



**Report of the Ombudsman for
Children's Office to the UN Committee
on the Rights of the Child pursuant to
the combined fifth and sixth reports
submitted by Ireland under the simplified
reporting procedure**



August 2022



**ombudsman
do leanaí
for children**

Contents

Introduction	1
I. New Developments.....	2
1. Developments relating to implementation of the Convention and its Optional Protocols....	2
2. Protection of children’s rights in the context of Covid-19.....	2
3. Children arriving in Ireland from Ukraine	5
II. Rights under the Convention and its Optional Protocols	7
A. General measures of implementation (arts. 4, 42 and 44(6))	7
4. Legislation	7
5. Comprehensive policy, strategy and coordination	9
6. Allocation of resources	10
7. Data collection	12
8. Dissemination, awareness-raising and training	13
9. Independent monitoring.....	14
B. General principles (arts. 2, 3, 6 and 12).....	16
10. Non-discrimination	16
11. Best interests of the child	17
12. Right to life, survival and development	18
13. Respect for the views of the child.....	19
C. Civil rights and freedoms (arts. 7, 8 and 13-17).....	21
14. Birth registration and nationality.....	21
15. Right to identity	22
16. Freedom of thought, conscience and religion	23
17. Access to appropriate information	25
D. Violence against children (arts. 19, 24(3), 28(2), 34, 37(a) and 39).....	27
18. Child abuse and neglect	27
19. Domestic violence	28
20. Bullying among children in school	29
21. Gender recognition	31
E. Family environment and alternative care (arts. 5, 9-11, 18(1) and (2), 20, 21, 25 and 27(4)) .	31
22. Family courts.....	31
23. Childcare	32
24. Children in alternative care.....	34
25. Children in care outside the State.....	35
26. Aftercare	36

F.	Children with disabilities (art. 23).....	37
27.	Implementing the rights of children with disabilities	37
28.	Care of children with disabilities in the home environment	38
29.	Assessments and services for children with disabilities	39
30.	Access to early childhood education and inclusive education	39
G.	Basic health and welfare (arts. 6, 18(3), 24, 26, 27(1)-(3) and 33)	41
31.	Health and health services.....	41
32.	Adolescent health	42
33.	Mental health.....	44
34.	Child poverty	45
35.	Housing and homelessness.....	47
H.	Education, leisure and cultural activities (arts. 28-31)	48
36.	Education	48
37.	Leisure and cultural activities	51
I.	Special protection measures (arts. 22, 30, 32, 33, 35, 36, 37(b)-(d), and 38-40).....	52
38.	Accommodation and supports for asylum-seeking and refugee children.....	52
39.	Vulnerability assessments.....	54
40.	Legal framework for migrant children	55
41.	Traveller and Roma children	56
42.	Administration of child justice	58
J.	Optional Protocol on the involvement of children in armed conflict.....	58
43.	Accountability of actions of the Defence Forces	58
	Annex	60
	Abbreviations and Irish terms.....	60

Introduction

The [Ombudsman for Children's Office](#) (OCO) is an independent statutory body, which was established in 2004 under the [Ombudsman for Children Act 2002](#) (2002 Act). The OCO has two overall statutory functions:

- to promote the rights and welfare of children up to 18 years of age; and
- to independently examine and investigate complaints made by or for children about the administrative actions of public bodies, schools and hospitals that have, or may have, adversely affected a child.

The current Ombudsman for Children, Dr Niall Muldoon, was appointed by the President of Ireland in February 2015 and was reappointed for a second term in February 2021. The Ombudsman for Children is directly accountable to the Oireachtas (Irish parliament) for the exercise of the OCO's statutory functions.

In July 2020, the OCO submitted an initial report to the UN Committee on the Rights of the Child (Committee) to inform its preparation of a list of issues prior to reporting (LOIPR) for Ireland.¹ The OCO has prepared this current report following the State's submission of its combined fifth and sixth reports to the Committee in February 2022, pursuant to article 44 of the UN Convention on the Rights of the Child (Convention) and the simplified reporting procedure.²

The OCO has prepared this report having regard to several factors, including:

- the Committee's Concluding Observations in 2016, following its examination of the combined third and fourth periodic reports of Ireland;³
- the Committee's LOIPR for Ireland;⁴
- the combined fifth and sixth reports of Ireland's State Party and accompanying Statistical Annex;⁵
- the OCO's statutory remit under the 2002 Act, as amended, and associated strategic priorities;⁶ and
- issues affecting children's rights in Ireland that the OCO has engaged with in recent years in the context of implementing our statutory duties.

¹ Ombudsman for Children's Office (2020), [Submission to the UN Committee on the Rights of the Child on the List of Issues Prior to Reporting for the fourth periodic examination of Ireland](#).

² Department of Children, Equality, Disability, Integration and Youth (2022), [The combined fifth and sixth periodic reports submitted by Ireland under article 44 of the Convention pursuant to the simplified reporting procedure](#).

³ UN Committee on the Rights of the Child (2016), [Concluding observations on the combined third and fourth periodic reports of Ireland](#), CRC/C/IRL/CO/3-4.

⁴ UN Committee on the Rights of the Child (2020), [List of issues prior to the submission of the combined fifth and sixth reports of Ireland](#), CRC/C/IRL/QPR/5-6.

⁵ Department of Children, Equality, Disability, Integration and Youth (2022), [Statistical Annex to the combined fifth and sixth periodic reports submitted by Ireland under article 44 of the Convention pursuant to the simplified reporting procedure](#).

⁶ Ombudsman for Children's Office (2016), [Strategic Plan 2016-2018](#); Ombudsman for Children's Office (2019), [Strategic Plan 2019-2021](#); and Ombudsman for Children's Office (2022), [Strategic Plan 2022-2024](#).

28 September 2022 marks the 30th anniversary of Ireland’s ratification of the Convention. The OCO hopes that our report will support the Committee’s preparation for its constructive dialogue with the State in January 2023.

I. New Developments

1. Developments relating to implementation of the Convention and its Optional Protocols

Ireland signed the Optional Protocol on the sale of children, child prostitution and child pornography (OPSC) in September 2000. Notwithstanding the Committee’s recommendation in 2016 that Ireland should ratify the OPSC, the State has not yet done so.⁷ Ireland is the only EU Member State, and one of 20 countries globally, that has not ratified the OPSC.⁸

The Ombudsman for Children wrote to the Minister for Children, Equality, Disability, Integration and Youth and the Minister for Justice in March 2022 to request an update on plans for ratification. Correspondence from the office of the Minister for Justice noted that further legislative amendments were needed to ensure that the full range of offences covered by the OPSC can be prosecuted in line with Article 3(1) of OPSC and that this had to be done through primary legislation.⁹ Further clarification was sought by the OCO in May 2022 regarding the necessary legislative amendments and the timeline for ratification. Correspondence from the Minister clarified that the legislative amendments required to clear the path to ratification have been incorporated into the General Scheme of the Criminal Justice (Sexual Offences and Human Trafficking) Bill 2022,¹⁰ which was published on 27 July 2022.¹¹ The Minister stated that it is her intention to have the Bill published by the end of 2022 and that facilitating the ratification of the OPSC is a priority for the Department of Justice.¹²

Recommendation

The State should ratify the OPSC without further undue delay.

2. Protection of children’s rights in the context of Covid-19

The Government placed Ireland on a number of full lockdowns between March 2020 and May 2021 in order to curb the spread of Covid-19.¹³ The closure of schools was among the measures taken by

⁷ UN Committee on the Rights of the Child (2016), [Concluding observations on the combined third and fourth periodic reports of Ireland](#), CRC/C/IRL/CO/3-4, para. 77.

⁸ Office of the High Commissioner for Human Rights, [Status of Ratification Interactive Dashboard](#).

⁹ Email to the Ombudsman for Children from the Private Secretary of the Minister for Justice, 23 March 2022.

¹⁰ Email to the Ombudsman for Children from the Minister for Justice, 15 July 2022.

¹¹ Department of Justice, [Government approves publication of General Scheme of Bill, which will strengthen law on consent in rape cases and support victims in sexual violence and human trafficking cases](#), 27 July 2022.

¹² Email to the Ombudsman for Children from the Minister for Justice, 15 July 2022.

¹³ Government of Ireland, [Speech of Taoiseach Leo Varadkar](#), 27 March 2020; Department of the Taoiseach, [Briefing on the government's response to COVID-19](#), 23 December 2020.

the Government in response to Covid-19. Schools were closed on 12 March 2020, before the Government's announcement of the first lockdown, and remained closed until late August 2020. Schools were closed again from December 2020 until a phased re-opening commenced in late February 2021 and was not completed until April 2021.

As of 30 July 2022, there have been 7,700 Covid-19 deaths in Ireland.¹⁴ While restrictions have largely been lifted, the trajectory of the Covid-19 pandemic remains uncertain. Considering the unprecedented circumstances presented by Covid-19, the OCO acknowledges that the State made considerable efforts to respond to the impact of the pandemic on children, including:

- measures to mitigate learning loss and to provide additional teaching supports;
- the continuation of child protection services and associated awareness campaigns;
- a temporary moratorium on rent increases and evictions during full lockdown restrictions between 2020 and 2021;
- the provision of additional social welfare supports to families;
- the mobilisation of technology to support continued delivery of essential services, including online teaching and learning and the use of applications to support care;
- the continuation of the School Meals Programme during school closures; and
- the continuation of some health services, such as essential primary care, during lockdowns.¹⁵

Throughout the pandemic, the OCO highlighted that decisions and actions affecting children should have regard to children's rights and that measures taken in response to Covid-19 should be necessary, proportionate and for the shortest time possible. While we recognise the efforts made to mitigate the impact of the pandemic, we are of the view that the State did not give sufficient attention to children and their rights when making decisions that impacted on children.

Furthermore, we are concerned that Covid-19 and measures taken by the State in response to it have had a predominantly negative impact on children's rights in Ireland.¹⁶ The closure of schools for prolonged periods of time in 2020 and 2021, the closure of play facilities, the cancellation of sports and other activities, and restrictions on movement were among the measures that significantly disrupted children's lives.¹⁷ As regards child poverty, income supports brought in due to the pandemic had a positive effect on mitigating against the risk of poverty of some families, and are in part responsible for a reduction in the rate of consistent child poverty from 7.2% to 5.2% between 2020 and 2021.¹⁸ However, experience of financial insecurity for families with children remained high during this time, with 42% of all households reporting difficulty in making ends meet.¹⁹ Children

¹⁴ Health Protection Surveillance Centre (2022), [Weekly report on the Epidemiology of Covid-19 in Ireland: Week 30, 2022](#).

¹⁵ Department of Education, [Covid Learning and Supports Scheme](#), 8 September 2021; Houses of the Oireachtas, Dáil Éireann Debate, [Covid-19 Pandemic](#) [59422/21], 3 December 2021; Houses of the Oireachtas, Dáil Éireann Debate, [Covid-19 Pandemic](#) [5366/22], 3 February 2022; Health Service Executive (2021), [A plan for Healthcare and population health recovery](#).

¹⁶ Ombudsman for Children's Office (2022), [Resilience Tested: Ombudsman for Children's Office Annual Report 2021](#), p. 2; Ombudsman for Children's Office (2022), [OCO's Children's Survey: Experiences during Covid-19](#); C. O'Mahony (2021), [Annual Report of the Special Rapporteur on Child Protection](#), p. 65; Children's Rights Alliance (2022), [Report Card 2022](#), p. 3.

¹⁷ Ombudsman for Children's Office (2021), [A Better Normal: Eradicate Child Poverty, Eliminate Child Homelessness](#), pp. 2-3; C. O'Mahony (2021), [Annual Report of the Special Rapporteur on Child Protection](#).

¹⁸ Central Statistics Office, [Survey on Income and Living Conditions \(SILC\) 2021](#), 6 May 2022.

¹⁹ Ibid.

experienced negative impacts on their physical and mental health, with reports highlighting an increase in children seeking acute mental health care during Covid-19.²⁰ Moreover, domestic violence incidents increased, referrals to child protection services were disrupted, and access to therapeutic services was curtailed.²¹

The negative impacts of the pandemic and associated restrictions on children were evident in complaints made to the OCO in 2020 and 2021. In 2020, new issues arising in complaints included complaints about the digital divide, lack of clarity about State examinations, and the adverse impacts of the restrictions on children with disabilities, children in care and children in high-risk households.²² Of 2,126 complaints made to the OCO in 2021, 908 related directly to Covid-19 issues.²³ These issues included restrictions in schools, uncertainty surrounding the Leaving Certificate examinations, face masks, and closure of respite and disability day services for children.

During 2021, the OCO conducted a pilot Child Rights Impact Assessment (CRIA) about the impact that school closures had on a number of children's rights under the Convention, as these rights are held by children experiencing mental health difficulties, homeless children, children living in Direct Provision, children with disabilities, and Traveller and Roma children. Among the findings of our CRIA were that:

- school closures had a predominantly negative impact on children's right to education;
- school closures had primarily negative impacts on children's right to the highest attainable standard of health, including mental health;
- school closures had a negative impact on children's right to adequate nutrition as closures meant that food provided under the School Meals Programme did not reach all children who might otherwise have received it; and
- school closures, together with other lockdown measures, increased children's exposure to harm and abuse, including domestic violence, and reduced opportunities for school-based professionals to identify, monitor and report on child protection and welfare concerns.²⁴

The impacts of the pandemic were not felt equally by all children. In this regard, the OCO is very concerned that the pandemic exacerbated existing inequalities experienced by particular groups of children, including children with disabilities, children living in Direct Provision, Traveller and Roma children, children with mental health difficulties, children experiencing homelessness, LGBTI+ children, and children in households at high risk of Covid-19.²⁵ Our pilot CRIA indicates that decisions

²⁰ Irish Youth Foundation (2021), [Generation Pandemic](#), pp. 11-12; Oireachtas Joint Sub-Committee on Mental Health (2021), [Impact of the Covid-19 pandemic](#).

²¹ Ombudsman for Children's Office (2022), [The impact of school closures on children's rights in Ireland - A pilot Child Rights Impact Assessment](#); C. O'Mahony (2021), [Annual Report of the Special Rapporteur on Child Protection](#), pp. 48-49.

²² Ombudsman for Children's Office (2021), [2020 Childhood Paused: Ombudsman for Children's Office Annual Report](#), p. 14.

²³ Ombudsman for Children's Office (2022), [Resilience Tested: Ombudsman for Children's Office Annual Report 2021](#), p. 4.

²⁴ Ombudsman for Children's Office (2022), [The impact of school closures on children's rights in Ireland - A pilot Child Rights Impact Assessment](#), p. 31.

²⁵ Ombudsman for Children's Office (2022), [The impact of school closures on children's rights in Ireland - A pilot Child Rights Impact Assessment](#); A. Murray, R. McClintock, E. McNamara, D. O'Mahony, E. Smyth and D. Watson (2021), [Growing Up in Ireland: Key findings from the special COVID-19 survey of Cohorts '98 and '08](#); Ombudsman for Children's Office (2021), [2020 Childhood Paused: Ombudsman for Children's Office Annual Report](#), p. 7; Ombudsman for Children's Office (2020), [Life in Lockdown: Children's views and experiences of living in Direct Provision during the Covid-19 pandemic](#);

relating to the closure and reopening of schools in 2020 and 2021 did not sufficiently consider the needs of specific groups of children, and disproportionately affected previously disadvantaged groups of children.²⁶

Given the significant impact that Covid-19, and measures taken in response to it, have had on children's lives, the OCO welcomes actions, such as the [Covid Learning and Supports Scheme](#), which the State is pursuing to support children's recovery. We also welcome the State's commitment to address the negative impacts of Covid-19 restrictions on children through a new national policy framework for children and young people, which is being developed as a successor to [Better Outcomes, Brighter Futures](#), the national policy framework for children and young people 2014-2020 (BOBF).²⁷ However, we are concerned about a range of immediate challenges arising for children that the pandemic exacerbated. These include long waiting lists for health services, an increase in referrals to children's mental health services and to child protection and welfare services, reduced levels of respite services for children with disabilities, and ongoing disruption to education due to children missing school as a result of Covid-19.²⁸

Recommendations

The State should:

- **conduct a comprehensive child rights impact evaluation of the impacts of Covid-19 measures and associated mitigating measures on children and their rights;**
- **identify, resource and implement additional measures to support children's recovery from the impacts of the pandemic, with a particular focus on children who have been most adversely affected;**
- **introduce the practice of CRIA, among other measures, to strengthen the State's capacity to address the needs and uphold the rights of children, including in the context of emergency situations; and**
- **in the context of emergency situations, establish an appropriate mechanism to ensure that the State harnesses independent expertise on children's rights, including from the OCO, in a timely manner to inform its decisions and actions affecting children.**

3. Children arriving in Ireland from Ukraine

As of 9 August 2022, 44,365 people, including 11,877 children, have arrived in Ireland from Ukraine, following Russia's military invasion of Ukraine on 24 February 2022.²⁹ As of 10 August 2022, 193 unaccompanied minors (UAMs) and 498 separated children had arrived in Ireland from Ukraine.³⁰ As

Houses of the Oireachtas, Joint Committee on Key Issues affecting the Traveller Community debate, [Review of Traveller Inclusion Policy, Education and Health: Discussion](#), 18 November 2021; BeLong To Youth Services (2021), [LGBTI+ Life in Lockdown: 1 year later](#); Children's Rights Alliance (2022), [Report Card 2022](#), p. 91 and p. 144.

