submission to the Joint Committee on Health and Children: Children's Rights Alliance (2012) *Submission to the Oireachtas Committee on Health and Children, Heads of Children First Bill*, http://www.childrensrights.ie/sites/default/files/submissions_reports/files/AllianceSubOirCommHealthChildrenHeadsChildrenFirstBill0512.pdf, p. 4.

409 Joint Committee on Health and Children (2012) *Report on Children First (Heads of) Bill*.

410 Department of Children and Youth Affairs (2012) *Ryan Report Implementation Plan Third Progress Report*, Dublin: Government Publications, p. 3.

411 Health Information and Quality Authority (2012), *National Standards for the Welfare and Protection of Children, for Health Service Executive Children and Family Services*, Dublin: Health Information and Quality Authority.

412 Department of Children and Youth Affairs (2012) *Ryan Report Implementation Plan Third Progress Report*, Dublin: Government Publications, p. 29.

413 A year earlier in July 2011, the Minister has published the Scheme of the Bill and the Joint Committee on Justice, Defence and Equality had debated it, including issuing a call for submission and holding public hearings.

Comment

The Ryan Report Implementation Plan gets a 'B-' grade in Report Card 2013, a rise from last year's 'C' grade. This improvement reflects the positive steps achieved, including the enactment of the National Vetting Bureau Bill and publication of the Scheme of the Children First Bill. However, more action is needed to progress the remaining actions of the Implementation Plan during 2013.

The UN Convention on the Rights of the Child provides that a child has a right to protection from abuse and neglect (Article 19), including sexual and other forms of exploitation (Articles 34–36).⁴¹⁴ To ensure that children are adequately protected, the UN Committee on the Rights of the Child recommends that States coordinate and implement child protection policies, strategies and services.⁴¹⁵ In their *Concluding Observations* on Ireland in 2006, the UN Committee urged the Government to consider placing *Children First* on statutory basis, and called for proper vetting of prospective employees and volunteers for all those working with children.⁴¹⁶ It should be noted that the Government is making important strides on child protection in line with these obligations.

The momentum that has built up in relation to child protection reforms must be capitalised upon to bring the remaining Implementation Plan commitments to fruition in 2013. The Monitoring Group, for the Implementation Plan is due to conclude its work in 2013. It is imperative that a replacement mechanism is found to continue the monitoring and accountability which has been achieved through the publications of the Monitoring Group's annual reports; that the outstanding commitments and learning from the *Implementation Plan* are brought into the programme of work of the Department of Children and Youth Affairs and the Child and Family Support Agency; and there is a method to incorporate relevant recommendations from other reports, including the reports of the Special Rapporteur on Child Protection, the National Review Panel for Serious Incidents and Child Deaths, the Health Information and Quality Authority and the Ombudsman for Children.

Children First: The Implementation Plan commits to put aspects of *Children First* on a statutory footing and ensure the Guidance is uniformly and consistently implemented across the country.⁴¹⁷ The need for such reform is well documented.⁴¹⁸ The publication of the Heads and Scheme of the Children First Bill and the consultation by the Joint Committee on Health and Children⁴¹⁹ is welcome. However, there are a number of aspects of the Heads that need revision. These include the attachment of potential criminal liability to the 'Designated Officer', including those in a voluntary role, which is considered to be inappropriate and unworkable.⁴²⁰ The Heads contain insufficient criteria to guide an individual or organisation in deciding whether or not they should make a child protection report. While on the other hand several information guides are promised: there is a danger that multiple non-statutory information guides may lead to confusion.⁴²¹ Another key concern is that the current framing of the legislation may negatively impact on older children accessing sexual health services⁴²² due to a fear that consensual peer sexual activity will be reported to the authorities. Finally, following enactment of the Bill, training and support will be needed to ensure that organisations have the necessary capacity and expertise to meet their statutory duties.

414 Other relevant articles include the right to rehabilitative care (Article 39), the specific protections for children in the care system such as the child's right not to be separated from his parents and protection for children without families (Articles 9 and 20), the review of care placements (Article 25) and the best interests of the child in adoption cases (Article 21).

415 UN Committee on the Rights of the Child (2009) *General Comment No. 13: The right of the child to freedom from all forms of violence*, CRC/C/GC/13, Section 42.

416 UN Committee on the Rights of the Child (2006) *Concluding Observations: Ireland*, CRC/C/IRL/CO/2, paragraph 37.

417 Office of the Minister for Children and Youth Affairs (2009) *Report of the Commission to Enquire into Child Abuse, 2009: Implementation Plan*, Dublin: Department of Health and Children, actions 85, 86, 89.

418 Office of the Minister for Children and Youth Affairs (2008) *National Review of Compliance with Children First: National Guidelines for the Protection and Welfare of Children* Dublin: Department of Health and Children; Office of the Ombudsman for Children (2010) *A Report Based on an Investigation into the Implementation of Children First: National Guidelines for the Protection and Welfare of Children*, Dublin: Ombudsman for Children's Office; Special Rapporteur on Child Protection, Geoffrey Shannon (2009) *Third Report of the Special Rapporteur on Child Protection: A Report Submitted to the Oireachtas*, http://www.dcy.gov.ie/documents/publications/Child_Protection_Rapporteur_Report.pdf; H. Buckley, S. Whelan, N. Carr and C. Murphy (2008), *Service users' perceptions of the Irish Child Protection System*, Dublin: Office of the Minister for Children and Youth Affairs.

419 'Submissions and Presentations to the Health and Children Committee', http://www.oireachtas.ie/parliament/ob/committees_list/health-and-children/submissionsandpresentations/ [accessed 30 November 2012].

420 A 'designated officer' is the person in an organisation who is responsible for ensuring that child abuse is reported.

421 Children's Rights Alliance (2012) *Submission to the Oireachtas Committee on Health and Children, Heads of Children First Bill*, http://www.childrensrighs.ie/sites/default/files/submissions_reports/files/AllianceSubOirCommHealthChildrenHeadsChildrenFirstBill0512.pdf p. 5.

422 Pamela Duncan, 'Expert raises concerns about Children First Bill' *The Irish Times*, 12 June 2012.

Vetting: The enactment of the National Vetting Bureau (Children and Vulnerable Persons) Bill 2012, in December 2012, is welcome. This Bill addresses concerns raised during the consultation on the Heads of Bill published in July 2011,⁴²³ including mandatory provision for periodic re-vetting or vetting of existing staff and clarity relating to volunteers.⁴²⁴ However, some gaps in the legislation remain, including that child minders continue to be excluded.



Immediate actions for 2013

Enact legislation to put aspects of Children First on a statutory footing

Publish the Children First Bill taking into account the concerns raised during the consultation phase on the Scheme and Heads of Children First Bill 2012. This Bill should be enacted as a matter of priority.

Support compliance with the National Vetting Bureau Act 2012

Support and training for relevant organisations and professionals is needed to enable them to comply with their new statutory duties under the National Vetting Bureau Act 2012.

Mainstream the commitments and learning from the Implementation Plan and its Monitoring Group in the work of the Department and new agency

This was an immediate action of *Report Card 2012* and remains unaddressed. Much has been learned through the development of the Implementation Plan and in its delivery and monitoring. The outstanding commitments and learning from this initiative should be mainstreamed into the programme of work for the Department of Children and Youth Affairs and the Child and Family Support Agency.



423 For the Alliance's position on the Heads of Bill see: Children's Rights Alliance (2011) *Briefing Note on the National Vetting Bureau Bill 2011*, Dublin: Children's Rights Alliance.

424 National Vetting Bureau (Children and Vulnerable Persons) Bill, 2012, Schedule 1, Part 1.

5.3 Youth Homelessness

Government Commitment

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

Progress

Initial Steps Taken



What's happening?

A review of the Youth Homelessness Strategy is near completion and due for publication in early 2013.

The Department of Children and Youth Affairs engaged the Centre for Effective Services in 2011 to facilitate a high level review of the 2001 *Youth Homelessness Strategy*.⁴²⁵ The review will establish the extent to which the Strategy has been successful, identify blockages and challenges to its implementation and make recommendations⁴²⁶ for the development of a framework to address ongoing problems for out-of-home children over the next five years⁴²⁷. Consultations were held in early 2012 with relevant service providers, NGOs and young people. The Centre for Effective Services report was due to be presented to the Department of Children and Youth Affairs in May 2012⁴²⁸ and the process concluded by June 2012,⁴²⁹ but delays have occurred and publication is now likely to be early 2013, along with research into youth homelessness.⁴³⁰ In 2012, the hostel for homeless children, Grove Lodge in Portrane, Co. Dublin, was closed.⁴³¹

The Health Service Executive's *National Service Plan 2012* committed that in 2012 a baseline would be established for the two performance indicators on youth homelessness.⁴³² To date the baseline has yet to be set⁴³³ or any mention of this performance indicator in the HSE's *National Service Plan 2013*.⁴³⁴

On foot of a *Ryan Report Implementation Plan* commitment,⁴³⁵ a national review of practice under Section 5 of the Child Care Act 1991 (as amended) was completed in 2011. Following this review, in April 2012, two new national policies were produced: one in relation to the use

425 Department for Health and Children (2001) *Youth Homelessness Strategy*, Dublin: Department of Health and Children.

426 Centre for Effective Services, *Project Outline, Youth Homelessness Strategy Review*, <http://www.effectiveservices.org/images/uploads/file/projects/P203/Project%20Outline%20Youth%20Homelessness%20Strategy%20Review.pdf> [accessed 12 December 2012].

427 Frances Fitzgerald TD, Minister for Children and Youth Affairs, Parliamentary Questions: Written Answers [56776/12], Dáil Debate, 18 December 2012, Vol. 787 No. 3.

428 Centre for Effective Services, *Project Outline, Youth Homelessness Strategy Review*, <http://www.effectiveservices.org/images/uploads/file/projects/P203/Project%20Outline%20Youth%20Homelessness%20Strategy%20Review.pdf> [accessed 12 December 2012].

429 Department of Children and Youth Affairs, 'Minister Fitzgerald announces review of the Youth Homelessness Strategy, New Implementation Framework to be prepared for next 5 years' [press release], 20 December 2011.

430 Information received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 21 December 2012.

431 *Ibid.*

432 Health Service Executive (2012) *National Service Plan 2012*, Dublin: Health Service Executive, p. 63. These performance indicators as set out in the *National Service Plan 2012* are 1. The number of children placed in Youth Homeless centres or units for more than four consecutive nights (or more than 10 separate nights over a year) and 2. The number and percentage of children in care placed in a specific homeless centre/unit.