²⁶ Ombudsman for Children's Office (2022), [The impact of school closures on children's rights in Ireland - A pilot Child Rights Impact Assessment](#), p. 31.

²⁷ Houses of the Oireachtas, Dáil Éireann Debate, [Youth Services](#) [14665/22], 24 March 2022.

²⁸ Ombudsman for Children's Office (2022), [Resilience Tested: Ombudsman for Children's Office Annual Report 2021](#); Ombudsman for Children's Office (2021), [2020 Childhood Paused: Ombudsman for Children's Office Annual Report](#).

²⁹ Data provided to the OCO by the Department of Justice on 9 August 2022.

³⁰ Data provided to the OCO by Tusla on 10 August 2022.

of 10 August 2022, more than 33,500 people arriving from Ukraine had sought State-provided accommodation.³¹ 7,285 Ukrainian children had been enrolled in primary and post-primary schools across Ireland as of 4 July 2022.³²

The OCO welcomes the State's efforts to implement the Temporary Protection Directive (TPD) by affording those arriving in Ireland from Ukraine immediate access to work, education, healthcare and social welfare on a similar basis as Irish citizens.³³

However, the OCO is concerned about challenges experienced by children arriving from Ukraine as regards access to appropriate accommodation³⁴ and education. While we acknowledge efforts to accommodate those fleeing Ukraine, including plans to use [modular homes](#), we are concerned that State-provided accommodation is temporary, and that unsuitable emergency accommodation will continue to be used in the short to medium term.³⁵ Similarly, although we welcome measures to support Ukrainian children in Irish schools, including the establishment of Regional Education and Language Teams,³⁶ we are concerned that guidance issued by the Department of Education on supporting Ukrainian children's wellbeing in schools does not provide for sufficient inclusion of practical supports.³⁷ We are also concerned about the provision of appropriate school places for Ukrainian children with special educational needs (SEN) in light of existing challenges with provision in this area.³⁸

We acknowledge efforts by Tusla (the Child and Family Agency) to support UAMs arriving from Ukraine. However, it is concerning that Tusla has not undertaken vulnerability assessments regarding these UAMs. Among our additional concerns are that:

- section 5 of the Child Care Act 1991, which provides for accommodation of children who present as homeless, is being used inappropriately to accommodate these children if aged over 16 years old;
- Reports indicate that a lack of robust screening tools and adequate procedures to identify and protect victims of trafficking might be exposing UAMs arriving from Ukraine to unnecessary risks.³⁹

³¹ J. Horgan-Jones, [Government yet to act on months-old proposal to house Ukrainians](#), *The Irish Times*, 10 August 2022.

³² Department of Education, [Department of Education confirms 7,285 Ukrainian pupils currently enrolled in Irish schools](#), 4 July 2022.

³³ [Council Implementing Decision](#) (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection; Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof.

³⁴ Irish Refugee Council, [Ukraine Civil Society Forum calls for urgent action in response to crisis of refugee accommodation and welfare](#), 5 July 2022. C. Gallagher, [Urgent appeal issued for hotels to house Ukrainian refugees as Army looks to purchase more tents](#), *The Irish Times*, 22 July 2022.

³⁵ Houses of the Oireachtas, Dáil Éireann Debate, [Ukraine War](#) [34724/22], 29 June 2022; [European Union \(Planning and Development\) \(Displaced Persons from Ukraine Temporary Protection\) Regulations 2022](#).

³⁶ Department of Education, [Minister Foley announces establishment of Regional Education And Language Teams for Ukraine](#), 25 March 2022.

³⁷ Houses of the Oireachtas Joint Committee on Education, Further and Higher Education, Research, Innovation and Science, [Education and Supports Provision for Displaced Ukrainian Students](#), 14 June 2022.

³⁸ *Ibid.*

³⁹ Child Law Project, [Case Reports 2022 Volume 1: Emergency care order for suspected child victim of trafficking from Ukraine](#); E. Cunniffe and O. Ayodele (2022), [Detection, identification, and protection of third-country national victims of human trafficking in Ireland](#).

While Ireland's response to people arriving from Ukraine has been positive, a corollary of measures by the State to implement the TPD is that the State is treating people arriving from Ukraine differently to other groups of asylum seekers and refugees seeking protection, particularly those in Direct Provision. This differential treatment as regards entitlements and access to services is problematical and the OCO is concerned that children seeking protection in Ireland from countries other than Ukraine are being treated less favourably on a basis that is not reasonably justifiable under the aims of the Convention.

Recommendations

The State should:

- **ensure that implementation of the minimum standards of protection provided for under the TPD satisfies children's rights to an adequate standard of living and education in line with the State's obligations under the Convention;**
- **implement measures to ensure that all UAMs are subject to vulnerability assessments upon arrival in Ireland and that all actions and decisions by Tusla in respect of UAMs are guided by the best interests of the child; and**
- **take steps to ensure that all children seeking protection in Ireland, regardless of their immigration status or pathway to protection, have the same entitlements and equitable access to services they need.**

II. Rights under the Convention and its Optional Protocols

A. General measures of implementation (arts. 4, 42 and 44(6))

4. Legislation

The OCO welcomes the State's commitment to undertake a comprehensive assessment of national legislation in terms of its compliance with the Convention,⁴⁰ in line with a recommendation by the Committee in its Concluding Observations in 2016.⁴¹ While the State has asked the Special Rapporteur on Child Protection to examine the work required to undertake this assessment,⁴² it has not provided any details about how, when and by whom this assessment will be implemented.

Some of the Convention's general principles have been incorporated into the Irish Constitution and into primary legislation affecting children. Contrary to previous recommendations made by the Committee and the OCO,⁴³ however, the State does not appear to have any systematic plan to fully incorporate the Convention into Irish law.

⁴⁰ Department of Children, Equality, Disability, Integration and Youth (2022), [The combined fifth and sixth periodic reports submitted by Ireland under article 44 of the Convention pursuant to the simplified reporting procedure](#), para. 28.

⁴¹ UN Committee on the Rights of the Child (2016), [Concluding observations on the combined third and fourth periodic reports of Ireland](#), CRC/C/IRL/CO/3-4, para. 11.

⁴² Department of Children, Equality, Disability, Integration and Youth (2022), [The combined fifth and sixth periodic reports submitted by Ireland under article 44 of the Convention pursuant to the simplified reporting procedure](#), para. 28.

⁴³ UN Committee on the Rights of the Child (1998), [Concluding observations of the Committee on the Rights of the Child: Ireland](#), UN Doc. CRC/C/15/Add.85, para. 25; UN Committee on the Rights of the Child (2006), [Concluding observations:](#)

While Article 42A of Ireland’s Constitution, which came into force in April 2015, is a significant development, its provisions are limited in scope, with constitutional protection of the principles of the best interests of the child and respect for the views of the child confined to care and family law proceedings. As the State outlined in its report to the Committee, the [Children and Family Relationships Act 2015](#) and the [Domestic Violence Act 2018](#) include welcome provisions relating to ascertaining the views of the child in certain family law and domestic violence proceedings.⁴⁴ However, similar to Article 3, Article 12 of the Convention is not incorporated consistently or fully into primary legislation affecting children. For example, by affording the courts discretion to give children the opportunity to express their views,⁴⁵ the Domestic Violence Act 2018 falls short of the standard set out in Article 12.

The OCO also remains concerned by persistent shortfalls and gaps in legislation affecting children and their rights and delays to address these. For example, provisions of the [Housing Act 1988](#) make no reference to children and there is an absence of statutory safeguards for homeless families with children.⁴⁶ As we noted in our 2020 report about assessment of needs for children, the [Disability Act 2005](#) is insufficiently child-focused and rights-based.⁴⁷

Of additional concern is the State’s inconsistent approach to legislating for children and their rights in accordance with their age and evolving capacities. For example, proposals under the [Health \(Assisted Human Reproduction\) Bill 2022](#) provide for children aged 16 and 17 to access information relating to their birth and genetic origin. However, in doing so, the Bill makes no distinction between 16 and 17 year olds and adults aged 18 and over.⁴⁸ Though a similar approach was taken in initial drafts of the [Birth Information and Tracing Act 2022](#), it is welcome that this Act now makes separate provision for children aged 16 and 17 to access birth information. However, both legislative measures are silent on access by children under the age of 16 to information on their birth or origins in their own right and in line with their evolving capacities. A similar age-based approach is taken in proposals relating to children under 16 in the [General Scheme of the Mental Health \(Amendment\) Bill 2021](#), which do not have appropriate regard to children’s evolving capacities.⁴⁹

[Ireland](#), UN Doc. CRC/C/IRL/CO/2, paras. 8-9; UN Committee on the Rights of the Child (2016), [Concluding observations on the combined third and fourth periodic reports of Ireland](#), UN Doc. CRC/C/IRL/CO/3-4, paras. 8-9; Ombudsman for Children’s Office (2006), [Report of the Ombudsman for Children to the UN Committee on the Rights of the Child on the occasion of the examination of Ireland’s Second Report to the Committee](#), p. 10; Ombudsman for Children’s Office (2015), [Report of the Ombudsman for Children to the UN Committee on the Rights of the Child on the occasion of the examination of Ireland’s consolidated Third and Fourth Report to the Committee](#), p. 3; Ombudsman for Children’s Office (2021), [Submission to the 39th session of the Universal Periodic Review Working Group](#), p. 2.

⁴⁴ Department of Children, Equality, Disability, Integration and Youth (2022), [The combined fifth and sixth periodic reports submitted by Ireland under article 44 of the Convention pursuant to the simplified reporting procedure](#), para. 27.

⁴⁵ Domestic Violence Act 2018 (as amended), s 27. See further: Ombudsman for Children’s Office (2017), [Advice of the Ombudsman for Children’s Office on the Domestic Violence Bill 2017](#), pp. 5-6.

⁴⁶ Ombudsman for Children’s Office (2019), [No Place Like Home: Children’s views and experiences of living in Family Hubs](#), p. 19 and p. 27.

⁴⁷ Ombudsman for Children’s Office (2020), [Unmet Needs: A report by the Ombudsman for Children’s Office on the challenges faced by children in Ireland who require an assessment of their needs](#), p. 26.

⁴⁸ Ombudsman for Children’s Office (2022), [Provisions of the Health \(Assisted Human Reproduction\) Bill 2022 relating to surrogacy: Observations of the Ombudsman for Children’s Office](#).

⁴⁹ Ombudsman for Children’s Office (2022), [General Scheme of the Mental Health \(Amendment\) Bill 2021 Observations by the Ombudsman for Children’s Office](#).

Recommendations

The State should:

- **proceed with implementing a comprehensive assessment of the extent to which Ireland’s domestic law complies with the Convention;**
- **develop and implement a plan to address gaps and shortfalls identified by this assessment; and**
- **in parallel, develop and commence implementation of a plan to fully incorporate the Convention into Ireland’s domestic law.**

5. Comprehensive policy, strategy and coordination

The Department of Children, Equality, Disability, Integration and Youth (DCEDIY) has commenced work to develop a new national framework to succeed BOBF. It is positive that the State intends that this new framework will have regard to the concluding observations and recommendations that the Committee will issue following its constructive dialogue with the State in January 2023.⁵⁰ Also welcome is the DCEDIY’s commitment to considering the introduction of CRIA into the policy formulation process.⁵¹

Although BOBF referenced children’s rights under the Convention, it was not based on or driven by the Convention. Furthermore, as we noted in our submission in 2020 to inform the Committee’s preparation of the LOIPR for Ireland, while the State has made progress in implementing children’s rights under the Convention in recent years, significant gaps and deficits remain that need to be addressed.⁵² In this regard, the OCO’s aforementioned pilot CRIA about the impact of school closures on children’s rights found that systematic consideration of children’s rights did not appear to have informed decision-making regarding school closures to the extent that it could have.⁵³ In a submission to the DCEDIY in March 2022, we proposed that mainstreaming children’s rights is one of the goals that the new national policy framework could usefully pursue.⁵⁴

Recommendations

The State should ensure that the new national policy framework for children and young people:

- **is clearly grounded in and directed towards implementing children’s rights under the Convention; and**
- **incorporates, as a key priority, measures aimed at mainstreaming children’s rights and a child rights approach to decision-making affecting children.**

⁵⁰ Department of Children, Equality, Disability, Integration and Youth (2022), *The combined fifth and sixth periodic reports submitted by Ireland under article 44 of the Convention pursuant to the simplified reporting procedure*, para. 36.

⁵¹ Department of Children, Equality, Disability, Integration and Youth (2021), *Statement of Strategy 2021-2023*, p. 31.

⁵² Ombudsman for Children’s Office (2020), *Submission to the UN Committee on the Rights of the Child on the List of Issues Prior to Report for the fourth periodic examination of Ireland*.

⁵³ Ombudsman for Children’s Office (2022), *The impact of school closures on children’s rights in Ireland - A pilot Child Rights Impact Assessment*.

⁵⁴ Ombudsman for Children’s Office (2022), *Department of Children, Equality, Disability, Integration and Youth: Public Consultation on the next Government Policy Framework for Children and Young People in Ireland - Preliminary Observations by the Ombudsman for Children’s Office*, p. 6.

Positive developments in coordination on cross-sectoral issues affecting children include:

- work by the Health Service Executive (HSE) and Tusla to develop and revise a joint protocol for inter-agency collaboration;⁵⁵ and
- the consideration being given by the DCEDIY, in the context of its review of the Child Care Act 1991, to introducing a statutory duty on all relevant services to work together in the planning and delivery of services to vulnerable children.⁵⁶

Notwithstanding the joint protocol between the HSE and Tusla, investigations conducted by the OCO have identified deficits in inter-agency coordination, which have an adverse impact on access to appropriate supports and services by children with complex needs.⁵⁷ A further investigation by the OCO found a lack of effective inter-agency protocols concerning children living in Direct Provision.⁵⁸ While the OCO welcomes that steps are being taken to address specific shortfalls and gaps in coordination highlighted by these investigations,⁵⁹ the challenges identified illustrate a need to strengthen provision for a coordinated approach at national and local levels to cross-sectoral issues affecting children.

Recommendation

The State should review the adequacy and effectiveness of existing mechanisms to facilitate inter-agency coordination on cross-sectoral issues affecting children at the national, regional and local levels for the purposes of identifying measures to improve inter-agency coordination.

6. Allocation of resources

The State has faced a number of unforeseen challenges since the Committee's examination of Ireland in 2016, including the Covid-19 pandemic and, more recently, the impact of Russia's military invasion of Ukraine, and inflation.⁶⁰ While the OCO welcomes measures taken by the State as part of Budget 2022 to support households to recover from the impact of Covid-19 as well as additional

⁵⁵ Health Service Executive and Child and Family Agency (2017), *Joint Protocol for Interagency Collaboration Between the Health Service Executive and Tusla – Child and Family Agency to Promote the Best Interests of Children and Families*; Health Service Executive and Child and Family Agency (2020), *Joint Protocol for Interagency Collaboration Between the Health Service Executive and Tusla – Child and Family Agency to Promote the Best Interests of Children and Families*.

⁵⁶ Department of Children, Equality, Disability, Integration and Youth (2020), *Review of the Child Care Act 1991: July 2020 Consultation Paper*, p. 8.

⁵⁷ Ombudsman for Children's Office (2018), *Molly's Case: How Tusla and the HSE provided and coordinated supports for a child with a disability in the care of the State*; Ombudsman for Children's Office (2020), *Jack's* Case: How the HSE and Tusla, the Child and Family Agency, provided for and managed the care of a child with profound disabilities*.

⁵⁸ Ombudsman for Children's Office (2021), *Safety & Welfare of Children in Direct Provision*.

⁵⁹ Ombudsman for Children's Office (2019), *Molly One Year On: Have Tusla and the HSE delivered on commitments to children with a disability in the care of the State?*; Ombudsman for Children's Office (2020), *Molly Two Years On: Have Tusla and the HSE delivered on commitments to children with a disability in the care of the State?*; Ombudsman for Children's Office (2021), *Safety & Welfare of Children in Direct Provision*, p. 51; Ombudsman for Children's Office (2022), *Jack's Case: One Year On*.