433 It has not appeared in the monthly HSE Performance or Supplementary Reports. See Health Service Executive (2012) October 2012, *Supplementary Report, National Service Plan*, Dublin: Health Service Executive; and Health Service Executive (2012) October 2012, *Performance Report, National Service Plan 2012*, Dublin: Health Service Executive.

434 Health Service Executive (2013) *National Service Plan 2013*, Dublin: Health Service Executive.

435 Office of the Minister for Children and Youth Affairs (2009) *Report of the Commission to Inquire into Child Abuse, 2009: Implementation Plan*, Action 35. The deadline for this action was December 2009.

of Section 5⁴³⁶ and the other on the use of supported lodgings⁴³⁷. An implementation plan for these new policies is being developed.

In 2012, an inter-departmental group has been convened by the HSE to address the issue of youth homelessness; a protocol on aftercare planning for young people leaving care has been drawn up between HSE Children and Family services, Social Inclusion, Disability Services, Mental Health and Primary Care.⁴³⁸ In addition, a protocol is being finalised between the HSE and the housing authorities to provide a framework for good practice in identifying aftercare accommodation for care-leavers. It will also commit local authorities to consider the needs of young care leavers in their statutory assessment of housing need.⁴³⁹

Comment

Youth homelessness gets a 'C-' grade in *Report Card 2013*, an improvement on last year's 'D' grade. This grade reflects the steps taken to complete the review of the *Youth Homelessness Strategy* and to reform policies and procedures in relation to youth homelessness. However, an effective interdepartmental policy remains outstanding to ensure no child or young care leaver experiences homelessness.

The national policy on youth homelessness must be rooted in the UN Convention on the Rights of the Child. A child who is homeless is an extremely vulnerable child and the State is obliged under the UNCRC to provide special protection to any child deprived of their family environment, so that appropriate alternative family or institutional care is available to them (Article 20). The UN Committee on Economic, Social and Cultural Rights has stated that: "The right to housing should not be interpreted in a narrow or restrictive sense which equates it with [...] merely having a roof over one's head [...]. Rather it should be seen as the right to live somewhere in security, peace and dignity."⁴⁴⁰

It is now 12 years since the publication of the 2001 *Youth Homelessness Strategy*. Future policy direction should build upon the lessons learnt from research and practice since that time, including the forthcoming review by the Centre for Effective Services and the 2008 report of the National HSE Children and Family Services Working Group on Youth Homelessness.⁴⁴¹

Youth homelessness is closely associated with leaving state care or youth detention;⁴⁴² experience of abuse or violence; parental illness or death; addiction problems; poverty and family conflict; disconnection from the education system or poor mental health.⁴⁴³ The legal duty to provide accommodation and care to homeless children will transfer from the HSE to the new Child and Family Support Agency. The Agency must ensure that the new policy maps out the necessary links with other departments and agencies across professions to effectively tackle youth homelessness. This will include improving working relationships between child protection and the care system, mental health, domestic violence, education, family support and housing. Child and youth homelessness has two distinct forms requiring different policy responses: a child or young person under 18 years who is 'out of home' and on their own (usually a teenager) and those who are part of a family group experiencing homelessness.

Data: Given the nature and definition of child and youth homelessness,⁴⁴⁴ it can be difficult to ascertain accurate figures and outcomes for those experiencing homelessness.⁴⁴⁵ The UN

436 Health Service Executive (2012) *HSE National Policy and Procedure on the Use of Section 5 of the Child Care Act 1991* Dublin: Health Service Executive.

437 Health Service Executive (2012) *Supported Lodgings, Health Service Executive Additional guidance to be read in conjunction with the Foster Care Committee policy, procedures and best practice guidance document*, Dublin: Health Service Executive.

438 Information received by the Children's Rights Alliance from the Department of Children and Youth Affairs, 21 December 2012.

439 *Ibid.*

440 Committee on Economic, Social and Cultural Rights (CESCR) *General Comment No.4: The right to adequate housing* (Art.11 (1)):13/12/1991.

441 Health Service Executive (2008) *Report of the National HSE Children and Family Services Working Group on Youth Homelessness*, Dublin: Health Service Executive, p. 11.

442 P. Mayock and E. O'Sullivan (2007) *Lives in Crisis: Homeless Young People in Dublin*, Dublin: The Liffey Press; P. Kelleher, C. Kelleher and M. Corbett (2000) *Left Out on their Own: young people leaving care in Ireland*, Dublin: Oak Tress Press; EPIC (2011) *Summary of EPIC Research Findings on Outcomes for Young People Leaving Care in North Dublin*, Dublin: EPIC, p. 3.

443 Geoffrey Shannon (2010) *Fourth Report of the Special Rapporteur on Child Protection, A Report Submitted to the Oireachtas*, <http://www.dcy.gov.ie/documents/publications/Rapporteur-Report-2010.pdf> p. 33-35.

444 Homeless children are defined as 'sleeping on the streets or in other places not intended for night-time accommodation or not providing safe protection from the elements or those whose usual night-time residence is a public or private shelter, emergency lodging, bed and breakfast or such, providing protection from the elements but lacking the other characteristics of a home and/or intended only for a short stay' and 'those in insecure accommodation with relatives or friends regarded as inappropriate, that is to say where the young person is placed at risk or where he or she is not in a position to remain.' Department for Health and Children (2001) *Youth Homelessness Strategy*, Dublin: Department of Health and Children, p.11.

445 Health Service Executive, 'Residential Care', http://www.hse.ie/eng/services/Find_a_Service/Children_and_Family_Services/Residential_Care/ [accessed 12 December 2012].

Committee on the Rights of the Child has indicated its concern to the Government at the lack of comprehensive data on vulnerable children.⁴⁴⁶ It is disappointing that there has been no reporting against the two performance indicators introduced in the *HSE National Service Plan 2011*.⁴⁴⁷ Despite the lack of data, it is generally accepted that there has been a decrease in the numbers of children presenting as homeless⁴⁴⁸ and that incidences of children sleeping rough have been virtually eliminated.⁴⁴⁹

Progress since 2001 in reducing youth homelessness (in particular rough sleeping) may be linked to improvements in the care system for at-risk children. A broader range of children's residential centres – including high support and special care units – and better trained staff, are now available to meet the needs of children with behavioural and emotional difficulties. Homelessness in the past was often linked to a placement breakdown or lack of appropriate placement. A number of hostels for homeless children, including Grove Lodge, Dublin, have closed over the past few years or have been designated as mainstream residential care homes. Such closures may reflect a recognition that hostel living is not appropriate for children and concerns over the suitability of the specific centres. It is important that we interrogate the changed pattern of children presenting as out of home or in an emergency situation to ensure that the decrease is not masking a reluctance to present to services.⁴⁵⁰

Lefroy House Nightlight, in Dublin city centre, is now the only centre providing emergency accommodation to children under 18 years in the country.⁴⁵¹ A child must be known to the service before accessing it directly. From 9pm onwards, those not already known to the service – newly homeless young people often in crisis – must present at a Garda station to access this service. Young people who participated in the Ombudsman for Children 2012 report, *Homeless Truths, Children's Experiences of Homelessness in Ireland*, recalled the experience of attending a Garda station to access accommodation to be embarrassing and felt ashamed or anxious.⁴⁵² The practice of needing to present to a Garda station to access an emergency support service is inappropriate and must end.

Section 5: Section 5 of the Child Care Act 1991 (as amended) places a duty on the HSE to accommodate a child who is homeless or at risk of homelessness. It is disappointing that the findings of the review of Section 5 were not made public. All such reviews and national policies should be publicly available. The introduction of a national policy on Section 5 is welcome. The National Policy states that Section 5 can only be used to address the needs of children aged 16 and 17 years where this is found to be the most appropriate service. All cases involving children under 16 years or where abuse and neglect is identified should be categorised as a child protection and welfare concern and referred appropriately. 'Bed and Breakfast' accommodation should not be used for any child under 18 years.⁴⁵³

Children accommodated under Section 5 are not considered to be in the formal care of the HSE and remain the legal responsibility of their parent/s. Under the National Policy they are entitled to a key worker and a placement plan⁴⁵⁴, whereas a child in care would be entitled to an allocated social worker and a care plan. It is disappointing that the Policy

446 UN Committee on the Rights of the Child (2006) *Concluding Observations: Ireland*, CRC/C/IRL/CO/2, paragraph 16.

447 Health Service Executive (2012) *National Service Plan 2012*, Dublin: Health Service Executive, p. 63.

448 *Evening Echo*, 'Numbers of Homeless Sleeping Rough in Cork down 89%', 12 July 2012.

449 For example, the Dublin Regional Homeless Forum's *Rough Sleepers* count, undertaken in Dublin in November 2012, (Dublin Region Homeless Executive, 'Dublin Region Homeless Consultative Forum Release Number of People Sleeping Rough in Dublin' [Press Release] 13 December 2012.) did not contain an age breakdown. It is understood that during the count one young person was identified preparing to sleep rough. The act of identifying a young person thus triggers an intervention by outreach workers who as stipulated in their protocols must remain in contact with the young person until emergency accommodation is secured for them.

450 The Crisis Intervention Service serves Dublin, Wicklow and Kildare and deals with a range of out of hours crisis situations, including youth homelessness, and there is an 'out-of-home' service in Cork. Five Rivers private fostering agency is available to children in the rest of the country.

451 A child can refer themselves in person (8pm-2am) if already known to the service or by agency referral through the Out of Hours Service for young people. After 2am referrals will still be accepted but only through the Out of Hours Service. The Nightlight project also has a reception centre (8pm-2am) where up to 14 young people can access emergency accommodation. The project is open until 9.30am Mon-Fri and 2pm Sat-Sun & bank holidays. Nightlight is run by the Salvation Army in cooperation with the HSE crisis intervention.

452 Ombudsman for Children (2012) *Homeless Truths, Children's Experiences of Homelessness in Ireland*, Dublin: Ombudsman for Children's Office.

453 Health Service Executive (Approved March 2012, Revised October 2012) *National Policy and Procedure on the Use of Section 5 of the Child Care Act 1991*, Dublin: Health Service Executive.

454 This plan should be reviewed, in conjunction with the young person, within two weeks of the initial placement, monthly for the next three months and three monthly reviews thereafter. A critical change in the young person's circumstances will warrant a review of the assessment and plan.

did not set a clear and shorter minimum time period for the use of Section 5 in all accommodation settings to ensure that children do not 'drift' in our homelessness services.⁴⁵⁵ Section 5 is used as an alternative for young people who are reluctant to 'come into care' and some may remain under Section 5 until they reach 18 years. Given that a child may be engaging with the HSE, but not formally under their care, it is imperative that there is rigorous monitoring of these Section 5 cases to ensure the child is receiving adequate supports. Consideration should be given to amend Section 5 of the Child Care Act 1991 to clarify its usage. Is it being used to enable the State to provide emergency accommodation to a child who is not in the care system for a matter of days, while a care order or return home is being negotiated, or is it being used to provide a half-way house of State care to a teenager who has left home?