⁶⁰ Barnardos (2022), *Cost of Living Crisis: Impact on Children*; M. Barrett, N. Farrell and B. Roantree (2022), *Energy Poverty and Deprivation in Ireland*; K. McQuinn, C. O'Toole, W. Disch, E. Shiel and E. Kenny (2022), *ESRI Quarterly Economic Commentary: Summer 2022*.

measures to protect households from the rising cost of living,⁶¹ such challenges may impact the State's ability to mobilise resources for the implementation of children's rights.

The absence of dedicated budgets for children in vulnerable situations mitigates against evaluating the adequacy and effectiveness of expenditure. Examples in this regard include the absence of:

- a ring-fenced budget for children's mental health services;⁶²
- a specific allocation for health services for children with disabilities;⁶³ and
- protected budgets to meet the predicted needs of children with disabilities who require multi-disciplinary services.⁶⁴

The State has not implemented its commitment under BOBF to explore the development of cross-government estimates for expenditure on children.⁶⁵ While the State's report to the Committee indicates that work is ongoing to potentially build on a pilot report on government expenditure on children produced in 2016,⁶⁶ this pilot report has not been published and it is not clear what specific work the State intends to do in this regard.

Notwithstanding efforts to assess the impact of public expenditure, including on children,⁶⁷ such assessments are not designed with children's rights in mind. Steps have not been taken to expand the existing framework of social impact assessment to include child rights impact assessment, to ensure that fiscal and budgetary decisions are compliant with the Convention, as recommended by the Committee in 2016.⁶⁸ Although the Equality Budgeting initiative focuses on the impact of public expenditure on disadvantaged groups, the State has acknowledged in its report that this initiative is not specific to children.⁶⁹

As regards human resources, the OCO is very concerned about deficits in sufficient human resources across services for children and the adverse impact that these deficits have on children's access to

⁶¹ Department of Public Expenditure and Reform and Department of Finance, [Ministers McGrath and Donohoe announce €505 million package in measures to mitigate the cost of living](#), 10 February 2022.

⁶² Ombudsman for Children's Office (2018), [Take My Hand: Young People's Experiences of Mental Health Services](#), p. 29.

⁶³ C. Moloney, C. de Bhailís, D. Kennan, C. Kealy, S. Quinlivan, E. Flynn and J. Phiri (2021), [Mind the Gap: Barriers to the realisation of the rights of children with disabilities in Ireland](#), p. 90.

⁶⁴ Ombudsman for Children's Office (2020), [Molly Two Years On: Have Tusla and the HSE delivered on commitments to children with a disability in the care of the State?](#); Ombudsman for Children's Office (2022), [Jack's Case: One Year On](#).

⁶⁵ Government of Ireland (2014), [Better Outcomes, Brighter Futures: The national policy framework for children & young people 2014 – 2020](#), p. 43.

⁶⁶ Department of Children, Equality, Disability, Integration and Youth (2022), [The combined fifth and sixth periodic reports submitted by Ireland under article 44 of the Convention pursuant to the simplified reporting procedure](#), para. 44.

⁶⁷ K. Lenihan, F. Kane and D. O'Callaghan (2018), [Social Impact Assessment Series: Targeted Childcare Programmes](#).

⁶⁸ UN Committee on the Rights of the Child (2006), [Concluding observations: Ireland](#), UN Doc. CRC/C/IRL/CO/2, para. 16(e).

⁶⁹ Department of Children, Equality, Disability, Integration and Youth (2022), [The combined fifth and sixth periodic reports submitted by Ireland under article 44 of the Convention pursuant to the simplified reporting procedure](#), para. 47. See also: Department of Children, Equality, Disability, Integration and Youth, [Equality will be put at the heart of policy making - Ministers McGrath, O'Gorman and Donohoe](#), 9 March 2021.

services.⁷⁰ These deficits include challenges in recruitment and retention of mental health services staff,⁷¹ social workers,⁷² secondary school teachers,⁷³ and staff in children's disability services.⁷⁴

Recommendations

The State should:

- **introduce specific budgetary lines and ring-fenced funding to facilitate effective resource allocation to support specific groups of vulnerable children;**
- **develop mechanisms to support effective child-proofing of budgetary measures; and**
- **implement additional measures to facilitate allocation of sufficient human resources for children's services.**

7. Data collection

Notwithstanding positive developments in data collection, data currently gathered does not cover all areas of the Convention and is not sufficiently disaggregated to facilitate monitoring and analysis of developments relating to all children.

The OCO is particularly concerned about deficits in the systematic collection of comprehensive disaggregated data with regard to vulnerable children, including children with disabilities,⁷⁵ homeless children,⁷⁶ children in care,⁷⁷ Roma children,⁷⁸ and children with a migrant background. For example, while data is gathered on the number of separated children in care,⁷⁹ the Department of Justice and Tusla do not publish statistics on applications made on behalf of separated children for international protection or other residence permissions and the outcome of such applications.⁸⁰ Similarly, comprehensive data on the integration outcomes of migrant, refugee and asylum-seeking

⁷⁰ Association of Secondary Teachers Ireland (2022), [ASTI Red C Survey April 2022 - Supporting Teachers, Supporting Schools](#).

⁷¹ Ombudsman for Children's Office (2018), [Take My Hand: Young People's Experiences of Mental Health Services](#), p. 29; Houses of the Oireachtas, Sub-Committee on Mental Health debate, [Resourcing and the Provision of Services at the Linn Dara CAMHS Unit: Discussion](#), 28 June 2022; Houses of the Oireachtas, Committee of Public Accounts debate, [Health Service Executive: Financial Statements 2020](#), 26 May 2022; Health Service Executive (2022), [PQ 27333-22 - Róisín Shortall, 13 June 2022](#).

⁷² Houses of the Oireachtas, Joint Committee on Children, Equality, Disability, Integration and Youth debate, [Foster Care Issues and the Loss of Positive Care Services: Engagement with Tusla](#), 10 May 2022.

⁷³ Teachers' Union of Ireland, ['Four in five schools have had no application for an advertised post' - new survey findings confirm worsening teacher supply crisis](#), 22 October 2021; Association of Secondary Teachers Ireland (2022), [ASTI Red C Survey April 2022 - Supporting Teachers, Supporting Schools](#).

⁷⁴ Ombudsman for Children's Office (2020), [Unmet Needs: A report by the Ombudsman for Children's Office on the challenges faced by children in Ireland who require an assessment of their needs](#), p. 30; Houses of the Oireachtas, Joint Committee on Children, Equality, Disability, Integration and Youth, [Progressing Disability Services: Discussion](#), 2 June 2022; Houses of the Oireachtas, Joint Committee on Autism debate, [Autism Policy: Discussion](#), 12 July 2022.

⁷⁵ C. Moloney et al. (2021), [Mind the Gap: Barriers to the realisation of the rights of children with disabilities in Ireland](#).

⁷⁶ Ombudsman for Children's Office (2019), [No Place Like Home: Children's views and experiences of living in Family Hubs](#), pp. 12-14.

⁷⁷ Ombudsman for Children's Office (2018), [Department of Children and Youth Affairs: Review of the Child Care Act 1991 – Submission by the Ombudsman for Children's Office](#), pp. 17-18.

⁷⁸ Pavee Point Traveller and Roma Centre and Department of Justice and Equality (2018), [Roma in Ireland: A National Needs Assessment](#).

⁷⁹ Tusla (2021), [Monthly service performance and activity report: January 2021](#), at p. 16.

⁸⁰ S. Arnold (2020), [Pathways to Irish Citizenship: Separated, Stateless, Asylum Seeking and Undocumented Children](#).

children and families is not gathered.⁸¹ Disaggregated data on children in care or receiving family support services is not published by Tusla, thereby curtailing analysis and insight into the characteristics and experiences of these children.⁸² The DCEDIY's launch in 2022 of a research project to examine the lives of children in care and leaving care is therefore welcome.⁸³ Other gaps of concern include data on all forms of violence against children, sexual abuse and exploitation of children,⁸⁴ and bullying incidents among children in schools.⁸⁵

Inadequate coordination of data at national level is an additional concern. An investigation by the OCO concerning a child with a disability in foster care found a lack of agreement between the HSE and Tusla on the number of children with a moderate to profound disability in care, which impacts on planning for the provision of supports and services to such children.⁸⁶ Similarly, the OCO has found that the absence of integrated data collection by Tusla and the International Protection Accommodation Service (IPAS) on children living in Direct Provision mitigated against strategic planning by these agencies for such children.⁸⁷

Recommendations

The State should:

- **strengthen the collection and quality of data available in relation to vulnerable groups of children; and**
- **strengthen data sharing arrangements among State agencies to support evidence-informed approaches to the development, delivery and monitoring of policies, programmes and services concerning children and their rights.**

8. Dissemination, awareness-raising and training

BOBF stated that children and young people must be made aware of and informed of their rights.⁸⁸ The OCO welcomes increased recognition of children's rights through the early years curriculum and the national quality framework. We also welcome the inclusion of rights in the new draft primary curriculum framework as well as in the senior cycle subject of Politics and Society at post-primary level, albeit this is an elective subject that is not offered in every school.⁸⁹ Measures by relevant

⁸¹ E. Fahey, F. McGinnity and E. Quinn (2019), *Data for Monitoring Integration: Gaps, Challenges and Opportunities*.

⁸² Ombudsman for Children's Office (2018), *Department of Children and Youth Affairs: Review of the Child Care Act 1991 – Submission by the Ombudsman for Children's Office*, p. 17.

⁸³ Department of Children, Equality, Disability, Integration and Youth, *Minister O'Gorman launches largest ever examination of the lives of children in care and adults who were in care as children*, 26 January 2022.

⁸⁴ Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material (2019), *Visit to Ireland*, A/HRC/40/51/Add.2, para. 21.

⁸⁵ Ombudsman for Children's Office (2022), *Submission to the Steering Committee established to review the Action Plan on Bullying 2013*, pp. 8-9.

⁸⁶ Ombudsman for Children's Office (2020), *Molly Two Years On: Have Tusla and the HSE delivered on commitments to children with a disability in the care of the State?*, pp. 10-12.

⁸⁷ Ombudsman for Children's Office (2021), *Safety & Welfare of Children in Direct Provision*.

⁸⁸ Government of Ireland (2014), *Better Outcomes, Brighter Futures: The national policy framework for children & young people 2014 – 2020*, p. 103.

⁸⁹ Ombudsman for Children's Office (2021), *National Council for Curriculum and Assessment (NCCA): Consultation on the Draft Primary Curriculum Framework. Submission by the Ombudsman for Children's Office*.

State bodies to inform and educate children, parents and the general public about children's rights remain limited.

Recommendation

The State should strengthen provision for children's rights education in the formal and non-formal education sectors and implement additional measures to improve understanding of children's rights, including under the Convention, among children, parents and the general public.

In 2016, the Committee recommended that the State should strengthen its efforts to provide adequate, systematic training and/or sensitisation of professionals working with and for children. The provision of training to Government Departments and State bodies by Hub na nÓg (the children and young people's participation hub)⁹⁰ on a child rights approach to involving children and young people in decision-making is a welcome development in this regard. Over the last ten years, the OCO has delivered a rights education programme for students who are in tertiary education and who are planning to work with children, in order to develop their understanding of children's rights and encourage child-centred practice and decision-making. Our experience indicates that a majority of these students receive limited education on children's rights and working within a child rights framework. Furthermore, our engagement with public bodies indicates that understanding among civil and public servants of children's rights and implementing a child rights approach needs to be strengthened.⁹¹

Recommendation

The State should implement additional initiatives directed towards strengthening capacity among legislators, policy makers, and relevant professional groups, service providers, and tertiary students planning to work with children, to give appropriate consideration to children's rights and to take a child rights approach to actions and decisions affecting children.

9. Independent monitoring

In 2012, the OCO published a review of the operation of the [Ombudsman for Children Act 2002](#) (2002 Act).⁹² A number of recommendations arising from this review have since been implemented. A follow-up independent review of the 2002 Act commissioned by the OCO in 2021 has identified gaps and deficits as regards the OCO's statutory independence and remit.⁹³

While the relationship between the OCO and the DCEDIY is positive, the existing financial, recruitment and governance arrangements do not provide the OCO with the level of independence proposed by the Paris Principles and the Venice Principles.

⁹⁰ Hub na nÓg, [Training approach](#); Department of Children and Youth Affairs (2019), [Mid-Term Review and Phase Two Action Plan of the National Strategy on Children and Young People's Participation in Decision-Making, 2015-2020](#), p. 12.

⁹¹ Ombudsman for Children's Office (2022), [The impact of school closures on children's rights in Ireland - A pilot Child Rights Impact Assessment](#).

⁹² Ombudsman for Children's Office (2012), [A report by the Ombudsman for Children on the operation of the Ombudsman for Children Act, 2002](#).

⁹³ Ombudsman for Children's Office (2022), [Review of the Ombudsman for Children Act 2002](#) (publication upcoming).

The review of the 2002 Act also identified a number of areas where the Ombudsman for Children's remit could be strengthened. The following are among the areas identified in this regard:

- The OCO is precluded from examining complaints made by or on behalf of a child in respect of the administrative aspect of the decision-making process relating to applications for international protection.
- The OCO is also precluded from looking into complaints received about private childcare settings. This is concerning given the level of State expenditure on these services and in light of complaints made to the OCO, which include complaints about reduced hours for autistic children, exclusions, poor communication and complaint-handling.
- Section 11(1)(f) of the 2002 Act precludes the OCO from investigating any matter that relates to the results of State examinations. No such exclusion exists for the Office of the Ombudsman. This means that children under 18 years do not have an avenue of recourse while their classmates aged 18 and over do.⁹⁴

Recommendation

The State should work with the OCO to provide for amendments to the Ombudsman for Children Act 2002 and other related legislation to be made in a timely manner in order to strengthen the OCO's statutory independence and enhance its statutory remit, in the best interests of children.

Positive developments in oversight of State-funded accommodation and associated services for children include:

- the introduction of a National Quality Standards Framework (NQS) for homelessness services in July 2019;⁹⁵ and
- the coming into force of the National Standards for accommodation offered to people in the protection process in January 2021⁹⁶ and the State's commitment to designate the Health Information and Quality Authority (HIQA) as the independent monitoring mechanism for these standards.⁹⁷

The OCO is concerned, however, that deficits and gaps remain in the State's framework for independent, statutory inspection of State-funded accommodation and services for children:

- The NQS for homelessness services currently only applies to facilities operated by non-governmental organisations and is not applicable to accommodation managed by private operators.⁹⁸ An independent, statutory inspection mechanism to ensure appropriate monitoring, oversight and accountability in respect of all homelessness services has not been put in place yet.⁹⁹

⁹⁴ Ombudsman for Children's Office (2022), *Review of the Ombudsman for Children Act 2002* (publication upcoming).

⁹⁵ Dublin Regional Homeless Executive (2019), [National Quality Standards Framework for Homeless Services in Ireland](#).

⁹⁶ Department of Justice and Equality (2019), [National Standards for accommodation offered to people in the protection process](#).

⁹⁷ Department of Children, Equality, Disability, Integration and Youth (2022), [The combined fifth and sixth periodic reports submitted by Ireland under article 44 of the Convention pursuant to the simplified reporting procedure](#), para. 308.

⁹⁸ Oireachtas Joint Committee on Housing, Local Government and Heritage (2021), [Interim Report on Homelessness](#), p. 4.

⁹⁹ Ombudsman for Children's Office (2019), [No Place Like Home: Children's views and experiences of living in Family Hubs](#), pp. 25-26 and p. 29.

- Non-statutory (private and voluntary) services for children in residential care are still not subject to independent inspection by HIQA.¹⁰⁰
- HIQA has not yet been assigned the necessary legal authority to monitor international protection accommodation, and there are no plans to assign enforcement powers to HIQA in respect of such accommodation. Emergency accommodation used for international protection applicants will be excluded from HIQA's remit.¹⁰¹

Recommendations

The State should address shortfalls and gaps in its independent, statutory inspection framework, including by:

- **providing for independent statutory monitoring and inspection of all homelessness and residential care services; and**
- **providing for independent monitoring by HIQA of international protection accommodation, including emergency accommodation, without further undue delay.**

B. General principles (arts. 2, 3, 6 and 12)

10. Non-discrimination

Since 2016, the State has introduced several public policy measures that aim to address discrimination, including the [National Traveller and Roma Inclusion Strategy 2017-2021](#) (NTRIS), the [Migrant Integration Strategy 2017-2020](#), the [National Strategy for Women and Girls 2017-2020](#), the [National Disability Inclusion Strategy 2017-2021](#), and the [LGBTI+ National Youth Strategy 2018-2020](#). A combined evaluation of the NTRIS, the Migrant Integration Strategy, and the National Strategy for Women and Girls has been commissioned and the evaluation is due to be published by the third quarter of 2022.¹⁰² An independent evaluation of the LGBTI+ National Youth Strategy 2018-2020 is expected to be undertaken in 2023.¹⁰³ However, as of August 2022, plans for successors to these strategies remain unclear. The OCO welcomes the development of a National Equality Data Strategy, due to commence in 2023,¹⁰⁴ and hopes that quality disaggregated data will support the development of successors to these strategies.

The OCO welcomes the establishment of an independent Anti-Racism Committee to make recommendations to government on strengthening its approach to tackling racism, including

¹⁰⁰ Ombudsman for Children's Office (2015), [Report of the Ombudsman for Children to the UN Committee on the Rights of the Child on the occasion of the examination of Ireland's consolidated Third and Fourth Report to the Committee](#), para. 2.7.7; Ombudsman for Children's Office (2015), [Own Volition investigation into the HSE's \(now Tusla – the Child and Family Agency\) registration, inspection and monitoring service for private and voluntary children's residential centres](#).

¹⁰¹ Houses of the Oireachtas, Dáil Éireann Debate, [Legislative Measures](#) [38483/22], 13 July 2022.

¹⁰² Government of Ireland (2022), [National Reform Programme for the European Semester](#), p. 57.

¹⁰³ Irish Human Rights and Equality Commission (2022), [Ireland and the International Covenant on Civil and Political Rights: Submission to the Human Rights Committee on Ireland's fifth periodic report](#), p. 26.

¹⁰⁴ Department of Children, Equality, Disability, Integration and Youth, [Minister O'Gorman announces the development of a National Equality Data Strategy](#), 21 March 2022.

through development of a new National Action Plan Against Racism (NAPAR).¹⁰⁵ While a draft NAPAR was due to be submitted to the Minister for Children, Equality, Disability, Integration and Youth at the end of May,¹⁰⁶ the Government has not yet issued a date for publication. The publication of the [General Scheme of the Criminal Justice \(Hate Crime\) Bill 2021](#), the commitment to revise and update the [Incitement to Hatred Act 1989](#), and the review of the Equality Acts,¹⁰⁷ are also welcome.

Arising from our own work, the OCO remains concerned about persistent discrimination experienced by children, including on the basis of race, ethnicity, nationality, sexual orientation, gender identity and religion. During our consultation with children in Direct Provision, for example, many children spoke of being excluded, discriminated against and bullied in relation to their race, ethnicity, religion and asylum status in school and in the local community.¹⁰⁸ Our recent investigation in relation to a Traveller halting site demonstrated failures at a Local Authority level to address significant inequalities Traveller families experience in accessing adequate accommodation.¹⁰⁹ We are also concerned by anti-LGBTI+ discrimination, stigmatisation and bullying in schools.¹¹⁰

Recommendations

The State should:

- **develop successors to the NTRIS, the Migrant Integration Strategy, the National Strategy for Women and Girls, the National Disability Inclusion Strategy, and the LGBTI+ National Youth Strategy in a timely manner;**
- **adequately resource and monitor implementation of the new National Action Plan Against Racism, once finalised;**
- **ensure that the successor to the Migrant Integration Strategy includes specific actions directed towards addressing the specific needs and vulnerabilities of children and families seeking international protection; and**
- **give appropriate consideration to children’s rights and status as rights holders in the context of reviewing the Equality Acts so that law, policy and practice in this area have appropriate regard to children’s rights.**

11. Best interests of the child

While provision has been made in some Irish legislation for the best interests of the child to be considered in decisions affecting them, gaps and deficits remain. These shortfalls need to be addressed so that the best interests principle is integrated appropriately and fully into relevant Irish

¹⁰⁵ Department of Children, Equality, Disability, Integration and Youth, [Minister O’Gorman publishes Interim Report of Independent Anti-Racism Committee and welcomes the launch of the Committee’s Public Consultation](#), 21 April 2021.

¹⁰⁶ Department of Children, Equality, Disability, Integration and Youth, [Minister O’Gorman announces the development of a National Equality Data Strategy](#), 21 March 2022.

¹⁰⁷ Ombudsman for Children’s Office (2021), [Department of Children, Equality, Disability, Integration and Youth: Consultation on the Review of the Equality Acts - Submission by the Ombudsman for Children’s Office](#).

¹⁰⁸ Ombudsman for Children’s Office (2020), [Direct Division: Children’s views and experiences of living in Direct Provision](#), pp. 37-38 and pp. 49-59.

¹⁰⁹ Ombudsman for Children’s Office (2021), [No End in Site: An investigation into the living conditions of children on a local authority halting site](#).

¹¹⁰ O. Pizmony-Levy and BeLong To Youth Services (2019), [The 2019 School Climate Survey: The experiences of lesbian, gay, bisexual and trans young people in Ireland’s schools](#).

legislation. For example, the best interests principle is absent under the [Disability Act 2005](#), which governs access to services for children with disabilities in Ireland. Similarly, the best interests principle does not inform decision-making on housing, with children being invisible in the [Housing Act 1988](#). Moreover, while the principle is provided for in proposed legislation to amend the [Mental Health Act 2001](#), it is not accompanied by corresponding provisions to guide the assessment and determination of what is in a child's best interests in respect of their admission to and treatment in approved mental health inpatient facilities.¹¹¹

The OCO is also concerned that a range of factors, including limitations in inter-agency coordination, inadequate resource allocation and geographical disparities in access to services, continue to mitigate against children's best interests being upheld in practice. In this regard, in two investigations concerning care provided to children with disabilities, we identified deficits in the implementation of inter-agency protocols between Tusla and the HSE to promote the best interests of children.¹¹² Another investigation by the OCO into the safety and welfare of children living in Direct Provision found that the State had failed to put in place inter-agency and inter-professional protocols to ensure that all decisions concerning children residing in State provided accommodation have regard to the child's best interests as their primary consideration.¹¹³ A more recent OCO investigation into children's living conditions on a Local Authority halting site found that the Local Authority had failed to consider the best interests of children in its decision-making relating to the halting site.¹¹⁴

Recommendations

The State should:

- **integrate the best interests principle appropriately into all relevant legislation and make corresponding legislative provisions to guide the assessment and determination of what is in a child's best interests; and**
- **ensure that relevant policies, procedures and protocols provide for children's right to have their best interests treated as a primary consideration and support the appropriate implementation of this principle in practice.**

12. Right to life, survival and development

The OCO welcomes the extension of [Connecting for Life: Ireland's National Strategy to Reduce Suicide 2015-2020](#) to 2024, and the latest implementation plan for the extended strategy.¹¹⁵ However, we remain concerned that the number of children who die by suicide in Ireland is higher

¹¹¹ Ombudsman for Children's Office (2021), [General Scheme of the Mental Health \(Amendment\) Bill: Observations by the Ombudsman for Children's Office](#), p. 3.

¹¹² Ombudsman for Children's Office (2022), [Jack's Case: One Year On](#); Ombudsman for Children's Office (2020), [Molly Two Years On: Have Tusla and the HSE delivered on commitments to children with a disability in the care of the State?](#)

¹¹³ Ombudsman for Children's Office (2021), [Safety & Welfare of Children in Direct Provision: An investigation by the Ombudsman for Children's Office](#), p. 38.

¹¹⁴ Ombudsman for Children's Office (2021), [No End in Site: An investigation into the living conditions of children on a local authority halting site](#).

¹¹⁵ Health Service Executive (2020), [Connecting for Life Implementation Plan 2020-2022](#).

than the OECD average,¹¹⁶ with provisional figures indicating that suicide numbers among children and young people have increased in 2021 following a welcome reduction in 2020.¹¹⁷

The OCO is also concerned by reports of an increase in calls from children to Childline in relation to self-harm and suicidal ideation since the beginning of the Covid-19 pandemic.¹¹⁸ From the outset of the pandemic, the OCO received reports of Leaving Certificate students who were suicidal, and of children being brought to emergency psychiatric appointments in order to get sedation during lockdown.¹¹⁹ Since the easing of Covid-19 restrictions, we have continued to receive worrying reports from children in relation to suicide and self-harm.¹²⁰ More widely, research has shown that LGBTI+ children are among certain groups of children who struggled with suicidal ideation and self-harm during the pandemic.¹²¹ Complaints to the OCO also give rise to concern about challenges families can face when children are suicidal and seek help, including inadequacies in the response of services to children presenting as suicidal.¹²² Also of concern are the findings of the Maskey review of mental health services, which found that unreliable diagnoses, inappropriate prescriptions and poor monitoring of treatment exposed many children attending a Child and Adolescent Mental Health Service (CAMHS) unit to a significant risk of harm.¹²³

Recommendation

The State should strengthen measures to prevent self-harm and suicide among children and to provide timely, safe access to appropriate services for children who are self-harming or suicidal.

13. Respect for the views of the child

Article 42A.4.2 of Ireland's Constitution states that provision must be made by law for children's views to be ascertained and given due weight, in accordance with their age and maturity, in proceedings concerning child protection and care and concerning adoption, guardianship, custody and access.

The OCO is concerned that the State is not yet compliant with this constitutional obligation, which came into effect in 2015. Legislative reforms providing for children's right to be heard in family law proceedings are not sufficiently clear, giving rise to inconsistent practices and situations where children are not heard.¹²⁴ We are also concerned that provision made in the [Guardianship of Infants](#)

¹¹⁶ Children's Rights Alliance (2022), [Report Card 2022](#), p. 108; UNICEF (2020), [Innocenti Report Card 16: Worlds of Influence: Understanding What Shapes Child Well-being in Rich Countries](#).

¹¹⁷ Health Service Executive National Office for Suicide Prevention (2022), [Briefing on CSO Suicide Statistics](#), p. 4.

¹¹⁸ N. Baker, [Childline warns of increase in self-harm and suicidal ideation](#), *Irish Examiner*, 21 December 2021.

¹¹⁹ S. Libreri, [Ombudsman concerned about regression of children during the pandemic](#), *RTÉ*, 13 February 2021.

¹²⁰ Houses of the Oireachtas, Committee on Public Petitions debate, [Annual Reports of the Office of the Ombudsman for Children: Ombudsman for Children](#), 10 March 2022.

¹²¹ BeLonG To Youth Services (2021), [LGBTI+ Life in Lockdown: 1 year later](#).

¹²² Ombudsman for Children's Office (2017), [Annual Report 2017](#), pp. 30-33; Ombudsman for Children's Office (2018), [Take My Hand: Young People's Experiences of Mental Health Services](#).

¹²³ Health Service Executive, [South Kerry CAMHS review](#), 26 January 2022.

¹²⁴ Ombudsman for Children's Office (2018), [Department of Children and Youth Affairs: Review of the Child Care Act 1991 Submission by the Ombudsman for Children's Office](#), p. 9; Oireachtas Joint Committee on Justice and Equality (2019), [Report on Reform of the Family Law System](#), pp. 34-38.

[Act 1964](#) for paying the fees of a child views expert,¹²⁵ together with the maximum amount payable in this regard under corresponding regulations,¹²⁶ may mitigate against children having the opportunity to exercise their right to be heard in certain circumstances.¹²⁷

Regarding care proceedings, the [Child Care \(Amendment\) Act 2022](#) contains a number of constructive amendments to previous iterations of this proposed legislation. This Act provides a statutory basis for a national guardian *ad litem* (GAL) service for children in care proceedings and for the qualifications, appointment, functions and powers of GALs.

Recommendations

The State should:

- **strengthen existing legislation, policy and practice to ensure that every child who has the capacity to form a view and wishes to express their views has an equitable opportunity to exercise their right to be heard directly or through a suitably qualified representative in all matters affecting them in the context of relevant judicial proceedings; and**
- **put the necessary human, financial and technical resources in place to operationalise the Child Care (Amendment) Act 2022 efficiently and effectively, and review the operation of this legislation so that any amendments that may be required to strengthen it can be identified and made.**

The OCO welcomes the Government's commitment to develop a new National Strategy on Children and Young People's Participation in Decision-making 2021-2025 and to hold a comprehensive national consultation with young people for that purpose.¹²⁸ While consultations with children have taken place to inform the new national policy framework for children, we are concerned that the DCEDIY has not decided on or taken steps towards a specific consultation on a new national participation strategy. The launch of the National Framework for Children and Young People's Participation in Decision-Making in April 2021 is also a welcome development as regards supporting Government departments, State agencies and other organisations to improve their practices in supporting children to be heard in relation to decisions affecting them.¹²⁹

Recommendations

The State should:

- **proceed with implementing its commitment to develop a new national strategy on children and young people's participation in decision-making and to hold a comprehensive national consultation with young people for that purpose; and**
- **monitor the implementation of the National Framework for Children and Young People's Participation in Decision-Making across Government departments and State agencies.**

¹²⁵ [Guardianship of Infants Act 1964 \(as amended\), s 32.](#)

¹²⁶ [Guardianship of Infants Act 1964 \(Child Views Expert Regulations\) 2018.](#)

¹²⁷ Ombudsman for Children's Office (2020), [Submission to the UN Committee on the Rights of the Child on the List of Issues Prior to Report for the fourth periodic examination of Ireland.](#)

¹²⁸ Government of Ireland (2020), [Programme for Government: Our Shared Future](#), p. 121.

¹²⁹ Department of Children, Equality, Disability, Integration and Youth (2021), [National Framework for Children and Young People's Participation in Decision-making.](#)

Notwithstanding the State's commitment to hold a referendum on lowering the voting age from 18 to 16 years,¹³⁰ and recommendations on this made by the Constitutional Convention in 2013¹³¹ and the Citizens Assembly in 2018,¹³² a referendum has not yet been held.

Recent research indicates that young people under 18 and young adults would like to see the voting age reduced to 16 years.¹³³ The current Programme for Government commits to examining Scotland's experience of reducing the voting age, in order to draw conclusions.¹³⁴ It is unclear what the outcome of this examination will be and whether the State will proceed with holding a referendum and, if so, when. In June 2022, the Government deferred a second reading of a Private Members' Bill, which proposes a referendum on reducing the voting age for Dáil Éireann (lower house of the Irish parliament) elections to 16 years, until 30 June 2023 to allow for the establishment of a new Electoral Commission and the aforementioned examination of the Scottish experience.¹³⁵

Recommendation

The State should complete an examination of Scotland's experience of reducing the voting age to 16 and provide clarity about its intentions as regards holding a referendum on lowering the voting age.

C. Civil rights and freedoms (arts. 7, 8 and 13-17)

14. Birth registration and nationality

The OCO welcomes the Government's approval of the [General Scheme of the Courts and Civil Law \(Miscellaneous Provisions\) Bill 2021](#), which includes provisions relating to access to citizenship for children born in Ireland that reduce the number of years' reckonable residence required for naturalisation from 5 to 3 years.¹³⁶ However, children may continue to experience delays in accessing citizenship due to the lack of provision for children to submit applications in their own right and the requirement that a parent must first be granted citizenship before a child who was not born in Ireland can apply for citizenship by naturalisation.¹³⁷ We welcome the recent ruling by the

¹³⁰ Government of Ireland (2014), [Better Outcomes, Brighter Futures: The national policy framework for children & young people 2014 – 2020](#), p. 104.

¹³¹ The Convention on the Constitution, [Reports & Recommendations](#).

¹³² The Citizens' Assembly (2018), [Report and Recommendations of the Citizens' Assembly on the fourth and fifth topics: The manner in which referenda are held & fixed term parliaments](#), p. 37.

¹³³ Children's Rights Alliance (2022), [Voice, Rights, Action!: Children's Knowledge about their Rights & Rights Education to Access Justice](#); Young Social Innovators and Amárach Research (2022), [#GenZindex: Future Outlook \(June 2022\)](#).

¹³⁴ Government of Ireland (2020), [Programme for Government: Our Shared Future](#), p. 121.

¹³⁵ [Thirty-ninth Amendment of the Constitution \(Right to Vote at 16\) Bill 2021](#); Houses of the Oireachtas, Dáil Éireann debate, [Thirty-ninth Amendment of the Constitution \(Right to Vote at 16\) Bill 2021: Second Stage \[Private Members\]](#), 23 June 2022.

¹³⁶ Department of Justice, [Minister McEntee to make it easier for children to secure Irish citizenship](#), 23 March 2021.

¹³⁷ S. Groarke and R. Dunbar (2020), [Pathways to citizenship through naturalisation in Ireland](#), pp. 22-23; K. Mannion (2016), [Child Migration Matters: Children and Young People's Experiences of Migration](#), p. 229.