The 2012 *Report of the Independent Child Death Review Group*⁴⁵⁶ found homelessness to be a prevalent issue in 23 of the 112 cases of unnatural deaths reviewed⁴⁵⁷. In several cases, no aftercare was provided to a young person leaving care⁴⁵⁸. An increased awareness of the risk of homelessness after leaving the care system or release from detention has resulted in much improvement in our aftercare services in recent years. This is welcome. However there remains more to be done. It is vital that multi-agency aftercare planning takes place to prevent a young care leaver experiencing homelessness. The transition for a young person from child to adult services is a critical stage. Radical improvements are needed to ensure that young people are properly supported during this transition and their vulnerability is recognised by the adult services. This must be the case for vulnerable care leavers and also for those older teenagers who only become involved with the social services in the lead up to their 18th birthday and therefore do not qualify for aftercare support.

Other challenges remain, including the ongoing difficulty for social work services to access timely mental health and intellectual disability support services for children and young people in crisis or out-of-home. There is a lack of flexibility to meet the needs of all children in certain areas of the country and there needs to be greater understanding of the needs of particular groups of children, such as Traveller children and other ethnic groups.

Children within homeless families: A 2012 Central Statistics Office report found 572 children aged 18 years or younger were counted as homeless on the night of 10 April 2011 – either in accommodation providing shelter for homeless persons or were identified sleeping rough.⁴⁵⁹ It is assumed that the vast majority of these children are living with their families who are homeless⁴⁶⁰. A 2012 report into the housing needs of Dublin found 314 dependent children living with 147 homeless adults⁴⁶¹. Homeless families may be accommodate in domestic violence refuges or provided with private emergency accommodation. This may mean living in a Bed and Breakfast, with whole families living in one small room, together with all of their belongings, leaving little to no space for children to play or do homework. This accommodation is neither suitable for families with children nor cost effective for the State. For children, the frequent accommodation moves and subsequent difficulty in inviting friends over to their home, means they often find it difficult to develop and maintain friendships.⁴⁶² Reform in this area is badly needed.

455 The Policy states that placement of a child in an emergency residential hostel is not suitable for periods of more than four weeks; and that emergency accommodation should only be used for a sufficient period to allow a proper assessment of the needs of the young person.

456 Dr. G. Shannon, and N. Gibbons, (2012) *Report of the Independent Child and Death Review: Executive Summary*. Department of Children and Youth Affairs. The report details 196 children who died between the years 2000 and 2010 who were in the care of the state at the time of their death, young adults who were in aftercare and other children who were not in care but were known to the HSE.

457 *Ibid.*, p. 21.

458 *Ibid.*, p. 12.

459 Central Statistics Office (2012) *Census 2011 Results, Homeless Persons in Ireland: a special Census Report*, Dublin: Central Statistics Office, p. 2.

460 Information received by the Children's Rights Alliance from the Central Statistics Office, 17 December 2012.

461 The Dublin Region Homeless Executive and The Housing and Sustainable Communities Agency (2012) *Homelessness and the Housing Needs Assessment 2011 The Revised Report for Dublin*, Dublin: Dublin Region Homeless Executive, Section 1.1. & Section 4.3, Table 7.

462 A.M. Halpenny, A.F. Keogh and R. Gilligan (2002) *A Place for Children? Children in Families Living in Emergency Accommodation: The Perspectives of Children, Parents and Professionals*, Dublin: Children's Research Centre, Trinity College, p. 39.



Immediate actions for 2013

Complete and publish an updated policy on youth homelessness in 2013

Future policy on youth homelessness policy should reflect the learnings from research and practice over the past 12 years, and the forthcoming review of the *Youth Homelessness Strategy* by the Centre for Effective Services. The Child and Family Support Agency in leading the delivering of this new policy must put in place adequate mechanisms for cross departmental and professional co-operation, in particular in the care, mental health, family support and education services.

Ensure a smooth transition and adequate supports for children transitioning to adult services

Finalise the protocol between the HSE and the housing authorities to ensure local authorities identify and respond to the accommodation needs of care leavers, in accordance with Section 45(2)(e) of the Child Care Act 1991. Ensure the housing protocol and protocol on aftercare planning for care leavers are both implemented in full. There should be rollout in early 2013 of the HSE's *National Policy and Procedure Document for Leaving and Aftercare Services*, which must be adequately resourced with a ring-fenced budget. Ensure appropriate transitions from child and adolescent to adult mental health services.

Invest in appropriate accommodation for homeless families

Far too many children are spending significant periods of their childhoods in homeless accommodation with their families. This is a serious violation of their rights. The Department of the Environment, Community and Local Government and relevant housing agencies, must consider flexible and creative approaches to ensure homeless families are provided with family-friendly emergency accommodation and then supported to move on to stable accommodation. This could include using unsold housing units from the private market to reduce the social housing waiting list and prioritising families with children.



5.4 Children in Detention

Grade: **B+**

Government Commitment

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

Progress

Significant Progress Made

What's happening?

Capital funding of €50 million over three years has been secured, to deliver on the commitment to end the detention of children in St Patrick's Institution.



The Government took active steps to honour its commitment to end the practice of detaining children in adult prisons. In April 2012, the Minister for Children and Youth Affairs, Frances Fitzgerald TD, announced the approval of capital funding of approximately €50 million over three years to build a new National Children Detention Facility at Oberstown, Co. Dublin, within two years.⁴⁶³ This will allow for an end to the detention of 16- and 17-year-old boys in St. Patrick's Institution.

On 1 May 2012, an Order was signed by the Minister to end the practice of sending 16-year-olds to St. Patrick's Institution and all newly remanded or sentenced 16-year-olds have since been detained in the children's detention facilities at Oberstown.⁴⁶⁴ The last 16-year-old in St. Patrick's was released in July 2012.⁴⁶⁵

On 1 August 2012, 31 boys aged 17 years were detained in St Patrick's – an increase from 21 boys detained the year before, on 1 July 2011.⁴⁶⁶ The detention of 17-year-olds in St Patrick's will continue until the completion of the new facility in 2014. The Minister has agreed to examine the feasibility of accommodating some categories of 17-year-old boys in Oberstown on a phased basis, earlier than mid-2014.⁴⁶⁷

In a related move, in June 2012, the Minister for Children and Youth Affairs and the Minister for Justice and Equality signed an Order removing a subsection from the Ombudsman for Children Act 2002, which excluded children detained in St Patrick's Institution from making complaints to the Ombudsman for Children. The Order came into effect on 1 July 2012.⁴⁶⁸

Budget 2013 allocated €20.4 million in capital funding for the National Children Detention Facility project. The new facility will include six new detention units, creating 30 new spaces, and associated education and training facilities.⁴⁶⁹ The building work is scheduled to start in May 2013 and it is estimated that the project will result in the creation of approximately 160 jobs in the construction phase.⁴⁷⁰ The first new residential units, to be delivered by mid-2014, will prioritise the transfer of responsibility for 17-year-old boys from St. Patrick's. The project also involves the replacement of some existing outdated detention buildings by 2015.⁴⁷¹

The new facility will be built on a State owned campus in Oberstown, Lusk, Co. Dublin, which currently houses three existing child detention schools: Oberstown Boy's School, Trinity House

463 Department of Children and Youth Affairs, 'Minister Fitzgerald to End Detention of 16 and 17 Year Olds in St. Patrick's Institution' [press release], 2 April 2012, <http://www.dcy.gov.ie/viewdoc.asp?DocID=1842>.

464 Department of Children and Youth Affairs (2012) *Ryan Report Implementation Plan Third Progress Report*, Dublin: Government Publications, p. 4.

465 Cormac O'Keefe, 'Milestone' as last 16-year-old freed from adult jail', *Irish Examiner*, 6 August 2012.

466 Cormac O'Keefe, 'Call to speed up release of 17-year-old boys from jail', *Irish Examiner*, 7 August 2012.

467 Alan Shatter TD, Minister for Justice and Equality, Dáil Debate, 17 October 2012, Vol. 773 No. 16.

468 Irish Penal Reform Trust, 'Ombudsman for Children's complaints remit extended to children in St Patrick's Institution' [press release], 25 June 2012, <http://www.iprt.ie/contents/2355> [accessed 3 December 2012].

469 Department of Children and Youth Affairs, 'Minister Fitzgerald to End Detention of 16 and 17 Year Olds in St. Patrick's Institution' [press release], 2 April 2012, <http://www.dcy.gov.ie/viewdoc.asp?DocID=1842>.

470 Information received by the Children's Rights Alliance from the Irish Youth Justice Service, 23 January 2013.

471 *Ibid.*

School and Oberstown Girl's School.⁴⁷² The Children Detention Schools are operated by the Irish Youth Justice Service. On 1 January 2012, the functions of the Irish Youth Justice Service relating to the Children Detention Schools under Part 10 of the Children Act, 2001 were transferred from the Department of Justice and Equality to the Department of Children and Youth Affairs. Responsibility for St. Patrick's remains with the Minister for Justice and Equality, and the prison is managed by the Irish Prison Service.

The completed development will result in the delivery of all detention services for children into a single location. Work is ongoing to integrate the current children detention schools.⁴⁷³ Some preparatory building work has been undertaken on the campus,⁴⁷⁴ design work is at an advanced stage, and planning approval is in place.⁴⁷⁵ Once complete, the three existing child-specific facilities on the Oberstown campus and the new detention units will create one single detention facility. This will accommodate all children on remand or serving a sentence in Ireland, as originally provided for in the Children Act 2001. It is planned that an amendment will be made to the Children Act 2001 to provide a secure legal framework for the operation of the campus as a single integrated facility.

Comment

Children in Detention gets a '**B+**' grade in *Report Card 2013*, a very significant rise from last year's 'F' grade. This considerable improvement is due, in large part, to the approved development of the Oberstown facility over the coming three years, bringing to an end the detention of children in St. Patrick's Institution. This is a very welcome move by the Government and Minister for Children and Youth Affairs that will have a significant and positive impact on children in detention. Action is long overdue⁴⁷⁶ and comes after more than 25 years of unmet promises by successive governments on this issue. Securing capital investment for the new facility was a significant success for the Minister for Children and Youth Affairs, particularly given the difficult fiscal situation and the fact that the project was not included in the Capital Development Plan 2012-2016.⁴⁷⁷

We now have a unique opportunity to build a world class facility and put in place a child-centred, education-focused regime in the new facility, rooted within a children's rights framework.⁴⁷⁸ Critical to this is delivering a rights-based approach to youth justice and an understanding that, first and foremost, all those under 18 years are children. The UN Convention on the Rights of the Child is clear that States treat children in conflict with the law in a manner that promotes the child's sense of dignity and worth, reinforces the child's respect for human rights, and takes account of the child's age and the desirability of promoting reintegration (Article 40(1): administration of juvenile justice).

In 1989, on the international stage, the Irish Government lodged a reservation to Article 10 (2b) of the International Covenant on Civil and Political Rights (right to liberty) which states that: "Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication".⁴⁷⁹ Given the measures being taken in relation to St. Patrick's, we urge the Government to withdraw this reservation.

Concerns in relation to St Patrick's are two-fold. The first relates to the inappropriate detention of children in St. Patrick's which is an adult secure prison for 16- to 21-year-olds. In addition, the conditions within the prison, affecting all prisoners – both children and young men – has been heavily and consistently criticised.

The detention of children in an adult prison that operates a penal regime has been widely acknowledged as a glaring human rights violation and in direct contravention to Article 37

472 The total current operational capacity on the campus is 44 places for males and 8 places for females. Under current arrangements, the children detention schools are authorised to detain males up to the age of 17 years and females up to the age of 18 years. The buildings accommodating Oberstown Boy's School are in need of replacement.

473 To date, projects have been completed for the integration of payroll and catering services and a single campus staffing roster is currently being progressed. Information received by the Children's Rights Alliance from the Irish Youth Justice Service, 23 January 2013.

474 Elaine Keogh, 'Government spends €70,000 on gates into an empty field', *Irish Independent*, 6 January 2012.

475 Dessie Ellis TD, Parliamentary Question: Written Answers [37918/11; 37917/11], Dáil Debate, 1 December 2011, Vol. 748 No. 3.

476 Children's Rights Alliance, 'Alliance Response to Government Promise to end the Detention of Minors in an Adult Regime' [press release], 2 April 2012, <http://www.childrensrightrights.ie/resources/alliance-response-government-promise-end>.

477 Department of Public Expenditure and Reform (2011) *Infrastructure and Capital Development 2012-2016: Medium Term Exchequer Framework*, Dublin: Stationery Office.

478 Ombudsman for Children's Office (2011) *Young People in St. Patrick's Institution: A report by the Ombudsman for Children's Office*, Dublin: Ombudsman for Children's Office. See also D. Keenan et al (2011) *A Rights-based Approach to Monitoring Children and Young People's Wellbeing*, National University of Ireland Galway and University of Ulster.

479 International Covenant on Civil and Political Rights (16 December 1966).

of the UN Convention on the Rights of the Child (torture and deprivation of liberty).⁴⁸⁰ The UN Committee Against Torture,⁴⁸¹ the Council of Europe Commissioner for Human Rights, Mr. Thomas Hammarberg,⁴⁸² the Ombudsman for Children,⁴⁸³ the Council of Europe Committee for the Prevention of Torture⁴⁸⁴ have all expressed serious concerns about St. Patrick's.⁴⁸⁵ It is considered to be the most violent prison in Ireland, responsible for one third of all assaults in the prison system.⁴⁸⁶

In October 2012, the Minister for Justice and Equality published a *Report on an Inspection of St. Patrick's Institution*⁴⁸⁷ by the Inspector of Prisons, Judge Michael Reilly.⁴⁸⁸ The report details serious and systematic violations of the human rights of boys and young men in St Patrick's by a minority of prison officers.⁴⁸⁹ Violations include forced stripping, clothes being cut from boys being held in special cells, inappropriate and excessive use of special cells and excessive and unrecorded use of force and punishment by staff against prisoners, bullying, intimidation and a deficient complaints system.⁴⁹⁰ While the new Governor has taken steps to address the systemic problems in the prison and improve conditions for child detainees, the extent of the problems unveiled in the Inspector's report are serious, demand further action and ultimately that the prison be closed.⁴⁹¹

An ongoing concern in relation to the regime in St Patrick's is that the high numbers of prisoners 'on protection' – a restricted regime designed for safety and security reasons – often on committal to the prison.⁴⁹² As of 31 July 2012, of the total prison population of 217 detainees, 66 offenders were on protection (30%) and, of those, 51 were on a restricted regime (24%).⁴⁹³ Approximately two thirds of those on protection are on 23-hour-a-day lock up⁴⁹⁴. This means being locked up in single separation cells, with limited access to education, physical activity or association with other prisoners.⁴⁹⁵ Being locked up for such lengths of time infringes a number of human rights, including the right to education and the right to health, including mental health. In a 2012 report of a consultative project, the Ombudsman for Children found that boys in St Patrick's were afraid to speak up about mental health issues they were experiencing, for fear of being put on 'protection'.⁴⁹⁶

480 Article 37(c) states that "Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances".

481 UN Committee Against Torture (2011) *Concluding Observations: Ireland*, CAT/C/IRL/CO/1, paragraph 22.

482 Council of Europe (2011) *Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Ireland from 1 to 2 June 2011*, Strasbourg: Council of Europe.

483 Ombudsman for Children's Office 'Children's Ombudsman calls on the next Government to expedite closure of St. Patrick's Institution as a place of detention for children' [press release], 9 February 2011, <http://www.oco.ie/whatsnew/media/press-release-archive/childrens-ombudsman-calls-on-the-next-government-to-expedite-closure-of-st-patricks-institution-as-place-of-detention-for-children.html>.

484 Council of Europe (2010) *Report to the Government of Ireland on the visit to Ireland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)*, Strasbourg: Council of Europe.

485 Irish Penal Reform Trust (2011) *IPRT Briefing on Detention of Children in St. Patrick's Institution*, http://www.iprt.ie/files/IPRT_Briefing_on_Detention_Children_in_St_Patricks_Institution_18072012.pdf.

486 Cormac O'Keeffe, '30% of St Pat's inmates on protection and locked up for over 20 hours a day', *Irish Examiner*, 28 September 2012.

487 Office of the Inspector of Prisons (2012) *Report on an Inspection of St. Patrick's Institution by the Inspector of Prisons Judge Michael Reilly*, Nenagh: Office of the Inspector of Prisons. See also: Department of Justice and Equality, 'Minister Shatter publishes Inspector of Prisons Report on St Patrick's Institution, and Visiting Committee Reports for 2011 for Dóchas Centre, Midlands, Limerick, Shelton Abbey, Training Unit, Castlerea, Loughan House and Portlaoise Prisons' [press release], 27 June 2012, <http://www.justice.ie/en/JELR/Pages/PR12000283>.

LOCAL FOCUS: *Corkman.ie*, 'Young Offenders Prison Abuse Alert', 17 October 2012.

488 In light of the Minister for Justice and Equality's serious delay in publishing the Inspector's report in a timely manner, the Irish Human Rights Commission called on the Government to "confer to the Inspector of Prisons the statutory power to independently publish his report". See Irish Human Rights Commission, 'Report of Inspector of Prisons on St. Patrick's Institution Disturbing' [press release], 17 October 2012, <http://www.ihrc.ie/newsevents/press/2012/10/17/report-of-inspector-of-prisons-on-st-patricks-inst/>.

489 Irish Penal Reform Trust (2012) 'Roundup: Reactions to the Inspector of Prisons' Report on St. Patrick's Institution', <http://www.iprt.ie/contents/2438> [accessed 3 December 2012].

490 Irish Penal Reform Trust, 'Media Advisory: Horrific Report on St. Patrick's Institution raises questions over continued operation of prison', [media advisory], 16 October 2012, <http://www.iprt.ie/contents/2436>.

491 *Ibid.*

492 Inspector of Prisons (2010) *The Irish Prison Population – an examination of duties and obligations owed to prisoners*, Tipperary: Office of the Inspector of Prisons, p. 81.

493 Cormac O'Keeffe, '30% of St Pat's inmates on protection and locked up for over 20 hours a day', *Irish Examiner*, 28 September 2012.

494 Office of the Inspector of Prisons (2012) *Report on an Inspection of St. Patrick's Institution by the Inspector of Prisons Judge Michael Reilly*, Nenagh: Office of the Inspector of Prisons, p. 52.

495 Irish Prison Chaplains (2010) *Irish Prison Chaplains Annual Report, Submitted to the Minister for Justice and Law Reform*, http://www.catholicbishops.ie/wpcontent/uploads/images/stories/cco_publications/miscellaneous/prison%20chaplains%20report%20final.pdf p. 17-20.

496 Ombudsman for Children (2012) *A report by the Ombudsman for Children on the operation of the Ombudsman for Children Act 2002*, Dublin: Ombudsman for Children Office.

A second key concern is the number of 17-year-old boys held on remand in St Patrick's Institution. Given the conditions are so poor in St Patrick's, an alternative to detention should be found for children 'on remand' until the new facility is operational. A third concern relates to mental health facilities, which will further be explored in Section 3.2.

The extension of the remit of the Ombudsman for Children to receive, investigate and respond to complaints from children in St. Patrick's Institution is welcome.⁴⁹⁷ This follows extensive lobbying by international and domestic voices and the Ombudsman for Children herself.⁴⁹⁸ This development now gives children in St. Patrick's the same rights as other children in detention.



Immediate actions for 2013

Immediately withdraw the reservation to Article 10 (2b) of the International Covenant on Civil and Political Rights

Given the positive measures taken in relation to St. Patrick's Institution and towards the building of a dedicated National Children Detention Facility, the Government should withdraw this reservation without delay.

Consult on the design of the National Children Detention Facility and commence work on the new facility

Undertake consultations with key stakeholders, in particular current and former young offenders who have experienced detention to ensure a child-centred, education-focused facility and regime.⁴⁹⁹ Commence work on the new facility in May 2013 and ensure the building schedule in Oberstown is closely adhered to end the practice of detention of children in St Patrick's Institution by mid-2014.