Supreme Court that the State cannot automatically deprive a child of citizenship acquired at birth because of fraud of another person (in this case the child's father) on whose residence they relied.¹³⁸

Research published by the OCO identifies several barriers to accessing citizenship faced by undocumented children, stateless children and separated children.¹³⁹ While stateless children born in Ireland are entitled to Irish citizenship, and application fees and two of the five years of required residence are waived for applicants, Ireland does not have a formal statelessness determination procedure.

Separated children living in Ireland often do not have an immigration status due to Tusla's practice of deferring applications until separated children are, or are approaching, 18 and also to the fact that alternative immigration permissions are rarely applied for.¹⁴⁰ This practice of delaying applications for international protection may have a negative impact on these children's access to citizenship.¹⁴¹ It has also come to the OCO's attention that the Department of Justice does not accept applications for citizenship made by Tusla on behalf of separated children in its care, as the Department does not consider a social worker to be acting *in loco parentis* for the purpose of such applications.¹⁴²

Recommendations

The State should:

- **implement the necessary legislative measures to ensure that children can apply for Irish citizenship in their own right;**
- **establish a statelessness determination procedure in accordance with international standards;**
- **ensure that Tusla is given the necessary powers to submit naturalisation applications on behalf of separated children in care; and**
- **ensure the timely submission by Tusla of applications for international protection or residence permission, as appropriate, on behalf of separated children in order to prevent delays in access to citizenship.**

15. Right to identity

The OCO welcomes the publication of the [Health \(Assisted Human Reproduction\) Bill 2022](#) (2022 Bill) in January 2022, which represents the first time that Irish legislation will regulate surrogacy arrangements.

The State's report to the Committee states that the best interests of the child is the key consideration underpinning legislative measures relating to assisted human reproduction.¹⁴³ Though the best interests of the child is included among a list of criteria that must be considered by the courts in determining the parentage of a child born through surrogacy in Ireland, the 2022 Bill does

¹³⁸ Irish Human Rights and Equality Commission, [Child's Citizenship Rights upheld by Supreme Court](#), 2 June 2022.

¹³⁹ S. Arnold (2020), [Pathways to Irish Citizenship: Separated, Stateless, Asylum Seeking and Undocumented Children](#).

¹⁴⁰ *Ibid*, p. 17.

¹⁴¹ *Ibid*, p. 18.

¹⁴² Empowering People in Care (2018), [Review of the Child Care Act 1991 - Submission to the Department of Children and Youth Affairs](#), p. 12.

¹⁴³ Department of Children, Equality, Disability, Integration and Youth (2022), [The combined fifth and sixth periodic reports submitted by Ireland under article 44 of the Convention pursuant to the simplified reporting procedure](#), para. 125.

not make express provision for the best interests principle to be treated as the paramount consideration in all decisions taken within the scope of the 2022 Bill.¹⁴⁴

The OCO is concerned by the absence of provision in the 2022 Bill for children in Ireland who will be born through international surrogacy arrangements in future, and for children who will have already been born through domestic and international surrogacy prior to the enactment of the 2022 Bill. We welcome, therefore, the report of the Oireachtas Joint Committee on International Surrogacy, which recommends that the 2022 Bill should include provision for children born through future and past international surrogacy arrangements.¹⁴⁵

The OCO welcomes that the 2022 Bill will provide for children aged 16 and 17 who were born through donor-assisted human reproduction, including through surrogacy, to apply to access information on their origins. However, we are concerned that the Bill defines children aged 16 and 17 years of age as adults in this particular context. Of additional concern is the absence of provision for children below the age of 16 to apply for access to information on their origins in their own right, in line with their evolving capacities. We welcome, therefore, the Oireachtas Joint Committee on International Surrogacy's recommendation that children should be entitled to apply to access such information themselves from the age of 12 and that parents of children below 12 may apply for such information on the child's behalf.¹⁴⁶

Recommendations

The State should amend the 2022 Bill to:

- **make explicit provision for the best interests of the child to be treated as the paramount consideration in all relevant proceedings and processes within the scope of the 2022 Bill affecting children;**
- **provide for the assignment of legal parentage and access to information on origins in respect of children born through international surrogacy arrangements and children that have been born through surrogacy prior to the Bill's enactment;**
- **provide for a definition of the child as a person under the age of 18 years and the consistent application of this definition throughout the Bill; and**
- **provide that applications to obtain identifying and non-identifying information on origins may be made by a child or on behalf of a child by the child's parent(s) or guardian(s), without limitations as to the child's age.**

16. Freedom of thought, conscience and religion

The OCO welcomes the enactment of the [Education \(Admissions to Schools\) Act 2018](#) (the 2018 Act), including the requirement for schools to set out arrangements for students to opt out of religious instruction.

¹⁴⁴ Ombudsman for Children's Office (2022), [OCO observations on the provisions of the Health \(Assisted Human Reproduction\) Bill 2022 relating to surrogacy](#).

¹⁴⁵ Houses of the Oireachtas Joint Committee on International Surrogacy (2022), [Final Report of the Joint Committee on International Surrogacy](#).

¹⁴⁶ *Ibid.*, pp. 32-33.

The OCO has previously proposed that, for Ireland to comply with its obligations with regard to freedom of thought, conscience and religion of all children, a long-term goal should be the removal of denominational religious instruction classes from State funded schools.¹⁴⁷ We are concerned at the absence of guidance for schools on providing for students who opt out of religious instruction,¹⁴⁸ and about reports that children continue to face obstacles to opting out of religious instruction, including due to not having a form of alternative tuition available to them, contrary to the Committee’s Concluding Observations in 2016.¹⁴⁹ Concerns have also been raised with the OCO that some schools are not fully complying with the provisions of the 2018 Act, which require schools to detail arrangements for children not attending religious instruction in the school’s admission policy. The OCO notes that section 9 of the 2018 Act, which provides for oversight of schools’ compliance with legislative provisions concerning admissions policies, has yet to be commenced.¹⁵⁰ We welcome that the Department of Education is planning to start work during 2022 to commence this and remaining sections of the 2018 Act.¹⁵¹

In 2016, the Committee called on the State to expeditiously undertake concrete measures to significantly increase the availability of non-denominational and multi-denominational schools.¹⁵² While we welcome that the government has committed to increasing the number of multi-denominational primary schools to at least 400 by 2030,¹⁵³ we are concerned about the very slow pace of progress in this area. The choice of school type in Ireland remains limited, particularly at primary level, where there are 2,750 Catholic schools and only 164 multi-denominational schools,¹⁵⁴ with 88.6% of schools remaining under the patronage of the Catholic Church.¹⁵⁵ In this regard, we note that a previous scheme to transfer school patronage from Catholic patrons to non-denominational or multi-denominational patrons resulted in only 12 schools being transferred.¹⁵⁶

¹⁴⁷ Ombudsman for Children’s Office (2017), *Observations regarding the Department of Education and Skills’ consultation paper on the role of denominational religion in the school admissions process and possible approaches for making changes*, p. 24.

¹⁴⁸ Irish Human Rights and Equality Commission (2022), *Ireland and the International Covenant on Civil and Political Rights: Submission to the Human Rights Committee*.

¹⁴⁹ C. O’Brien, *Schools have ‘no legal basis’ to force students to attend religion classes*, *The Irish Times*, 17 August 2020.

¹⁵⁰ Houses of the Oireachtas, Dáil Éireann Debate, *Legislative Process* [4757/22], 1 February 2022.

¹⁵¹ Information provided to the Ombudsman for Children’s Office by the Department of Education, June 2022.

¹⁵² UN Committee on the Rights of the Child (2016), *Concluding observations on the combined third and fourth periodic reports of Ireland*, CRC/C/IRL/CO/3-4, para. 64.

¹⁵³ Government of Ireland (2020), *Programme for Government: Our Shared Future*, p. 96; Department of Education (2021), *Statement of Strategy 2021-2023*, pp. 20-21; Department of Education, *Minister Foley announces the commencement of arrangements in a number of pilot areas aimed at increasing the number of multi-denominational primary schools*, 10 March 2022; Department of Education, *Schools Reconfiguration for Diversity: Transfer of Patronage of Primary Schools – Information for School Communities*, 14 March 2022.

¹⁵⁴ J. Casey, *Just one school to leave Catholic ethos in 2022 — Government targets in doubt*, *Irish Examiner*, 6 February 2022.

¹⁵⁵ Department of Education (2022), *Statistical Bulletin - July 2022*, p. 4.

¹⁵⁶ Houses of the Oireachtas, Dáil Éireann Debate, *School Patronage* [24392/21], 11 May 2021.

Recommendations

The State should:

- **implement measures to ensure that children’s right to opt out of religious instruction is upheld and that appropriate alternatives are available for children who do wish to do so, in line with the Committee’s Concluding Observations in 2016;**
- **ensure that schools’ admissions policies comply with requirements of the 2018 Act as regards setting out the arrangements for children who do not wish to attend religious instruction; and**
- **publish and implement a long-term plan for how and when it plans to achieve its stated targets for increasing the diversity of school types, including specified timeframes.**

17. Access to appropriate information

The OCO welcomes work to progress the National Broadband Plan,¹⁵⁷ the Department of Education’s publication of the Digital Strategy for Schools to 2027,¹⁵⁸ and its ongoing provision of ICT funding to schools, including for the purpose of addressing educational disadvantage arising from the digital divide.¹⁵⁹

Among the issues amplified by the Covid-19 pandemic and corresponding restrictions is digital poverty arising from limited access to suitable devices and secure, reliable broadband. This can present significant barriers for some children, including children in low-income families and children living in rural areas, as regards being able to avail fully of digital technologies to access information, pursue their education, maintain relationships with family and friends, and for recreation.¹⁶⁰ Among the groups of children who can be particularly adversely affected in this regard are Traveller children; in addition to the high cost of devices that some schools require children to use in the classroom, the lack of access to broadband on halting sites impacts on children’s capacity to complete schoolwork and connect with others online.¹⁶¹ The OCO’s consultations with children living in Direct Provision and in homelessness accommodation have also highlighted barriers these children can experience in accessing information and education due to inadequate access to suitable devices and broadband.¹⁶²

¹⁵⁷ Department of the Environment, Climate and Communications, [Update on the delivery of the National Broadband Plan](#), 12 August 2021.

¹⁵⁸ Department of Education, [Minister Foley publishes Digital Strategy for Schools to 2027 and announces payment of €50 million in ICT grant funding for schools](#), 13 April 2022.

¹⁵⁹ Department of Education, [Minister McHugh announces ICT funding for Schools](#), 22 April 2020; Department of Education, [Minister Foley announces €50m ICT grant funding](#), 30 November 2020; Department of Education, [Minister Foley publishes Digital Strategy for Schools to 2027 and announces payment of €50 million in ICT grant funding for schools](#), 13 April 2022.

¹⁶⁰ National Economic & Social Council (2021), [Digital Inclusion in Ireland: Connectivity, Devices & Skills](#). Ombudsman for Children’s Office (2022), [The impact of school closures on children’s rights in Ireland - A pilot Child Rights Impact Assessment](#).

¹⁶¹ Ombudsman for Children’s Office (2021), [No End in Site: An investigation into the living conditions of children on a local authority halting site](#), p. 17.

¹⁶² Ombudsman for Children’s Office (2020), [Direct Division: Children’s views and experiences of living in Direct Provision](#); Ombudsman for Children’s Office (2019), [No Place Like Home: Children’s views and experiences of living in Family Hubs](#).

Recommendations

The State should:

- **examine the adequacy of measures, including allocated resources, to address the digital divide among children; and**
- **implement additional actions directed towards combatting digital poverty among groups of children who are most at risk of social exclusion.**

The OCO welcomes developments focused on strengthening children’s safety online, including the establishment of the National Advisory Council for Online Safety, the publication in 2021 of the findings of a National Survey of Children, their Parents and Adults regarding Online Safety,¹⁶³ and work to progress the [Online Safety and Media Regulation Bill 2022](#). The OCO has serious concerns about children’s exposure to harmful material and behaviours online, including cyberbullying,¹⁶⁴ hate speech,¹⁶⁵ violence,¹⁶⁶ child sexual abuse material and child grooming.¹⁶⁷ Having regard to children’s right to an effective remedy, the OCO is also concerned that the current proposal under the 2022 Bill to establish a systemic, rather than an individual, complaints mechanism risks creating significant barriers to children being able to seek redress.¹⁶⁸ In January 2022, the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media established an expert group to examine the possibility of providing for an individual complaints mechanism in the Bill. As the group’s report has not been published or considered by Cabinet yet, it is currently unclear if the Bill will be amended to provide for an individual complaints scheme.¹⁶⁹

Recommendation

The State should implement an effective independent regulatory mechanism on a statutory basis, which has the necessary mandate and powers to strengthen the protection of children from harmful online content.

¹⁶³ National Advisory Council for Online Safety (2021), [Report of a National Survey of Children, their Parents and Adults regarding Online Safety 2021](#).

¹⁶⁴ T. Milosevic, D. Laffan and J. O’Higgins Norman (2020), [KiDiCoTi: Kids’ Digital Lives in Covid-19 Times: A Study on Digital Practices, Safety and Wellbeing Key findings from Ireland](#); A. Költő, A. Gavin, M. Molcho, C. Kelly, L. Walker and S. Nic Gabhainn (2020), [The Irish Health Behaviour in School-aged Children \(HBSC\) Study 2018](#), p. 16; M. Foody, L. McGuire, S. Kaldas, J. O’Higgins Norman (2019), ‘Friendship Quality and Gender Differences in Association With Cyberbullying Involvement and Psychological Well-Being’, *Frontiers in Psychology*, Vol. 10.

¹⁶⁵ B. O’Neill and T. Dinh (2015), [Net Children Go Mobile: Full findings from Ireland](#), p. 51; National Advisory Council for Online Safety (2019), [Progress Report February 2019](#); T. Milosevic, D. Laffan and J. O’Higgins Norman (2020), [KiDiCoTi: Kids’ Digital Lives in Covid-19 Times: A Study on Digital Practices, Safety and Wellbeing Key findings from Ireland](#).

¹⁶⁶ T. Milosevic, D. Laffan and J. O’Higgins Norman (2020), [KiDiCoTi: Kids’ Digital Lives in Covid-19 Times: A Study on Digital Practices, Safety and Wellbeing Key findings from Ireland](#).

¹⁶⁷ Hotline.ie (2021), [Hotline.ie 2020 Annual Report](#).

¹⁶⁸ Ombudsman for Children’s Office (2021), [General Scheme of the Online Safety and Media Regulation Bill 2020: Submission by the Ombudsman for Children’s Office to the Joint Committee on Media, Tourism, Arts, Culture, Sport and the Gaeltacht](#).

¹⁶⁹ Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media, [Minister Martin establishes online safety expert group on individual complaints](#), 24 January 2022.

D. Violence against children (arts. 19, 24(3), 28(2), 34, 37(a) and 39)

18. Child abuse and neglect

The OCO welcomes the commencement in full of the [Children First Act 2015](#) (2015 Act) and the publication of [Children First National Guidance for the Protection and Welfare of Children](#) in 2017. Also welcome is the State's ratification of the Council of Europe Convention on Protection of Children against Sexual Exploitation and Abuse.¹⁷⁰

Following enactment of the 2015 Act, the number of child protection and welfare referrals to Tusla increased from 47,399 in 2016 to 73,069 in 2021,¹⁷¹ with 85% of the latter child protection referrals mandated under the legislation.¹⁷² While the OCO welcomes the establishment of a Child Safeguarding Statement Compliance Unit within Tusla and the increase in funding to Tusla for 2021 and 2022, we are concerned that there were 21,729 open cases with Tusla at the end of March 2022, 21% of which were waiting allocation of a social worker.¹⁷³ It is vital that sufficient resources are allocated to Tusla so that it can implement its duties in the context of the overall increase in child protection referrals since 2016.

Recommendations

The State should:

- **review the impact that placing national child protection guidance on a statutory footing through the Children First Act 2015 has had on the State's capacity to protect children from abuse and neglect; and**
- **allocate additional financial, human and technical resources to enable Tusla to respond to child protection referrals and address the needs of children at risk in a timely manner.**

Children at Risk in Ireland, a charity that provides support services to child victims of sexual abuse, reported that the number of child sex abuse victims on its waiting list had more than doubled from 85 in 2019 to 198 children in 2020.¹⁷⁴ As of July 2022, there were 249 children on its waiting list for therapy and support services.¹⁷⁵

Following her visit to Ireland in 2018, the UN Special Rapporteur on the Sale and Sexual Exploitation of Children expressed concern that there is no national therapeutic service for child victims of abuse in Ireland, meaning that child victims are not guaranteed counselling that is appropriately specialised.¹⁷⁶ The establishment of a specialised coordinated pilot OneHouse Barnahus service in 2019 in Galway is welcome. However, the OCO is concerned that the Government's commitment to expand this service nationally has not materialised yet.¹⁷⁷

¹⁷⁰ Department of Justice, [Minister McEntee announces Government approval for the Ratification of the Lanzarote Convention](#), 16 December 2020.