Address the serious human rights concerns expressed about St Patrick's Institution

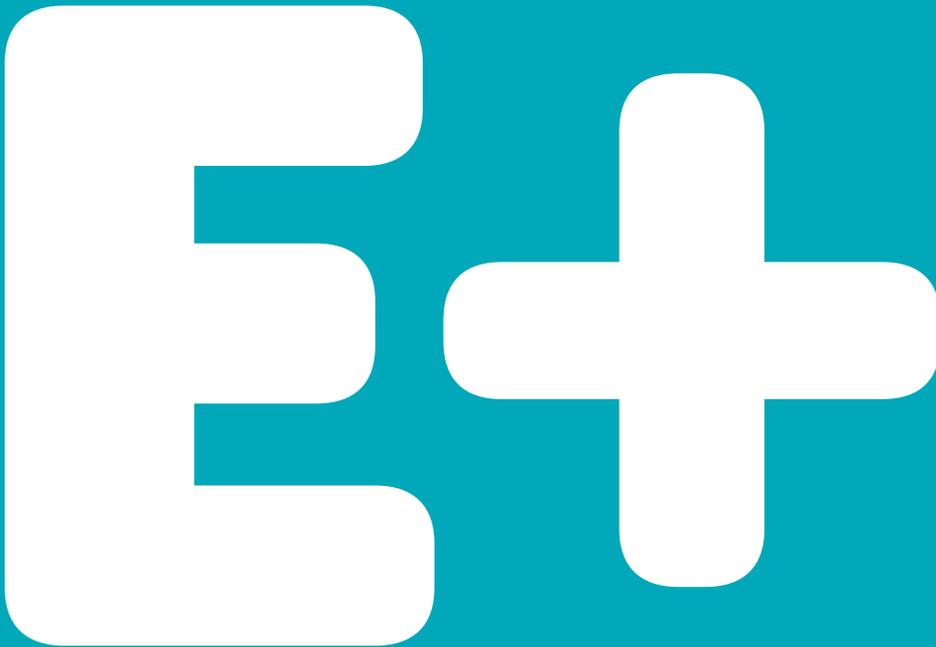
St. Patrick's Institution must be closed as a matter of urgency. In the interim, all measures must be taken to allow 17-years-olds to transfer to the Oberstown campus as soon as possible (before the 2014 opening of the new facility); a strategy is urgently needed in relation to those 'on remand' and to reduce – as a matter of urgency – the extremely high levels of protection and 23-hour-lock-up used in the prison.

497 Irish Penal Reform Trust, 'Ombudsman for Children's complaints remit extended to children in St Patrick's Institution' [press release], 25 June 2012, <http://www.iprt.ie/contents/2355> [accessed 3 December].

498 Ombudsman for Children (2012) *A report by the Ombudsman for Children on the operation of the Ombudsman for Children Act, 2002*, Dublin: Ombudsman for Children Office, p 13-14; Irish Penal Reform Trust, 'Ombudsman for Children's complaints remit extended to children in St Patrick's Institution' [press release], 25 June 2012, <http://www.iprt.ie/contents/2355> [accessed 3 December]; Children's Rights Alliance (2006) *From Rhetoric to Rights: Second Shadow Report to the United Nations Committee on the Rights of the Child*, Dublin: Children's Rights Alliance; and Children's Rights Alliance (2012), Report Card 2012, Dublin: Children's Rights Alliance.

499 The Irish Prison Service is carrying out at the proposed Cork Prison (for adults). See: Department of Justice and Equality (2012), *Public Notice of Development issued by the Minister for Justice and Equality*, http://www.irishprisons.ie/images/pdf/public_notice_cork_prison.pdf [accessed 7 December 2012].

Chapter 6: Right to Equality and Non-discrimination



“The disproportionate cuts to Traveller education will only serve to reinforce and condemn another generation of Travellers to exclusion and marginalisation.”

Martin Collins, Co-Director, Pavee Point Travellers Centre

Local Eye

Tragic deaths of Traveller infants highlight atrocious conditions at Kilkenny halting site

Kilkenny People

A Traveller family, living in atrocious conditions at the County Council run St Catherine’s halting site on the outskirts of Kilkenny City, spoke of the traumatic loss of their two young sons. Both children, Aaron and Timmy, died in tragic circumstances in the same caravan.

Parents Helen and Michael Reilly, hit by a double tragedy, have not been helped by their surroundings, to which they were moved seven years ago. St Catherine’s, which they describe as ‘hell’, was opened 23 years ago as a temporary measure, but they struggle to survive with genuine fears for the rest of their children and those of their neighbours.

They have become almost immune to the rats, the sewage, the flooding in such a confined space. There is no hot water, no washing machines, no showers, and no baths. Children are washed in little tubs. Set up originally for three families, it is now home to 12 families on a 1.5 acre site and almost 70 people live there in total.

Sean Keane, ‘Tragic deaths of traveller infants highlight atrocious conditions at Kilkenny halting site’, *Kilkenny People*, 18 April 2012

Overview

The 'Right to Equality and Non-Discrimination' is a new chapter in *Report Card 2012*, but it includes two sections that were covered last year under the chapter on 'Realising Children's Rights'. This chapter continues to track progress on issues affecting Traveller and migrant children, but has added a new section on inequalities in family life. The overall 'E+' grade reflects the unacceptable lack of action in these three areas. To merit a more respectable grade, we call on Government to clarify its intentions by making clear commitments in these areas and to take timely action to uphold the rights of the children affected.

The section on 'Traveller Children' and 'Migrant Children' both gets an 'E' grade in *Report Card 2013*, to reflect little or no meaningful action for children in these areas. This is the first time that either of these sections has received a grade. In *Report Card 2012* we did not award a grade to make a point about the *Programme for Government* commitment being so vague, but we promised to award a grade in 2013. To improve next year we call on Government to clarify its intentions by making clear commitments to Traveller and Migrant children in the forthcoming National Children and Young People's Policy Framework and then by taking urgent action on these commitments.

'Inequalities in Family Life' is a new section in the Report Card series and gets a 'D' grade. The low grade awarded reflects the failure of the State to address the inequalities faced by children of unmarried parents, in particular children of cohabiting or civil partnered parents to whom a commitment has been given in the *Programme for Government*. The grade is also attributed to the lack of reform in family law in 2012, despite the *Programme for Government* commitment to 'reform and modernise aspects of family law'.

The Right to Equality and Non-Discrimination

Every child has the right to enjoy all of their rights on an equal footing with other children and without discrimination of any kind, irrespective of the race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status of the child or the child's parents or guardian. *Summary of Article 2 of the UNCRC*

6.1 Traveller Children

Grade: **E**

Government Commitment

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

Progress

Unsatisfactory

What's happening?

Commitments and promises have been made but there is no evidence of action on the ground. A Sub-Group has been established to consider recognition of Traveller ethnicity.



At Ireland's hearing for the UN Universal Periodic Review (UPR) in October 2011, the Minister for Justice and Equality, Alan Shatter TD, announced that the Government was 'seriously considering' conferring recognition of Travellers as an ethnic minority group.⁵⁰⁰ In March 2012, Ireland did not take the opportunity to grant Travellers ethnic minority status when it formally rejected a recommendation as part of the UPR process.⁵⁰¹ In 2012, the National Traveller Monitoring and Advisory Committee (NTMAC) established a sub-group specifically to consider the issue of Traveller ethnicity, and consultations are ongoing.⁵⁰² During the UPR process, the State did, however, accept recommendations in protecting vulnerable groups from discrimination, including the social inclusion and integration of Travellers.⁵⁰³

Comment

The Traveller Children section gets an 'E' grade in *Report Card 2013* to reflect the continued lack of clear focus or action from Government. We did not award a grade to this section when this commitment was first considered in last year's Report Card to make a point about the *Programme for Government* commitment being so vague. However, we promised that a grade would be awarded this year. The 'E' grade reflects an unacceptable performance having little or no positive impact on the issues affecting Traveller children.

According to Census 2011, there are 14,245 Traveller children in Ireland, an increase of 30% on the 2006 Census figures. Travellers have a very young population with 42% of Travellers under 15 years of age, compared with 21% of the general population.⁵⁰⁴ The UN Committee on the Rights of the Child has repeatedly expressed its concern about the lack of adequate recognition, action and positive measures taken by Ireland to enhance the rights and life opportunities for Traveller children.⁵⁰⁵ This was echoed during the 2011 UPR process. Also, in 2011, the UN Committee on the Elimination of Racial Discrimination found little had changed in relation to the status of Travellers from its previous examination in 2005.⁵⁰⁶

500 Pavee Point (2011) 'Briefing: Why recognise Travellers as an Ethnic Group?', <http://paveepoint.ie/2011/10/briefing-whyrecognise-travellers-as-an-ethnic-group/>

501 Department of Justice and Equality (2012), *Addendum to the Report of the Working Group on the UPR*, <http://www.upr.ie/Clients/CEGA/UPRWeb.nsf/page/reports-en> [accessed 7 December 2012].

502 Alan Shatter TD, Minister for Justice and Equality, Parliamentary Questions: Written Answers [35587/12; 35588/12], Dáil Debate, 18 July 2012, Vol. 772 No. 2.

503 Department of Justice and Equality (2012), *Addendum to the Report of the Working Group on the UPR*, <http://www.upr.ie/Clients/CEGA/UPRWeb.nsf/page/reports-en> [accessed 7 December 2012].

504 Pavee Point Travellers' Centre (2010) *Profile of the Traveller Family For Family Resource Centres (2010)* <http://paveepoint.ie/sitenua/wp-content/uploads/2010/07/Profile-of-the-Traveller-Family.pdf>

505 UN Committee on the Rights of the Child (2006) *Concluding Observations: Ireland*, CRC/C/IRL/CO/2, paragraphs 45, 58, 59, 78, 79; UN Committee on the Rights of the Child (2006) *Concluding Observations: Ireland*, CRC/C/IRL/CO/2, paragraph 78.

506 UN Committee on the Elimination of Racial Discrimination (2011) *Concluding Observations: Ireland*, CERD/C/IRL/C/3-4, paragraph 13.

Outcomes for Traveller children are almost universally worse than their settled peers. In contravention of Article 6 (right to life, survival and development) of the UN Convention on the Rights of the Child, many Traveller children live in conditions that are far below the minimum required for healthy child development and this is reflected in their health outcomes. In 2011, the UN Committee on the Elimination of Racial Discrimination called on the Irish Government to ensure that concrete measures are undertaken to improve the livelihoods of the Traveller community by focusing on improving students' enrolment and retention in schools, employment, access to healthcare, housing and transient sites.⁵⁰⁷

Ethnic minority status: Recognition of Traveller ethnicity has been recommended by the Equality Authority,⁵⁰⁸ the Human Rights Commission,⁵⁰⁹ the National Consultative Committee on Racism and Interculturalism (NCCRI),⁵¹⁰ the UN Human Rights Committee,⁵¹¹ the Council of Europe Commissioner for Human Rights,⁵¹² the UN Committee on the Rights of the Child,⁵¹³ and the UN Committee on the Elimination of Racial Discrimination.⁵¹⁴ Recognition of Traveller ethnicity would require public authorities and policymakers to ensure that the identity and culture of Travellers is respected in matters affecting them. It would also ensure that Travellers would be covered by the EU Race Directive.⁵¹⁵

Ethnic identifier: The lack of disaggregated data hinders our understanding of how Traveller children are faring in the education, health and care systems. An ethnic identifier should be introduced to monitor and assess the effectiveness of strategies and initiatives directed at Traveller children and also how Travellers are benefiting from other measures targeting disadvantage and at-risk groups, for example early school-leaving. Best practice in this area stresses the importance of a universal question where everyone is asked to identify the group to which they belong, not just minorities. This recommendation echoes the call from the UN Committee on the Rights of the Child for States to employ data-collection mechanisms that can study the situation of specific groups, including ethnic and/or indigenous minorities.⁵¹⁶

Traveller representation: The National Traveller Monitoring and Advisory Committee (NTMAC) was established in 2007 to provide a context for dialogue to improve outcomes for Travellers. However, to date, it has had little impact. It is required to report every two years; its first and only report was published in December 2009.⁵¹⁷

Policy Focus: The National Children and Young People's Policy Framework, which follows on from the *National Children's Strategy 2000-2010*, is under development and represents an ideal opportunity for the Government to make clear commitments as to how it will further protect and support the rights of Traveller children.

Inclusion and bullying: Article 2 of the UNCRC requires the State to ensure that children are not discriminated against, including upon grounds of birth, or ethnic or social origin. An Economic and Social Research Institute (ESRI) report on second year students' experiences notes that 'students from minority backgrounds newly arrived in Ireland or from the Traveller community, are significantly more likely to report having been bullied than other students, a pattern which is in keeping with that found among first year students'.⁵¹⁸ Three consecutive consultations with children undertaken by Pavee Point in 2006, 2009 and 2011 indicate that discrimination continues within the school system.⁵¹⁹ It is a welcome move that the Government's new Action Plan on Bullying makes specific mention of bullying of Traveller children and its impact.⁵²⁰ The Irish Traveller Movement's Yellow Flag Programme is an

507 *Ibid.*, paragraphs 45, 58, 59, 78, 79.

508 The Equality Authority (2006) *Traveller Ethnicity: An Equality Authority Report*, Dublin: Equality Authority, p. 8.

509 Irish Human Rights Commission (2011) *Submission for the Twelfth Session of the Working Group on the Universal Periodic Review: Ireland*, Irish Human Rights Commission: Dublin, p. 11-12.

510 National Consultative Committee on Racism and Interculturalism (2004) *The Importance of Recognising Travellers as an Ethnic Group Submission to the Joint Oireachtas Committee on Human Rights*, Dublin: National Consultative Committee on Racism and Interculturalism.

511 Human Rights Committee (2008) *Concluding Observations: Ireland*, CCPR/C/IRL/CO/3, paragraph C. 23.

512 Council of Europe (2011) *Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Ireland from 1 to 2 June 2011*, Strasbourg: Council of Europe.

513 UN Committee on the Rights of the Child (2006) *Concluding Observations: Ireland*, CRC/C/IRL/CO/2, paragraph 79.

514 UN Committee on the Elimination of Racial Discrimination (2011) *Concluding Observations: Ireland*, CERD/C/IRL/C/3-4 paragraph 12.

515 EU Council Directive 2000/43/EC.

516 UN Committee on the Rights of the Child (2003), *General Comment No.4: Adolescent Health*, CRC/GC/2003/4.

517 National Traveller Monitoring and Advisory Committee (2009) *National Traveller Monitoring and Advisory Committee Report to Minister for Justice, Equality and Law Reform*, <http://www.justice.ie/en/JELR/NTMAC%20Report%20to%20Minister%20Final%20Version.pdf/Files/NTMAC%20Report%20to%20Minister%20Final%20Version.pdf> [accessed 11 November 2012].

518 E. Smyth et al (2006) *Pathways through the Junior Cycle*, Dublin: Liffey Press and ESRI.

519 Information received by the Children's Rights Alliance from Pavee Point, December 2011.

520 Department of Education and Skills (2013) *Action Plan On Bullying Report of the Anti-Bullying Working Group to the Minister for Education and Skills*, Dublin: Department of Education and Skills.

innovative model, which supports schools to develop anti-racism policies and procedures; consideration should be given to mainstreaming this model.⁵²¹

Health inequalities: Article 24 of the UNCRC declares the duty upon States Parties to recognise and ensure each child's right to health and declares that States Parties must take appropriate measures to diminish infant and child mortality.⁵²² However infant mortality among the Traveller population is 3.6 times the rate of the general population.⁵²³ Other areas of continuing concern include high rates of asthma and speech, hearing and eyesight problems.⁵²⁴ Identified barriers that hinder Travellers accessing health services for their children include: a relatively low level of trust in health professionals, waiting lists, embarrassment and a lack of information.⁵²⁵ Some Travellers have also reported difficulties in securing a medical card due to a lack of, or changing, postal addresses.⁵²⁶

Educational underachievement: Article 28 of the UNCRC lays out the right to education for all children, while Article 29 affirms that such education must be directed to the development of 'respect for the child's parents, his or her own cultural identity, language and values, [...]'. These articles affirm, both in of themselves and when read in the context of the non-discrimination right articulated in Article 2, the duty upon the Government to ensure the right to education for all children in Ireland, including Traveller children.

On average Travellers finish full-time education 4.7 years earlier than those in the general population and the percentage of Travellers with no formal education in 2011 was 17.7%, compared with 1.4% in the general population.⁵²⁷ For many Travellers their nomadic lifestyle, combined with the prejudice they often encounter, creates severe problems in acquiring basic levels of educational qualification and this translates into poorer living circumstances.⁵²⁸

Despite the very obvious challenges faced by Travellers in education, the Visiting Teachers for Travellers (VTT) Programme – and the 42 associated posts – were abolished in Budget 2011 with no compensatory measures.⁵²⁹ This change was not reversed by the new Government on taking office. No research has been undertaken on the impact of the cuts but anecdotal evidence suggests that the withdrawal of these supports is having a significant impact on young Travellers' transition from primary level to post-primary level and school completion.⁵³⁰ There are no visible Traveller role models participating in further education or employed in the teaching profession. *The Survey of Traveller Education Provision in Irish Schools and Report and Recommendations for a Traveller Education Strategy* are important resources but both were published in 2006 so may be out of date. An implementation plan was never developed for the *Report and Recommendations for a Traveller Education Strategy* and delivery on its recommendations has been limited.⁵³¹ Indeed, progress in some areas has been reversed.

521 Irish Traveller Movement (2012) *Tackling Bullying in Schools*, http://www.itmtrav.ie/uploads/publication/ITM_Tackling_bullying_submission_Aug_2012.pdf [accessed 19 November 2012].

522 LOCAL FOCUS: *Kilkenny People*, 'Tragic deaths of Traveller infants highlight atrocious conditions at Kilkenny halting site', 18 April 2012.

523 Department of Health (2010) *All Ireland Traveller Health Study: Our Geels*, Dublin: Department of Health, p. 87.

524 *Ibid.*, p. 160, 80.

525 *Ibid.*, p. 79, 76.

526 *Ibid.*, p. 131.

527 Central Statistics Office (2012) *Profile 7: Religion, Ethnicity and Travellers*, <http://www.cso.ie/en/media/csoie/census/documents/census2011profile7/Profile%207%20Education%20Ethnicity%20and%20Irish%20Traveller%20Commentary.pdf> [accessed 16 November 2012].

528 The Equality Authority and ESRI (2006) *Multiple Disadvantage in Ireland: An Equality Analysis of Census*, <http://www.equality.ie/Files/Multiple%20Disadvantage%20in%20Ireland%20-%20an%20equality%20analysis%20of%20Census%202006.pdf> [accessed 10 November 2012].

529 The éist project, providing training in diversity and equality to staff in the early childhood sector has also been cut, however some of its work has been mainstreamed through diversity and equality training within the County and City Childcare Committees.

530 Information received by the Children's Rights Alliance from Pavee Point on 30 November 2012.

531 Its implementation is overseen by the Traveller Implementation Group, and Traveller Education Strategy Advisory and Consultative Forum.



Immediate actions for 2013

Grant recognition of Traveller Ethnicity

Travellers should be recognised as an ethnic minority, in line with their wishes and in respect of the principle of self-identification.⁵³² This would improve the consideration of Traveller children's identity and needs in the policy arena.

Include specific commitments to Traveller children in the forthcoming National Children and Young People's Policy Framework

This was an immediate action of *Report Card 2012* and remains unaddressed. There is no document outlining Government commitments on Traveller children. The forthcoming National Children's and Young People's Policy Framework provides an opportunity to build on research into Traveller children's education and health and make ambitious commitments to improve their outcomes, with associated actions, timeframes and accountability structures.

Introduce an ethnic identifier across education, health and care

The collection of disaggregated data has been identified as a key factor in improving outcomes for Travellers. A universal question should be asked where individuals are asked to identify with which group they belong, not minorities only.

Re-energise activities in supporting the participation of Traveller children in education

A short time-limited assessment is needed to establish the current needs of Traveller children in education and what difficulties are arising, with proper consultation with Traveller representative groups. The assessment should explore the impact of the abolition of the Visiting Teachers for Travellers Programme in 2011, and impact to date of the *Intercultural Education Strategy*.⁵³³ This assessment should then feed into the development of an updated Implementation Plan for the *Report and Recommendations for a Traveller Education Strategy*.

Re-energise activities to improve health outcomes for Traveller children

The reduction of infant mortality within the Traveller community must be a key priority for the Government. Measures should also be taken to reduce high levels of asthma and speech, hearing and eyesight problems among Traveller children as well as understanding and removing barriers to healthcare access.

532 Minority Rights Group International (2004) *Recognition of Minorities in Europe: Protecting Rights and Dignity*, London: Minority Rights Group International, p. 1.

533 Department of Education and Skills (2010) *Intercultural Education Strategy 2010-2015*, http://www.into.ie/ROI/Publications/OtherPublications/OtherPublicationsDownloads/Intercultural_education_strategy.pdf [accessed 10 November 2012].

6.2 Migrant Children

Grade: **E**

Government Commitment

The *Programme for Government* commits to promoting policies that integrate minority ethnic groups in Ireland, and that promote social inclusion, equality, diversity and the participation of immigrants in the economic, social, political and cultural life of their communities.

Progress

Unsatisfactory

What's happening?