¹⁷¹ Tusla (2022), [Quarterly Service Performance and Activity Report: Quarter 1 2022](#), p. 3.

¹⁷² Ibid.

¹⁷³ Ibid., p. 4.

¹⁷⁴ Child At Risk Ireland (2021), [Annual Report and Audited Financial Statements for the financial year ended 31 December 2019](#), p. 5; Child At Risk Ireland (2022), [Annual Report and Audited Financial Statements for the financial year ended 31 December 2020](#), p. 5.

¹⁷⁵ A. Conneely, [Rise in abuse among siblings amid Covid, says charity](#), RTÉ, 12 July 2022.

¹⁷⁶ UN Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material (2018), [Visit to Ireland](#), A/HRC/40/51/Add.2, p. 65.

¹⁷⁷ Houses of the Oireachtas, Dáil Éireann Debate, [Barnahus model](#) [16937/21], 31 March 2021.

Recommendations

The State should:

- **develop, and adequately resource, specialised therapeutic services and supports for child victims of abuse;**
- **expand the OneHouse Barnahus service nationally as a matter of priority; and**
- **implement measures to strengthen inter-agency collaboration, including legislative amendments to the Child Care Act 1991 to place a statutory obligation on relevant agencies with responsibilities for children to coordinate and collaborate with Tusla in the exercise of its duties to prevent and combat child abuse.**

19. Domestic violence

Positive developments since 2016 include:

- enactment of the [Criminal Law \(Sex Offences\) Act 2017](#) and the [Domestic Violence Act 2018](#);
- the State's ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence in 2019 (the Istanbul Convention);¹⁷⁸
- the publication of the independent audit of responsibility for Domestic, Sexual and Gender Based Violence (DSGBV) across Government departments and agencies;¹⁷⁹
- the State's commitment to examine the feasibility of introducing elements of Operation Encompass in Ireland;¹⁸⁰
- Tusla's 2022 Review of the Provision of Accommodation for Victims of Domestic Violence;¹⁸¹
- the publication in June 2022 of Ireland's Third National DSGBV Strategy and accompanying Implementation Plan;¹⁸² and
- a commitment to establish a statutory agency with responsibility for the delivery of services, national campaigns and gathering information on DSGBV.¹⁸³

In 2021, An Garda Síochána (Ireland's National Police and Security Service) responded to over 48,400 incidents of domestic violence, an increase of 10% on 2020 figures.¹⁸⁴ Women's Aid reported 33,831 disclosures of domestic abuse to its service in 2021, including 5,735 disclosures of abuse against children.¹⁸⁵

¹⁷⁸ Department of Justice, [Minister Flanagan announces ratification of the Istanbul Convention by Ireland on International Women's Day](#), 8 March 2022.

¹⁷⁹ Department of Justice, [Department of Justice to lead new whole of government national strategy to tackle Domestic, Sexual and Gender Based Violence](#), 14 July 2021.

¹⁸⁰ Houses of the Oireachtas, Dáil Éireann Debate, [Domestic Violence](#) [7676/22], 15 February 2022. See further: Operation Encompass, [About Us](#).

¹⁸¹ Tusla (2022), [Review of the Provision of Accommodation for Victims of Domestic Violence](#).

¹⁸² Department of Justice (2022), [Third National Strategy on Domestic, Sexual and Gender-Based Violence](#).

¹⁸³ Houses of the Oireachtas, Joint Committee on Gender Equality Debate, [Recommendations of the Citizens' Assembly on Gender Equality: Discussion \(Resumed\)](#), 28 April 2022.

¹⁸⁴ An Garda Síochána, [Operation Faoiseamh \(Update\) - An Garda Síochána 'STILL HERE' to Listen, to Help and to Protect - 22nd January 2022](#), 23 January 2022.

¹⁸⁵ Women's Aid (2022), [Annual Impact Report 2021](#).

The OCO remains very concerned about the under-provision of refuge accommodation and significant gaps in geographical coverage - 9 of the 26 counties in Ireland have no dedicated domestic violence refuges. Tusla's 2022 review indicates that the number and range of safe accommodation spaces must increase substantially to meet current and projected future needs and to satisfy the State's international obligations under the Istanbul Convention.¹⁸⁶ Based on this review, at least 60 new family places need to be prioritised as a matter of urgency to address areas of under-provision on a per-population basis. If Ireland is to achieve a target of meeting 70% of the recommended number of units required by the Istanbul Convention, an additional 198 family places will be needed. To achieve 100% of the target, a further 335 family places would be required.

The independent audit of responsibility for DSGBV identified the insufficient attention given to the issue of children affected by DSGBV as weaknesses in the previous two DSGBV strategies.¹⁸⁷ The wide-ranging Third National DSGBV Strategy addresses this deficit by specifically recognising children as victims of DSGBV and including a number of actions aimed at raising children's and adults awareness of DSGBV and its impact on children, as well as the provision of appropriate short and long-term support and wrap around services. The strategy also proposes the removal of legal barriers to victims remaining in the family home when safe to do so.

Recommendation

The State should ensure that the Third National DSGBV Strategy is adequately resourced and implemented on time.

20. Bullying among children in school

In February 2022, the Minister for Education established a Steering Committee to review the 2013 Action Plan on Bullying and to develop a new action plan.¹⁸⁸ The establishment of a Working Group to review and update the 2013 Anti-Bullying Procedures for Primary and Post-Primary Schools is a further welcome development.

Schools' handling of bullying among children continues to be a recurring theme in complaints to the OCO.¹⁸⁹ Issues the OCO is concerned about include:

- the handling of complaints related to bullying;
- how schools are supported to deal with incidents of bullying that result in physical assault or have a sexual element to them;
- exclusion, discrimination and bullying in schools faced by children living in Direct Provision accommodation centres and the lack of specific training and guidance for schools on how to address racial and sectarian discrimination and bullying;¹⁹⁰

¹⁸⁶ Tusla (2022), [Review of the Provision of Accommodation for Victims of Domestic Violence](#), p. 17.

¹⁸⁷ Department of Justice (2021), [Domestic, Sexual and Gender Based Violence - An Audit of Structures](#).

¹⁸⁸ Department of Education, [Minister Foley establishes Steering Committee to develop new Action Plan on Bullying](#), 16 February 2022; Houses of the Oireachtas, Dáil Éireann Debate, [Bullying in Educational Institutions](#) [15583/22], 24 March 2022.

¹⁸⁹ Ombudsman for Children's Office (2021), [Submission on school bullying and the impact on mental health](#).

¹⁹⁰ Ombudsman for Children's Office (2020), [Direct Division: Children's views and experiences of living in Direct Provision](#).

- the lack of therapeutic supports available to children, including the victims and perpetrators of bullying, in schools;¹⁹¹ and
- the lack of national data collection on bullying incidents in schools.¹⁹²

The OCO welcomes the Department of Education’s plans to include a specific focus on bullying in all school inspections from 2022.¹⁹³ However, the OCO is concerned at evidence gathered by the Department of Education’s Inspectorate, which indicates that a significant proportion of schools do not comply with the requirement to carry out an annual review of their school’s anti-bullying policy.¹⁹⁴ The number of schools not meeting the requirements for reporting bullying incidents to their Board of Management is also of concern.¹⁹⁵

Recommendations

The State should:

- **provide for the updated Action Plan on Bullying and the Anti-Bullying Procedures for Primary and Post-Primary Schools to raise awareness of bullying among children as a children’s rights issue and to support a child rights-based approach to preventing and addressing bullying among children; provide guidance, resources and oversight to support schools to implement their anti-bullying policy and procedures appropriately and effectively;**
- **put in place appropriate therapeutic services and supports in schools, including to support children who are victims and perpetrators of bullying, including sexual violence, in schools; and**
- **improve collection, collation and analysis of data about bullying in schools.**

Complaint-handling structures in the formal education system remain incomplete as Section 28 of the Education Act 1998 Act never came into operation and proposals to provide for statutory grievance procedures for schools through the [Education \(Student and Parent Charter\) Bill 2019](#) remain in draft form. The absence of an appropriate statutory complaints scheme for schools has been a matter of concern to the OCO for many years as the education-related complaints we receive consistently highlight difficulties that individual schools can experience in implementing a child-centred approach to complaints handling. The OCO welcomes that the 2019 Bill proposes an approach that is directed towards mitigating against concerns escalating into formal grievances. We also welcome that the proposed approach to complaints-handling provides for individual children under 18 to make complaints themselves.

Recommendation

The State should put in place an appropriate statutory complaints scheme for schools that provides for complaints to be made by as well as on behalf of children.

¹⁹¹ Ombudsman for Children’s Office (2022), [Submission to the Steering Committee established to review the Action Plan on Bullying 2013](#).

¹⁹² Ibid.

¹⁹³ Houses of the Oireachtas, Joint Committee on Education, Further and Higher Education Research, Innovation and Science debate, [School Bullying and the Impact on Mental Health: Discussion \(Resumed\)](#), 22 June 2021.

¹⁹⁴ Department of Education (2022), [Report on the implementation of aspects of anti-bullying measures in schools](#).

¹⁹⁵ Ibid.

21. Gender recognition

Gender recognition certificates are the method by which transgender people in Ireland can have their preferred gender recognised by the State. Following a review of the [Gender Recognition Act 2015](#) (2015 Act) in 2018,¹⁹⁶ the Government's commitment to introduce legislation to make it less onerous for 16 and 17 year olds to apply for a gender recognition certificate is welcome.¹⁹⁷ An interdepartmental group has been convened by the Department of Social Protection to draft proposed amendments to the 2015 Act.¹⁹⁸ However, these amendments have yet to be published.

As indicated in our report in July 2020 to inform the Committee's preparation of an LOIPR for Ireland, the OCO is concerned that the 2015 Act is currently silent on the matter of legal gender recognition for children under the age of 16. The Programme for Government includes a commitment to commence research to examine arrangements for children under 16.¹⁹⁹ As of June 2022, the Department of Social Protection and the DCEDIY had commenced work to commission this research, with indications that the research is expected to take approximately seven months.²⁰⁰ It is currently unclear what actions may be taken by the State further to the findings and recommendations emerging from this research.

Recommendations

The State should:

- **bring forward amendments to the Gender Recognition Act 2015 to simplify the process for 16 and 17 year olds to apply for a gender recognition certificate; and**
- **publish promised research examining arrangements for children under 16.**

E. Family environment and alternative care (arts. 5, 9-11, 18(1) and (2), 20, 21, 25 and 27(4))

22. Family courts

The OCO welcomes the [General Scheme of the Family Court Bill 2020](#) and the Government's commitment to establish a dedicated Family Court within the existing court structures.²⁰¹ While the Justice Plan 2022 includes a commitment to publish the Bill by the end of March 2022, its publication is delayed.²⁰² The need to reform the family justice system in Ireland has been recognised for many years. The current family justice system is not child-friendly, having never been designed with

¹⁹⁶ Review Group for the Gender Recognition Act (2018), [Review of the Gender Recognition Act 2015 - Report to the Minister for Employment Affairs and Social Protection](#); Minister for Employment Affairs and Social Protection (2019), [Report on the Review of the Gender Recognition Act](#).

¹⁹⁷ Government of Ireland (2020), [Programme for Government: Our Shared Future](#), p. 77; Minister for Employment Affairs and Social Protection (2019), [Report on the Review of the Gender Recognition Act](#).

¹⁹⁸ Houses of the Oireachtas, Dáil Éireann Debate, [Gender Recognition](#) [19384/22], 26 April 2022.

¹⁹⁹ Government of Ireland (2020), [Programme for Government: Our Shared Future](#), p. 77.

²⁰⁰ C. Gallagher, [Research follows on from review of Gender Recognition Act 2015](#), *The Irish Times*, 26 June 2022.

²⁰¹ Department of Justice, [Reform of Family Justice System announced by Minister McEntee](#), 30 September 2020; Department of Justice (2022), [Justice Plan 2022](#).

²⁰² Department of Justice (2022), [Justice Plan 2022](#).

children in mind. Among our concerns are the lack of formal training for judges in child and family law proceedings, inconsistencies in the approach to family law cases and the persistence of infrastructural issues that mitigate against child-appropriate courts and proceedings.²⁰³ Furthermore, as noted by the Special Rapporteur on Child Protection, the courts make for an adversarial forum, with facilities that are unsuitable for direct child participation.²⁰⁴ As such, it is necessary to implement measures aimed at making the courts a more child-friendly place.²⁰⁵ In this regard, the launch of the Courts Service Modernisation Programme in 2020 is a welcome development.²⁰⁶

The development of a new national family justice system is vital and we therefore welcome work being undertaken by a Family Justice Oversight Group to progress a coordinated approach to developing a strategy in this area. In the OCO's view, treatment of children's best interests as the paramount consideration in all circumstances where children are concerned can facilitate an approach to developing and delivering a national family justice service that recognises children as subjects of rights, respects children's inherent dignity and upholds other rights of children, engaged in this context. Furthermore, we believe that the task of developing a child-friendly family justice service can only be achieved if it is implemented with and for children and if it is approached by asking 'what works well for children?' Work to develop and deliver this new service should be guided, therefore, by the best interests of the child and entail consultation with children and other service users and stakeholders.²⁰⁷

Recommendations

The State should:

- **progress the Family Court Bill and ensure a child-centred approach to the development and delivery of a national family justice service; and**
- **implement measures directed towards making the courts more child-friendly, with dedicated staff and facilities designed to support effective direct participation by children in proceedings affecting them.**

23. Childcare

The European Child Guarantee identifies access to early childhood education and care as one of the key services necessary to prevent and combat social exclusion among children.²⁰⁸ Ireland is one of only a few countries in the OECD where the majority of children attend privately run early learning and care (ELC) and school age childcare (SAC) services.²⁰⁹ Available data indicates that Ireland spends

²⁰³ Oireachtas Joint Committee on Justice and Equality (2019), [Report on Reform of the Family Law System](#); M. Corbett and C. Coulter (2021), [Ripe for Reform: An Analytical Review of Three Years of Court Reporting on Child Care Proceedings](#).

²⁰⁴ C. O'Mahony (2021), [Annual Report of the Special Rapporteur on Child Protection 2021](#), pp. 190-192.

²⁰⁵ Ibid.

²⁰⁶ Courts Service (2021), [Corporate Strategic Plan 2021 – 2023](#).

²⁰⁷ Ombudsman for Children's Office (2021), [Family Justice Oversight Group, Department of Justice: Development of a national Family Justice System - Submission by the Ombudsman for Children's Office](#).

²⁰⁸ Council of the European Union, [Council Recommendation 2021/1004 of 14 June 2021 establishing a European Child Guarantee](#).

²⁰⁹ OECD (2021), [Starting Strong VI: Supporting Meaningful Interactions in Early Childhood Education and Care](#).

0.2% of GDP in this area,²¹⁰ which is significantly lower than the OECD average of 0.7% and the 1% level recommended by UNICEF.²¹¹ Though commitments to double funding in childcare by 2028 are welcome,²¹² sustained commitment is required to ensure that investment in the sector increases at a sufficient rate to provide affordable and effective access to childcare, particularly for children in disadvantaged or vulnerable situations.

The [National Childcare Scheme](#) (NCS), which provides financial assistance to parents to pay for childcare, was introduced in November 2019.²¹³ While information provided to the OCO by the DCEDIY states that low income and single parent families benefited from this scheme,²¹⁴ childcare groups have raised concerns that the scheme resulted in reduced access to childcare services for some disadvantaged children.²¹⁵ The OCO therefore welcomes changes made to the NCS in April 2022, which allow the children of parents who are not in employment or training to receive funding for childcare places during term time.²¹⁶

The OCO also welcomes recommendations relating to disadvantage made by the Expert Group to develop a new Funding Model for Early Learning and Care and School-Age Childcare, including proposals to establish a Tackling Disadvantage funding stream for the provision of childcare.²¹⁷ However, we are concerned that the Tackling Disadvantage funding and support will not be progressed until the core funding model has had time to embed,²¹⁸ which means another delay in the provision of additional childcare supports for disadvantaged children.

Recommendations

The State should:

- **increase the pace of funding increases for childcare to ensure the provision of affordable, consistent, high quality ELC and SAC services for children; and**
- **put in place additional funding and supports for disadvantaged and vulnerable children in tandem with increases in general funding and supports in this area.**

²¹⁰ OECD (2018), *Starting Strong 2017: Key OECD Indicators on Early Childhood Education and Care*, p. 20.

²¹¹ Houses of the Oireachtas, Dáil Éireann Debate, [Early Childhood Care and Education](#) [31384/20], 20 October 2020.

²¹² Department of Children, Equality, Disability, Integration and Youth, [First 5 Funding Model](#).