There is little evidence of targeted activity to support migrant children. Key legislation remains unpublished.



The Immigration, Residence and Protection Bill remains with the Department of Justice and Equality. Minister for Justice and Equality, Alan Shatter TD, has stated his intention to publish the Bill "as soon as possible in 2013".⁵³⁴ In October 2011, Ireland's human rights record was examined by other UN countries for the first time, under the Universal Periodic Review (UPR) process.⁵³⁵ During its hearing, the Government stated that treating national, religious or ethnic minorities as inferior was unacceptable, as was discrimination against children and failure to recognise their vulnerability.⁵³⁶ In March of 2012, Ireland accepted several recommendations with regard to discrimination of migrants during the UPR, but reiterated its position against the ratification of the UNESCO Convention on Discrimination in Education.⁵³⁸

Comment

The Migrant Children section gets an 'E' grade in *Report Card 2013* to reflect the continued lack of clear focus or action from Government. As with the section on Traveller Children, we did not award a grade to this section when this commitment was first considered in last year's Report Card to make a point about the *Programme for Government* commitment being so vague. However, we promised that a grade would be awarded this year. Therefore, this 'E' grade reflects an unacceptable performance having little or no positive impact on the issues affecting migrant children.

93,716 foreign national children were recorded as living in Ireland in Census 2011.⁵³⁸ In addition, there are many naturalized Irish citizens that belong to various minority ethnic groups.

The UN Convention on the Rights of the Child protects every child, regardless of nationality or immigration status. Article 2 of the UNCRC requires the State to ensure that children are not discriminated against, including in relation to the status of their parents. Article 7 stipulates that a child shall have a right to a nationality, while Article 10 calls for family reunification decisions to be dealt with in a 'positive, humane and expeditious manner'. Article 30 commits States to ensure that children of an ethnic, religious or linguistic minority are not denied the right to enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language.⁵³⁹ The UN Committee on the Rights of the Child has affirmed that the enjoyment of rights stipulated in the UNCRC is not limited to children who are citizens of a

534 Letter from Minister for Justice and Equality Alan Shatter TD to Nils Muižnieks, Council of Europe Commissioner for Human Rights (2012), <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2196541&SecMode=1&DocId=1960438&Usage=2> [accessed 13 December 2012].

535 For more information on the Universal Periodic Review process see: <http://www.iccl.ie/the-universal-periodic-review.html> [accessed 15 December 2011].

536 UN Human Rights Council (2011) *Draft report of the Working Group on the Universal Periodic Review: Ireland*, A/HRC/WG.6/12/L.7.

537 Department of Justice and Equality (2012), *Addendum to the Report of the Working Group on the UPR*, <http://www.upr.ie/Clients/CEGA/UPRWeb.nsf/page/reports-en> [accessed 7 December 2012].

538 An additional 19,020 children were recorded with no response to the question of nationality or as having no nationality. Information received by the Children's Rights Alliance from the Central Statistics Office in December 2012.

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

State Party and must therefore, if not explicitly stated otherwise, also be available to all children – including asylum-seeking, refugee and migrant children – irrespective of their nationality, immigration status or statelessness.⁵⁴⁰

The Heads of the Immigration, Residence and Protection Bill is due to be published in 2013. Previous iterations of this Bill were published in 2009 and 2010. At present, there is no composite law setting out the rights and entitlements of migrants in Ireland and on many fundamental issues, practice is currently not governed by statute. The Bill will be a key legislative development that will affect the rights of migrant children living in Ireland. It is critical that the Bill be proofed against Ireland's obligations under the UNCRC. The procedural safeguards currently laid down must apply to decisions and practices affecting children including that: children should not be discriminated against (Article 2) the best interests of the child must be a primary consideration in matters affecting them (Article 3) and that the views of the child should be taken into account in matters affecting him or her (Article 12).

The UN Committee on the Rights of the Child has also called on States to ensure that all young children (and those with primary responsibility for their wellbeing) are guaranteed access to appropriate and effective services, including programmes of health, care and education, specifically designed to promote their well-being, and that particular attention should be paid to the most vulnerable groups of young children and to those who are at risk of discrimination. This includes [...] children belonging to indigenous or minority groups, children from migrant families [and] refugee and asylum seeking children.⁵⁴¹

The Bill must ensure that every child has access to public services and benefits provided by the State, regardless of their or their parents legal status, even if unlawfully present (undocumented) in the State. For example, a child must be entitled to access education without restriction, medical treatment, child protection/family support services and welfare benefits. At present, due to the Habitual Residence Condition, many children are denied access to the Child Benefit payment.⁵⁴²

Furthermore, the Bill should pay special attention to vulnerable migrant groups of children particularly separated children, children of asylum seekers, children at risk of trafficking and undocumented children.

Children in the asylum system: Of the 5,098 asylum seekers in State direct provision accommodation,⁵⁴³ over one third or 1,789 are children.⁵⁴⁴ In 2012, the Special Rapporteur on Child protection, Geoffrey Shannon, called for an examination to establish whether the direct provision system itself is detrimental to child welfare and development and, if appropriate, an alternative form of support and accommodation would be more suitable for families and particularly children.⁵⁴⁵

A 2012 Irish Refugee Council report also highlighted many problems faced by children living in direct provision centres including from overcrowding and malnutrition. Of particular concern is the potential exposure to child protection risks.⁵⁴⁶ The direct provision centres are managed by private providers through contracts with the Reception and Integration Agency (RIA) – a Department of Justice and Equality body. RIA does have a child protection policy that obliges reports to be forwarded on to the Health Service Executive and does inspect the centres from time to time. However, this policy and system does not equal the national standards and the independent inspection regime that is carried out by Health Information Quality Authority (HIQA). The distinction in systems is based on the fact that children living in direct provision are 'not in the care of the State' as they live with their families, but they are living in an environment created and controlled by the State.⁵⁴⁷ Moreover, direct provision centres are not a normal parenting environment; many do not have adequate play or homework facilities, and include residents from many different backgrounds whom the State cannot check or vet.

540 UN Committee on the Rights of the Child (2005) *General Comments No.6, CRC/GC/2005/6*.

541 UN Committee on the Rights of the Child (2005) *General Comment No.7, CRC/C/GC/7/Rev.1*.

542 The Habitual Residency Condition (HRC) is a set of criteria relating to a person or person's residency within the State, in order to qualify for certain social welfare payments including the One Parent Family Payment and Child Benefit.

543 Direct provision is a system of accommodation provided by the Government to all those seeking asylum in Ireland. It provides room and board within large buildings, usually in the form of shared rooms. Each accommodation centre is managed by a private individual or group, after a tendering process, but remains subject to Government oversight and standards. In addition to room and board, adult asylum seekers living in direct provision accommodation receive a weekly allowance of €19.10. The accommodation is not compulsory for those seeking asylum, but those who do not avail of it do not receive their weekly allowance.

544 Irish Refugee Council (2012) *State sanctioned child poverty and exclusion*, Dublin: Irish Refugee Council.

545 Geoffrey Shannon (2012) *Fifth Report of the Special Rapporteur on Child Protection*, <http://www.dcy.gov.ie/documents/publications/5RapporteurRepChildProtection.pdf> [accessed 2 December 2012].

546 Irish Refugee Council (2012) *State sanctioned child poverty and exclusion*, Dublin: Irish Refugee Council.

547 LOCAL FOCUS: *Galway City Tribune*, 'Govt U-turn on Galway asylum centre closure', 14 September 2012.

The running of these centres must be subject to independent inspection, along the lines of those carried out by HIQA against a published set of national standards. Given the expertise developed by HIQA in the area of health and children's services, it seems logical to extend their remit to inspect the centres. The budget for such inspection work should be sourced from the Department of Justice and Equality.



Immediate actions for 2013

Ensure that the Immigration, Residence and Protection (IRP) Bill is proofed against the UN Convention on the Rights of the Child

This was an immediate action of *Report Card 2012* and remains unaddressed. The IRP Bill will establish the legal framework relating to migrant children including separated children and those seeking asylum in Ireland. It is imperative that the Bill is amended to ensure it complies with best practice, as set out by the UN Committee on the Rights of the Child.

Specify commitments to migrant children in the forthcoming National Children and Young People's Policy Framework

This was an immediate action of *Report Card 2012* and remains unaddressed. There is no document outlining Government commitments on migrant children. The forthcoming National Children's and Young People's Policy Framework provides an opportunity to make ambitious commitments to protect and support the rights of migrant children, with associated actions, timeframes and accountability structures.

Address the ongoing concerns in relation to child protection and welfare for children living in direct provision system

Inter-departmental co-operation and transparency is needed on this issue. The Minister for Children and Youth Affairs should work with the Minister for Justice and Equality to review the existing child protection safeguards in the centres. The remit of HIQA should be extended to inspect the direct provision accommodation centres.



Grade:

D

6.3 Inequalities in Family Life

Government Commitment

We will modernise and reform outdated elements of family law. We will enact legislation to consolidate and reform the law on adoption.

Progress
None

Government Commitment

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

Progress
Some



What's happening?

There are continued delays in addressing inequalities faced by the children of unmarried parents. Commitments have been made to progress guardianship and other family law reform.

Prior to 2011, cohabiting couples in Ireland, whether opposite or same-sex, were not provided with a mechanism for legal recognition. On 1 January 2011, when the Civil Partnership and Certain Rights and Obligations of Cohabiting Couples Act 2010 came into effect, it provided recognition in law in a range of areas for civil partners and certain cohabitants concerning their rights and obligations to each other. The Act did not deal with issues relating to children of civil partners and cohabitants.⁵⁴⁸ Certain anomalies for children of civil partners relating to taxation, such as inheritance, were addressed in legislation in July 2011 and 2012, with remaining minor technical anomalies to be dealt with under the Finance Act 2013.⁵⁴⁹

In June 2012, the Minister for Justice and Equality, Alan Shatter TD, announced his commitment to address gaps in civil partnership legislation relating to children.⁵⁵⁰ In November 2012, the Minister also noted the need for reform in the area of guardianship, custody and access and to ensure maintenance and inheritance rights for the children of civil partners.⁵⁵¹

548 Ombudsman for Children (2010) *Advice of the Ombudsman for Children on the Civil Partnerships Bill 2009*, Dublin: Office of the Ombudsman for Children, p. 2.

549 Finance Act (No. 3) 2011 and Finance Act 2012. Information provided to the Children's Rights Alliance by GLEN, 7 November 2012.

550 Department of Justice, Equality and Defence, 'Address by Minister for Justice, Equality and Defence Mr. Alan Shatter T.D. at the 6th European Gay Police Association Conference' [speech], 28 June 2012. <http://www.justice.ie/en/JELR/Pages/SP12000196> [accessed 16 January 2013].