²¹³ Department of Children, Equality, Disability, Integration and Youth, [Taoiseach and Minister for Children and Youth Affairs Katherine Zappone TD host event marking launch of National Childcare Scheme](#), 11 December 2019.

²¹⁴ Information provided to the Ombudsman for Children's Office by the Department of Children, Equality, Disability, Integration and Youth, May 2021.

²¹⁵ S. Wayman, [National Childcare Scheme to put some children at 'disadvantage'](#), *The Irish Times*, 19 November 2019; R. Ingle, [Vulnerable children 'falling through the gaps' of new childcare scheme](#), *The Irish Times*, 28 August 2021.

²¹⁶ Department of Children, Equality, Disability, Integration and Youth, [Minister O'Gorman announces changes to the National Childcare Scheme that will extend access to subsidised early learning and childcare for children and families](#), 8 April 2022.

²¹⁷ Expert Group to develop a new Funding Model for Early Learning and Care and School Age Childcare (2021) [Partnership for the Public Good: A New Funding Model for Early Learning and Care and School-Age Childcare - Report of the Expert Group to develop a new funding model for Early Learning and Care and School-Age Childcare](#); Houses of the Oireachtas, Dáil Éireann Debate, [Tackling Disadvantage](#) [15485/22], 24 March 2022.

²¹⁸ Houses of the Oireachtas, Dáil Éireann Debate, [Early Childhood Care and Education](#) [27353/22], 31 May 2022.

24. Children in alternative care

At the end of May 2022, there were 5,860 children in care, 90% of whom were in general or relative foster care.²¹⁹ 14% of children in care were in private foster and residential care placements.²²⁰ 88% of children in care had an allocated social worker and 97% had a care plan.²²¹

The OCO has a range of concerns about provision for children in care arising from our examination and investigation of complaints. In addition to the issues that we highlighted in our July 2020 report to inform the Committee's preparation of an LOIPR for Ireland, we are concerned about:

- a lack of trauma-informed therapeutic support for children in care;²²²
- inadequate provision of appropriate supports for children with disabilities in care;²²³
- provision for adolescents who engage in risk taking behaviours and require additional supports;²²⁴
- an increase in the number of children under 12 placed in residential care;
- a lack of data on the number of children being cared for in informal kinship care arrangements and inadequate State supports and appropriate oversight for these arrangements; and
- the extent of the State's reliance on private providers of alternative care,²²⁵ although we acknowledge Tusla's commitment to reduce its reliance on private providers.²²⁶

We are particularly concerned by a rapid increase in young people, including children under 12, being placed in wholly inappropriate settings, including hotels, holiday homes and Bed and Breakfast accommodation. We consider there to be a crisis in Ireland's care for older teenagers, which requires an inter-departmental response as a matter of priority.

We also remain concerned about the use of voluntary care, which amounted to 47% of admissions to care as well as 78% of admissions to care of separated children in 2020.²²⁷ The OCO is of the view that, among other things, the current review of the 1991 Act has the potential to provide legislative clarity around the use of voluntary care.²²⁸

²¹⁹ Tusla (2022), [Monthly service performance and activity report: May 2022](#), pp. 16.

²²⁰ Ibid., p. 17.

²²¹ Ibid., p. 18.

²²² Ombudsman for Children's Office (2022), [Resilience Tested: Ombudsman for Children's Office Annual Report 2021](#), pp. 30-33.

²²³ Ombudsman for Children's Office (2018), [Molly's Case: How Tusla and the HSE provided and coordinated supports for a child with a disability in the care of the State](#); Ombudsman for Children's Office (2020), [Jack's* Case: How the HSE and Tusla, the Child and Family Agency, provided for and managed the care of a child with profound disabilities](#).

²²⁴ See: Ombudsman for Children's Office, [annual reports](#); Ombudsman for Children's Office (2018), [Department of Children and Youth Affairs: Review of the Child Care Act 1991 - Submission by the Ombudsman for Children's Office](#).

²²⁵ Department of Children, Equality, Disability, Integration and Youth (2020), [Spending Review 2020: Tusla Residential Care Costs](#).

²²⁶ Tusla (2022), [Strategic Plan for Residential Care Services for Children and Young People 2022-2025](#).

²²⁷ Tusla (2021), [Annual Review on the Adequacy of Child Care and Family Support Services Available 2020](#), p. 64 and p. 105.

²²⁸ Ombudsman for Children's Office (2020), [Observations by the Ombudsman for Children's Office to the Review of the Child Care Act 1991 – July 2020 Consultation Paper](#); Ombudsman for Children's Office (2018), [Department of Children and Youth Affairs: Review of the Child Care Act 1991 - Submission by the Ombudsman for Children's Office](#).

Recommendations

The State should:

- **implement an immediate inter-departmental response to allocate adequate human, technical and financial resources to:**
 - **ensure adequate placements for children in care, especially at-risk older teenagers; and**
 - **ensure implementation of individual needs assessments, appropriate care planning and review, and adequate record keeping;**
- **complete its review of the Child Care Act 1991 and ensure that corresponding amendments to the Act are aligned with children’s rights;**
- **implement a clear government policy on the rights of children living in informal kinship care; and**
- **implement measures to reduce its reliance on private providers of alternative care.**

25. Children in care outside the State

The OCO is of the view that the State should develop its special care services further in order to remove the need for placing children in care outside the jurisdiction.²²⁹ The Committee also made this recommendation in its Concluding Observations in 2016.²³⁰

There were 10 children in out of State care placements at the end of March 2022.²³¹ Children placed in residential care abroad are deemed to have specific needs that cannot be met by existing services in Ireland. The services they require are highly specialised, such as specialist secure forensic mental health services and therapeutic residential services addressing specific needs identified in the child’s care plan.

Decisions to place children abroad are taken in light of their assessed needs and best interests. Nonetheless, it is undesirable that children requiring specialised care are not provided for in this jurisdiction, not least because of the impact of being at such a remove from their designated social workers, families and communities. At present, there is little information available on the impact of placements abroad on the children concerned and their families or on the selection and monitoring of these placements and facilities.

Recommendations

The State should:

- **develop its special care services so that children requiring specialised care do not need to be placed in care outside the State;**
- **ensure that placements outside the State are appropriately monitored to ensure they meet children's needs and uphold their rights; and**

²²⁹ Ombudsman for Children’s Office (2015), *Report of the Ombudsman for Children to the UN Committee on the Rights of the Child on the occasion of the examination of Ireland’s consolidated Third and Fourth Report to the Committee*, p. 26.

²³⁰ UN Committee on the Rights of the Child (2016), *Concluding observations on the combined third and fourth periodic reports of Ireland*, CRC/C/IRL/CO/3-4, para. 44.

²³¹ Tusla (2022), *Quarterly Service Performance and Activity Report: Quarter 1 2022*, p. 32.

- ensure that all children in care abroad have a fully resourced care plan for returning to the State.

26. Aftercare

Tusla is obliged to prepare an aftercare plan for eligible young people who have been in its care.²³² As of the end of March 2022, 3,118 young people were in receipt of aftercare services.²³³ 83% of young people in receipt of aftercare services had an aftercare plan and 91% of young people with an aftercare plan needing an aftercare worker had one.²³⁴

The OCO is concerned about the discretionary nature of Tusla’s obligation to provide aftercare services given the risks that young people leaving care can face, including homelessness, unemployment, addiction and/or mental health difficulties. We are also concerned that:

- children who have not been in the care of the State for a period of 12 months are ineligible for aftercare²³⁵
- children who have experienced homelessness and received services under Section 5 of the 1991 Act, but who have not been formally placed in care, are excluded from receiving aftercare supports and services.²³⁶

Issues of concern that have come to the OCO’s attention through our complaints work include:

- delays in, and inadequate levels of, aftercare planning;
- failures to allocate aftercare workers;
- inappropriate onward placements;
- considerable variation in aftercare service provision nationally;
- deficits in interagency cooperation in the provision of aftercare supports for children with disabilities.²³⁷

Recommendations

The State should:

- **allocate sufficient resources to support appropriate levels of aftercare planning for all young people requiring aftercare; and**
- **make aftercare supports and services available to all young people who need them.**

²³² [Child Care Act 1991 \(as amended\), s. 45.](#)

²³³ Tusla (2022), [Quarterly Service Performance and Activity Report: Quarter 1 2022](#), p. 394.

²³⁴ *Ibid.*, p. 5.

²³⁵ Tusla (2017), [National Aftercare Policy for Alternative Care](#), pp. 7-8.

²³⁶ Ombudsman for Children’s Office (2018), [Department of Children and Youth Affairs: Review of the Child Care Act 1991 - Submission by the Ombudsman for Children’s Office](#); Focus Ireland (2018), [Submission to the DCYA Review of the Child Care Act 1991](#), p. 4.

²³⁷ Ombudsman for Children’s Office (2018), [Department of Children and Youth Affairs: Review of the Child Care Act 1991 - Submission by the Ombudsman for Children’s Office](#).

The OCO remains concerned about difficulties faced by separated children who transition from Tusla's care into the Direct Provision system when they reach 18 years of age.²³⁸ The OCO, the Oireachtas Joint Committee on Justice and Equality, and the Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection Process, have recommended that separated children who turn 18 should remain in Tusla's care until their applications for asylum are completed.²³⁹ However, the proposals for the accommodation model to replace Direct Provision do not reflect these recommendations and lack clarity on the levels of support and care that will be provided to separated children once they turn 18.²⁴⁰

Recommendation

The State should extend full eligibility for aftercare to separated children who have not received a decision on their international protection application when they reach 18 years of age.

F. Children with disabilities (art. 23)

27. Implementing the rights of children with disabilities

In 2021, the OCO published commissioned research about barriers to the realisation of the rights of children with disabilities in Ireland. Having regard to a wide range of rights held by children with disabilities under the Convention and the UN Convention on the Rights of Persons with Disabilities (CRPD), the research identifies deficits in law, policy, data, resource allocation and services that are mitigating against disabled children's enjoyment of their rights.²⁴¹ The overarching findings of this detailed research are very concerning, highlighting that children with disabilities:

- are overlooked in many child- and disability-focused laws, policies and programmes;
- are not actively or effectively involved in consultations on many existing laws, policies and programmes affecting them; and
- are relatively invisible in data.

Recommendations

The State should:

- **assess the current legal framework to identify how legislative inconsistencies, deficits and gaps need to be addressed to bring Irish law into compliance with both the Convention and the CRPD;**

²³⁸ S. Groarke and S. Arnold (2018), *Approaches to Unaccompanied Minors Following Status Determination in Ireland*, pp. 53-58.

²³⁹ Ombudsman for Children's Office (2020), *Department of Children, Equality, Disability, Integration and Youth: White Paper on international protection accommodation - Submission by the Ombudsman for Children's Office*, p. 9; Oireachtas Joint Committee on Justice and Equality (2019), *Report on Direct Provision and the International Protection Application Process*, p. 52.; Government of Ireland (2020), *Report of the Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection Process*, p. 68 and p. 71.

²⁴⁰ Department of Children, Equality, Disability, Integration and Youth (2021), *A White Paper to End Direct Provision and to Establish a New International Protection Support Service*, p. 61.

²⁴¹ C. Moloney et al. (2021), *Mind the Gap: Barriers to the realisation of the rights of children with disabilities in Ireland*.

- ensure that the new national policy framework for children and young people currently being developed as well as any prospective successor to the National Disability Inclusion Strategy 2018-2021 are more inclusive of children with disabilities; and
- introduce a legislative requirement to collect and publish data disaggregated by disability.

28. Care of children with disabilities in the home environment

With regard to the care of children with disabilities in the home environment, the OCO has received complaints about:

- the lack of support services to help families care for their child at home, especially when the child may be engaging in aggressive behaviour, which is impacting on the welfare and safety of other siblings;
- the inadequacy of respite care available for children and their families;
- lack of specialised residential placements for children with profound disabilities and lack of forward planning and resourcing for same; and
- failure of State health and child welfare and protection agencies to work together effectively in the best interests of these children.²⁴²

Among our additional concerns are:

- the State's failure to provide multi-annual funding to aid future planning to meet the needs of children with disabilities; and
- a lack of oversight of home sharing respite arrangements for children with disabilities.²⁴³

We welcome that, following our investigation of complaints in this area, the HSE and Tusla have put in place a joint operating protocol to provide supports and interventions to enable families to care for their children at home. However, additional measures are needed to ensure that no child is deprived of the opportunity to live with their families due to a lack of adequate services and supports.

Recommendations

The State should:

- provide adequate supports and services to enable children to grow up with their families;
- put in place multi-annual budgets for children's disability services to properly plan for anticipated and predictable needs;
- use the opportunity presented by the review of the Child Care Act 1991 to establish a statutory obligation on relevant agencies, including the HSE, to cooperate with Tusla, including in respect of children with disabilities; and
- take steps to be assured about the safety of home sharing arrangements in use in the State for respite purposes.

²⁴² Ombudsman for Children's Office (2022), *Jack's Case: One Year On*.

²⁴³ Ibid.

29. Assessments and services for children with disabilities

A report published by the OCO in 2020 identified significant issues arising in relation to the State's implementation of its obligations under the Disability Act 2005 to provide an assessment of needs (AON) for children.²⁴⁴ An AON is undertaken or arranged by the HSE to determine the health or educational services required by a person with a disability.²⁴⁵

A revised standard operating procedure (SOP) was introduced by the HSE to address long waiting lists for AONs.²⁴⁶ However, it was discontinued following a High Court judgment in March 2022, which found that the SOP did not comply with the 2005 Act.²⁴⁷ Figures released by the HSE indicate that 2,531 assessments were outstanding as of June 2022.²⁴⁸ While the OCO appreciates the challenges the HSE faces in meeting the requirements of the 2005 Act in respect of AON, including significant difficulties in recruiting and retaining suitably qualified staff,²⁴⁹ we are very concerned about the adverse effects that delays in obtaining assessments and corresponding services are having on children's health and development. In regards to services, we are additionally concerned that figures indicate that over 17,000 in Ireland were awaiting a first contact from a Child Disability Network Team (CDNT) at the end of May 2022.²⁵⁰ Among the OCO's additional concerns is the absence of a plan setting out how challenges arising in this area will be addressed in the short- to medium-term.

Recommendation

The State should publish a new plan detailing how delays in providing AONs and corresponding services to children will be dealt with appropriately in the short- to medium-term and prioritise securing the financial, human and technical resources needed to implement this plan effectively so that children receive assessments and services as needed in a timely manner.

30. Access to early childhood education and inclusive education

Children with disabilities participating in the two-year free [Early Childhood Care and Education \(ECCE\)](#) programme in childcare settings receive supports for 3 hours a day during the 38-week school term through the [Access and Inclusion Model \(AIM\)](#) programme. However, these children receive no supports outside of these hours if in full-time childcare. There are no targeted childcare supports for younger children with disabilities (those under 2 years and 8 months) or for children attending school-age childcare. A review of the AIM programme is currently underway.²⁵¹

²⁴⁴ Ombudsman for Children's Office (2020), *Unmet Needs: A report by the Ombudsman for Children's Office on the challenges faced by children in Ireland who require an assessment of their needs*.

²⁴⁵ [Disability Act 2005, s 7](#).

²⁴⁶ Houses of the Oireachtas, Dáil Éireann Debate, [Health Services](#) [52051/21], 2 November 2021.

²⁴⁷ Department of Health, [Minister Anne Rabbitte welcomes HSE clarity on the protocol for Assessment of Needs for children and young people](#), 6 April 2022.

²⁴⁸ E. Coyne, [Steep drop in assessments of need for children carried out by HSE this year](#), *Irish Independent*, 2 August 2022.

²⁴⁹ P. McGrath, ['Significant challenges' to disability services recruitment – Reid, RTÉ](#), 27 June 2022.

²⁵⁰ D. Bermingham, [Over 17,000 children awaiting first contact from short staffed child disability teams](#), *Irish Examiner*, 4 August 2022.

²⁵¹ Houses of the Oireachtas, Dáil Éireann Debate, [Programme for Government](#) [44726/21], 21 September 2021.

Recommendation

The State should ensure that all children with disabilities have access to early childhood education and care, including by extending the universal and targeted supports available in the AIM programme to all children with disabilities attending childcare who require them.