551 Department of Justice, Equality and Defence, 'Address by Alan Shatter T.D Minister for Justice, Equality and Defence at the Fine Gael LGBT Group' [speech], 20 November 2012, <http://www.justice.ie/en/JELR/Pages/SP12000321> [accessed 16 January 2013]

Comment

Inequalities in Family Life – a new section in the annual Report Card series gets a 'D' grade – in *Report Card 2013*. The low grade awarded reflects the delay in introducing family law reform and addressing the inequalities faced by children of unmarried parents, particularly children of cohabiting or civil partnered parents to whom a commitment has been given in the *Programme for Government*.

Family life is a fundamental part of Irish society. Parents and families are central to a child's life. The rights of parents and children are inextricably linked and, in most cases, a child's rights are vindicated by his or her parents. Irrespective of the legal arrangements entered by parents with regard to their relationship with each other, children should not be discriminated against due to the status of that relationship. The UN Convention on the Rights of the Child provides that a child must not be discriminated against because of their parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

Every child has the right to be cared for by his or her parents⁵⁵² insofar as possible under the UN Convention.⁵⁵³ They also have the right to contact their parents on a regular basis, to maintain personal relations with, and not to be separated from, their parents against their will, unless it is contrary to the child's best interests or determined by a court.⁵⁵⁴ Children have the right to know their parents and to have accurate information about their identity as well as the assistance and protection of the State where the child has been denied an element of their identity.⁵⁵⁵ The Convention recognises that both parents have a role in the child's life and focuses on the parental responsibilities involved in raising a child.⁵⁵⁶ In 'all actions concerning children', including those that fall outside the direct scope of the Convention, the best interests of the child principle must apply.⁵⁵⁷

The structure of Irish family life has changed and diversified significantly in recent decades with 35.9% of registered births being outside of marriage in the first quarter of 2012.⁵⁵⁸ These include situations where a child is born to a single, unmarried parent; an unmarried couple who are living at the same address; to parents who are separated, divorced or widowed and the child now lives with one parent and sometimes their new partner; a child living with grandparents or other family members; or a child living with their parent and non-biological civil-partnered parent.⁵⁵⁹

The legal ability to formalise the relationship between a child and the adult who parents them is critical to ensure security and clarity in the child's life and upbringing. The limitations placed in granting guardianship⁵⁶⁰ means that, in families with a step-parent or civil partner, only the biological parent can be recognised as the guardian of the child and the other party will always be a stranger to the child in legal terms.⁵⁶¹ This can make routine family practicalities very difficult, for example as the non-biological parent cannot consent to emergency medical treatment, vaccinations or school forms.⁵⁶²

Children of unmarried families and civil partnerships face considerable inequitable treatment when compared with children of married families, particularly when they are living with or parented by the partner of their biological parent. In addition, under inheritance legislation a child is treated as a stranger to her or her non-biological parents (apart from children in a civil partnership) thus incurring significant Capital Acquisition Taxes. Where a relationship breaks down or is dissolved there is no recourse to seek maintenance or support for a child from the non-biological partner, even in a civil partnership. In contrast, if a married parent abandons his or her family, any person, such as another family member or carer, can seek maintenance for the dependent child from that parent.

552 Under the UN Convention on the Rights of the Child, the term 'parent' is interpreted to mean genetic, birth and psychological parent, the latter referring to a person who is not biologically related to the child but cares for the child for significant periods of their childhood as they are 'intimately bound up in children's identity' and identity rights. UNICEF (2007) *Implementation Handbook for the UN Convention on the Rights of the Child, Fully Revised Third Edition*, Geneva: United Nations Children's Fund, p.104-5.

553 Article 7, UN Convention on the Rights of the Child, A/RES/44/25 (20 November 1989).

554 *Ibid.*, Article 9.

555 *Ibid.*, Articles 7 and 8.

556 *Ibid.*, Article 18.

557 *Ibid.*, Article 3(1).

558 Central Statistics Office (2012) *Vital Statistics for First Quarter 2012*, Dublin: Central Statistics Office, p. 4.

559 LOCAL FOCUS: *The Irish Times*, 'Students make DVD about same-sex parents', 4 June 2012.

560 Guardianship is 'the duty to maintain and properly care for a child and the right to make decisions about a child's religious and secular education, health requirements and general welfare.' Geoffrey Shannon, *Family Law Practitioner*, Dublin: Thomson Roundhall, 2003, at 1-034.

561 Ombudsman for Children (2010) *Advice of the Ombudsman for Children on the Civil Partnerships Bill 2009*, Dublin: Ombudsman for Children's Office, p. 2.

562 See for example, Marriage Equality (2011) *Missing Pieces: A comparison of the rights and responsibilities gained from civil partnership compared to the rights and responsibilities gained through civil marriage in Ireland*.

The Law Reform Commission has recommended that guardianship (parental responsibility) be extended to civil partners and step-parents, though this would not apply to families where the biological parent cohabits with a partner but the relationship is not one of marriage or civil partnership.⁵⁶³

Children with non-married parents, one of whom is biological and one of whom is not, can be vulnerable because the non-biological partner, who may be fulfilling a parental role in their life, cannot exercise or vindicate the child's rights on their behalf. This also includes a child living with their unmarried father or both biological but unmarried parents, because an unmarried father's legal relationship with his child is not automatic and must be positively asserted and formalised.⁵⁶⁴ The Law Reform Commission has recommended that automatic joint guardianship of both the mother and father of any child be provided through legislation.⁵⁶⁵



Immediate actions for 2013

Reform the law on guardianship

Undertake extensive consultation to explore the Law Reform Commission's recommendation on reforming guardianship law in Ireland with a view to ensuring that a child's rights can be vindicated by the people in their lives that fulfil the parenting role. Given the complicity of modern family structure this is an issue that needs careful consideration.

Introduce amending legislation to address the gaps in the Civil Partnership and Certain Rights and Obligations of Cohabiting Couples Act 2010 regarding children

Provision should be made for legal recognition of the various aspects of the lives of children of civil partners and cohabiting couples which were omitted from the Civil Partnerships Act 2010, such as guardianship, maintenance and protection of the family home.

563 Law Reform Commission (2010) *Report, Legal Aspects of Family Relationships*, Dublin: Law Reform Commission, p. 41.

564 Section 6A, inserted by the Status of Children Act 1987, section 12, and amended by the Children Act 1997, sections 6 and 12.

565 Law Reform Commission (2010) *Report, Legal Aspects of Family Relationships*, Dublin: Law Reform Commission, p. 18.

Summary of Immediate Actions

Children's Constitutional Rights

Children's Rights Referendum

- Enact comprehensive legislation as required under the Amendment and address outstanding gaps in the protection of children's rights
- Support the Judicial Studies Institute to address the interpretation of the Amendment
- Ensure children's views are heard within the Constitutional Convention

Right to Education

Early Childhood Care and Education

- Launch and commence implementation of the National Early Years Strategy
- Conduct an evaluation of the free pre-school year

Child Literacy

- Continue rollout of the National Literacy and Numeracy Strategy
- Develop a follow-up strategy for the Delivering Equality of Opportunity in Schools (DEIS) programme

Children and Special Educational Needs

- Publish and begin execution of the plan to fully implement the EPSEN Act 2004, on foot of the NCSE policy advice

School Buildings

- Ensure protection of the promised funding for the remainder of the School Buildings Programme

Patronage and Pluralism in Education

- Complete the 43 parental surveys and commence divestment when appropriate
- Commence the development of a programme on Education about Religion and Beliefs (ERB) and Ethics

Right to Health

Primary Care

- Ring-fence multi-annual funding for the delivery of the promised Primary Care Teams

Mental Health

- Ring-fence multi-annual funding for mental health
- Ensure all children under 18 years receive age-appropriate and timely mental health services and treatment
- Put in place a legislative framework to fulfil the rights of children and adolescents with mental health difficulties
- Complete recruitment of a specialist therapeutic team for children in special care and detention

Alcohol and Drugs

- Urgently adopt a national strategy to tackle alcohol misuse
- Introduce a legislative ban to protect children from alcohol marketing
- Sustain investment in non-alcohol and drug free spaces for young people
- Enact the Protection of Children's Health from Tobacco Smoke Bill 2012

Children's Hospital

- Begin and expedite the process of building the new National Children's Hospital

Right to an Adequate Standard of Living

Child Poverty

- Poverty proof Budget 2014 to protect children and families
- Prioritise introduction of the promised child poverty target

Area based approach to tackling child poverty

- Clarify the criteria for selection of the communities
- Design a programme based on national and international evidence and best practice

Children and the Social Welfare System

- Urgently publish the Advisory Group's report, commit to coordination between the tax and welfare systems and commence reform of the child income support system

Right to Protection from Abuse and Neglect

Child and Family Support Agency

- Consult comprehensively on the draft legislation to establish the new agency
- Ensure the agency does not carry over any budgetary deficits and is adequately resourced
- Universalism should be a hallmark of the new agency

Ryan Report Implementation Plan

- Enact legislation to put aspects of *Children First* on a statutory footing
- Support compliance with the National Vetting Bureau Act 2012
- Mainstream the commitments and learning from the Implementation Plan and its Monitoring Group in the work of the Department and new agency

Youth Homelessness

- Complete and publish an updated policy on youth homelessness in 2013
- Ensure a smooth transition and adequate supports for children transitioning to adult services
- Invest in appropriate accommodation for homeless families

Children in Detention

- Immediately withdraw the reservation to Article 10 (2b) of the International Covenant on Civil and Political Rights
- Consult on the design of the National Children Detention Facility and commence work on the new facility
- Address the serious human rights concerns expressed about St Patrick's Institution

Right to Equality and Non-Discrimination

Traveller Children

- Grant recognition of Traveller Ethnicity
- Include specific commitments to Traveller children in the forthcoming National Children and Young People's Policy Framework
- Introduce an ethnic identifier across education, health and care
- Re-energise activities in supporting the participation in education and improvement of health outcomes for Traveller children

Migrant Children

- Ensure that the Immigration, Residence and Protection (IRP) Bill is proofed against the UN Convention on the Rights of the Child
- Specify commitments to migrant children in the forthcoming National Children and Young People's Policy Framework
- Address the ongoing concerns in relation to child protection and welfare for children living in direct provision system

Inequalities in Family Life

- Reform the law on guardianship
- Introduce amending legislation to address the gaps in the Civil Partnership and Certain Rights and Obligations of Cohabiting Couples Act 2010 regarding children

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