The State has invested significantly in education provision for children with SEN and important work is being undertaken by the Department of Education to improve data collection and cross-unit working in this area. However, as the OCO highlighted in a report published in June 2022, approximately 4,000 children are awaiting a diagnostic assessment to get school places and some 15,500 children travel outside their locality each day to attend specialist education provision.²⁵² Additionally, 1,455 children are in receipt of Home Tuition due to the lack of specialised placements, and over 100 children have yet to secure a school place for the 2022/2023 school year.²⁵³ We are concerned that there is a lack of adequate forward planning at national level, as well as insufficient proactive capacity building at local level, to meet the forecast need for school places for children with SEN.²⁵⁴ We welcome the passing of emergency legislation to streamline the unduly onerous process provided for under section 37A of the Education Act 1998 (which empowers the Minister for Education to direct a school to make additional provision for children with SEN).²⁵⁵ This is a positive move to recalibrate the balance between central Government oversight of education and schools' autonomy in relation to education provision for children with SEN.²⁵⁶ Additional measures are also needed to ensure that all children with SEN enjoy their right to education without discrimination and on an equal basis with other children.

Recommendations

The State should:

- **implement additional measures to strengthen appropriate education provision for all children with SEN, including publishing a plan for ensuring there are sufficient appropriate school places to meet the forecasted needs of children with SEN within their local communities; and**
- **implement legislative, policy and other measures directed towards providing an inclusive education system.**

²⁵² Ombudsman for Children's Office (2022), [Plan for Places - Forward planning for the provision of school places for children with Special Educational Needs: A children's rights issue](#).

²⁵³ Ombudsman for Children's Office (2022), [Plan for Places - Forward planning for the provision of school places for children with Special Educational Needs: A children's rights issue](#); Houses of the Oireachtas, Dáil Éireann Debate, [Special Educational Needs](#) [39677/22], 26 July 2022.

²⁵⁴ Ombudsman for Children's Office (2022), [Plan for Places - Forward planning for the provision of school places for children with Special Educational Needs: A children's rights issue](#).

²⁵⁵ [Education \(Provision in Respect of Children with Special Educational Needs\) Act 2022](#).

²⁵⁶ Ombudsman for Children's Office, [Emergency legislation to provide school places for Children with Special Educational Needs is positive but not perfect](#), 6 July 2022.

G. Basic health and welfare (arts. 6, 18(3), 24, 26, 27(1)-(3) and 33)

31. Health and health services

We welcome the [Sláintecare Implementation Strategy](#), which aims to create a health system where everyone has equal access to comprehensive health services based on need. The publication of child-specific hospital waiting lists since June 2021 and the Government's commitment to prioritise reducing paediatric waiting times are also welcome.²⁵⁷ However, data published in relation to waiting lists highlight the concerning number of children waiting for hospital appointments and treatment. As of 30 June 2022, more than 100,000 children were on hospital waiting lists, more than 1 in 3 of whom were waiting longer than a year.²⁵⁸ At the end of 2021, more than 30,000 children were waiting longer than a year for community health services.²⁵⁹ The OCO remains concerned about the negative impact that challenges in recruiting and retaining healthcare staff are having on children's timely access to health services they need.²⁶⁰

Recommendation

The State should implement measures, including allocation of additional resources, to reduce waiting lists and waiting times that are adversely affecting children's access to healthcare.

The extension of the free General Practitioner (GP) care scheme to 6 and 7 year olds in Budget 2022 is welcome.²⁶¹ However, the OCO is concerned about continued delays to the extension of free GP care to all children up to 17.²⁶² Also concerning are the costs incurred by families of children requiring treatment in hospital.²⁶³ The passing of legislation to abolish overnight and day case public inpatient charges for children is welcome,²⁶⁴ as is the extension of time during which Domiciliary Care Allowance is paid to families where a child is hospitalised.²⁶⁵ However, these measures will not address other costs faced by parents of children in hospital for extended periods of time, such as transport, accommodation and food costs.²⁶⁶

Recommendations

The State should:

- **extend the free GP care scheme to all children up to 17;**
- **abolish in-patient hospital charges and non-GP referred outpatient and emergency charges for children; and**

²⁵⁷ Health Service Executive (2022), [2022 Waiting List Action Plan](#), p. 26; Ombudsman for Children's Office, [Child specific waiting lists will give a true picture of the impact that delays are having on childhood](#), 17 May 2021.

²⁵⁸ See national waiting list data for June 2022: National Treatment Purchase Fund, [National Waiting List Data](#).

²⁵⁹ T. Meskill, [More than 34k children waiting over a year for community health services](#), RTÉ, 8 March 2022.

²⁶⁰ Health Service Executive (2022), [HSE National Service Plan 2022](#), p. 102.

²⁶¹ Department of Public Expenditure and Reform, [Your guide to Budget 2022](#), 22 October 2021.

²⁶² Houses of the Oireachtas, Dáil Éireann Debate, [Health Strategies](#) [61021/21], 9 December 2021.

²⁶³ Children in Hospital Ireland (2020), [Childhood Illness, Financial Stress: The hidden costs of hospital care for children](#).

²⁶⁴ [Health \(Miscellaneous Provisions\) \(No. 2\) Act 2022](#).

²⁶⁵ Department of Social Protection, [Minister Humphreys puts in place increased measures in support of families of children who are hospitalised](#), 25 April 2022.

²⁶⁶ Children in Hospital Ireland (2020), [Childhood Illness, Financial Stress, The hidden costs of hospital care for children](#).

- **introduce other measures to assist families with non-medical costs associated with children being in hospital.**

The OCO welcomes commitments made to further develop treatment for rare diseases in Ireland,²⁶⁷ along with the development of guiding principles for the transition of young people with a rare disease into adult healthcare services.²⁶⁸ However, we are concerned about ongoing delays in the publication of an updated national rare diseases plan.²⁶⁹

Recommendation

The State should publish and implement an updated national rare diseases plan.

Existing Irish legislation does not expressly state when a child can consent to medical treatment. Section 23 of the [Non-Fatal Offences Against the Person Act 1997](#), which applies in respect of a criminal law defence, provides for the de facto position that children aged 16 and over can consent to medical treatment, without the need to obtain the consent of their parent or guardian.²⁷⁰ The 1997 Act does not provide guidance regarding whether a child under 16 years of age can provide consent, or whether a child above 16 can refuse treatment or social care interventions. Moreover, the 1997 Act does not extend to the domain of mental health. In respect of mental health, it is welcome that the [General Scheme of the Mental Health \(Amendment\) Bill 2021](#) proposes that children aged 16 and over will be able to consent to, and refuse, admission and treatment in an approved inpatient facility. However, the OCO is concerned that this proposed legislation makes no provision for consent by children under 16, having regard to their age and evolving capacities.

Recommendation

The State should explicitly provide for a clear and consistent legislative framework to allow for children’s consent to, and refusal of, all forms of medical treatment in line with children’s evolving capacities.

32. Adolescent health

Results from a 2019 survey of 1,949 students aged 15-16 indicate that, amongst this age group in Ireland, significant numbers are users of alcohol (41%), cigarettes (14%), e-cigarettes (18%) and had tried cannabis (19%).²⁷¹ Heavy episodic or binge drinking and drunkenness among adolescents in Ireland is higher than the European average.²⁷² Use of inhalants, painkillers, alcohol with pills,

²⁶⁷ Government of Ireland (2020), [Programme for Government: Our Shared Future](#), p. 47.

²⁶⁸ Health Service Executive (2019), [Model of Care for Transition from Paediatric to Adult Healthcare Providers in Rare Diseases](#).

²⁶⁹ Houses of the Oireachtas, Dáil Éireann Debate, [Medicinal Products](#), 31 March 2022.

²⁷⁰ Health Service Executive (2022), [National Consent Policy](#).

²⁷¹ S. Sunday, S. Keogan, J. Hanafin and L. Clancy (2020), [ESPAD 2019 Ireland: Results from the European Schools Project on Alcohol and Other Drugs in Ireland](#); Health Research Board (2022), [Alcohol and other drug use among children and young people in Ireland: prevalence, risk and protective factors, consequences, responses, and policies](#).

²⁷² Health Research Board (2022), [Alcohol and other drug use among children and young people in Ireland: prevalence, risk and protective factors, consequences, responses, and policies](#), p. 177.

cocaine, and ecstasy was reported by adolescents in smaller numbers.²⁷³ Alcohol use was associated with increased prevalence of injury and sexual assault, while truancy, absenteeism and lower school grades were linked to smoking and drug use.²⁷⁴ Socio-economic status and parental education levels were shown to impact substance abuse levels.²⁷⁵ A 2020 survey indicated a significant association between problematic alcohol use and more severe anxiety and depression amongst adolescents aged 12-19.²⁷⁶ The same study noted that those who reported having attempted suicide presented with significantly higher levels of problematic drinking and were more likely to have smoked cannabis.²⁷⁷

The national drugs and alcohol strategy, [Reducing Harm, Supporting Recovery: A health-led response to drug and alcohol use in Ireland 2017-2025](#), is the first integrated drugs and alcohol strategy in Ireland. The OCO welcomes its aims to prevent early substance use, to minimise harm for those who have already started to use substances, and to prioritise a public health approach with the aim of diverting people away from the criminal justice system.

It is also positive that educational resources on substance use are included within the Social, Personal and Health Education curriculum in secondary schools.²⁷⁸ Public information and awareness raising of substance misuse amongst children is also undertaken by non-governmental organisations such as Alcohol Action Ireland.

The OCO further welcomes the enactment of the [Public Health \(Alcohol\) Act 2018](#), and the commencement of sections introducing minimum unit pricing, and prohibiting alcohol advertising in certain public areas and events, and on children's clothes. However, sections concerning the content of advertisements and the introduction of a broadcast watershed have not been commenced. Although draft regulations have been developed and issued to the Office of the Attorney General, a timeline for implementation has not been published.²⁷⁹ The Public Health Alcohol Research Group is the Department of Health convened group evaluating measures implemented under the 2018 Act.

Recommendations

The State should:

- **publish evaluations of the impact on children of measures provided for under the Public Health (Alcohol) Act 2018 and the national drugs and alcohol strategy; and**
- **progress implementation of sections of the Public Health (Alcohol) Act 2018 that have not been commenced.**

²⁷³ S. Sunday, S. Keogan, J. Hanafin and L. Clancy (2020), [ESPAD 2019 Ireland: Results from the European Schools Project on Alcohol and Other Drugs in Ireland](#).

²⁷⁴ Ibid.

²⁷⁵ Ibid.

²⁷⁶ C. O'Dwyer and D. Mongan (2020), [Alcohol and drug use among young people and adolescents in Ireland – results from My World and Growing Up in Ireland surveys](#), Drugnet Ireland, No. 72, pp. 12-14.

²⁷⁷ Ibid.

²⁷⁸ Health Service Executive, [Know the Score Resources for Post Primary Teachers](#).

²⁷⁹ Houses of the Oireachtas, Dáil Éireann Debate, [Legislative Measures](#) [20582/22], 26 April 2022.

33. Mental health

The OCO welcomes the publication of an updated national mental health policy, [Sharing the Vision](#), and its implementation plan, but we are disappointed that there is no standalone policy for children. The OCO also remains seriously concerned about mental health provision for children, including in light of views children shared with us about their own experiences of mental health services.²⁸⁰ Complaints about mental health services, including regarding long waiting lists for treatment, remained a trend in complaints the OCO received in 2021.²⁸¹ The impact of Covid-19 restrictions on children's mental health, including on LGBTI+ children²⁸² and children in Direct Provision,²⁸³ is also of concern.

Waiting lists for CAMHS remain worryingly high: as of April 2022, 4,003 children were waiting for an appointment, a 52% increase since March 2021.²⁸⁴ Also concerning are temporary closures of psychiatric beds for children due to staff shortages.²⁸⁵ Additionally, the unacceptable practice of admitting children to adult inpatient units continues, with 32 admissions to such units occurring in 2021.²⁸⁶

The Government's commitment to increase spending on children's wellbeing and mental health services is welcome.²⁸⁷ However, the overall budget allocated to mental health remains less than 6% of the overall health budget.²⁸⁸ There is no ring-fenced funding for children's mental health services and the State cannot say what is spent on children's services. There are service deficits, such as a lack of appropriate out-of-hours facilities and inpatient units for children, persisting.²⁸⁹ We are also concerned about protracted delays in establishing the Youth Mental Health Pathfinder project, and establishing a national mental health information and advocacy service for children.²⁹⁰

Recommendations

The State should:

- **create a ring fenced, child specific budget for mental health;**
- **prioritise investment in sufficient and appropriate CAMHS, out-of-hours facilities and age-appropriate inpatient units for children and young people; and**
- **establish a national mental health advocacy and information service for children.**

²⁸⁰ Ombudsman for Children's Office (2018), [Take My Hand: Young People's Experiences of Mental Health Services](#).

²⁸¹ Ombudsman for Children's Office (2022), [Resilience Tested: Ombudsman for Children's Office Annual Report 2021](#).

²⁸² BeLong To Youth Services (2021), [LGBTI+ Life in Lockdown: 1 year later](#).

²⁸³ Ombudsman for Children's Office (2020), [Life in Lockdown: Children's views and experiences of living in Direct Provision during the Covid-19 pandemic](#).

²⁸⁴ Health Service Executive (2022), [PQ 27472-22 – Deputy Mark Ward, 26 May 2022](#).

²⁸⁵ Houses of the Oireachtas, Sub-Committee on Mental Health debate, [Resourcing and the Provision of Services at the Linn Dara CAMHS Unit: Discussion](#), 28 June 2022.

²⁸⁶ Mental Health Commission (2022), [Mental Health Commission Annual Report 2021](#), p. 32.

²⁸⁷ Houses of the Oireachtas, Dáil Éireann Debate, [Mental Health Services](#) [11025/22], 1 March 2022.

²⁸⁸ Health Service Executive (2022), [Briefing note for Oireachtas Public Accounts Committee meeting on 10th March 2022 on HSE expenditure on mental health services and governance and oversight arrangements](#).

²⁸⁹ Houses of the Oireachtas, Seanad Éireann Debate, [Mental Health and Child and Adolescent Mental Health Services: Statements](#), 24 February 2022.

²⁹⁰ Houses of the Oireachtas, Dáil Éireann Debate, [Child and Adolescent Mental Health Services](#) [16787/21], 31 March 2021.

Having previously expressed concerns about the statutory framework provided for under the [Mental Health Act 2001](#) in respect of children, we welcome work to progress the [General Scheme of the Mental Health \(Amendment\) Bill 2021](#). However, we are concerned that a number of the legislative proposals concerning children do not provide adequately for a child rights approach to children's admission to and treatment in approved inpatient facilities.²⁹¹ The OCO welcomes the proposed provisions for children aged 16 years and older to be able to consent to, and refuse, admission and treatment. However, as noted in section II.A.4 of this report, we are concerned that no equivalent provisions are made in relation to children under 16 and, as such, that the proposed legislation does not have sufficient regard to their evolving capacities. In addition, we are very concerned that the legislation proposes to place children's admission to adult inpatient facilities on a statutory footing.

Recommendations

The State should ensure that provisions in legislation concerning children, currently being prepared to amend the Mental Health Act 2001:

- **are aligned in full with children's rights and provide for a child rights approach to all actions and decisions concerning the admission and treatment of children in approved inpatient facilities; and**
- **do not place the admission of children to adult inpatient facilities on a statutory footing and do state that children should not be admitted to such facilities.**

34. Child poverty

The OCO acknowledges work by the State in recent years in relation to child poverty, including the [Roadmap for Social Inclusion 2020-2025](#) (Roadmap) and a range of programmes across education, healthcare and housing that seek to address poverty and social exclusion. We welcome the State's commitment under the Roadmap to setting a new target for reducing consistent child poverty. However, it is disappointing that this target has not been finalised and published yet. Publication in June 2022 of a National Action Plan to implement the State's commitments under the [European Child Guarantee](#) is also positive. In this regard, the OCO is of the view that the new national policy framework for children and young people, which the National Action Plan will sit under, should be mobilised to put in place effective structures to support an integrated, coordinated approach to pursuing actions under the European Child Guarantee. The new framework should also include additional measures to address child poverty and social exclusion.²⁹²

The OCO remains concerned about the significant level of child poverty in Ireland and we are disappointed that the State has failed to reach the commitment set out in BOBF to lift 70,000 children out of consistent poverty by 2020. Income supports brought in due to the Covid-19 pandemic had a positive effect on mitigating against the risk of poverty of some families, and are in part responsible for a reduction in the rate of consistent child poverty from 7.2% to 5.2% between

²⁹¹ Ombudsman for Children's Office (2021), [General Scheme of the Mental Health \(Amendment\) Bill: Observations by the Ombudsman for Children's Office](#).

²⁹² Department of Children, Equality, Disability, Integration and Youth, [Minister O'Gorman publishes Ireland's EU Child Guarantee National Action Plan](#), 15 June 2022.

2020 and 2021.²⁹³ However, experience of financial insecurity for families with children remained high during this time, with 42% of all households reporting difficulty in making ends meet.²⁹⁴ Furthermore, pandemic income supports have been phased out since February 2022, and families are facing additional challenges associated with a rise in the cost of living.²⁹⁵ We are also concerned that certain groups of children continue to be disproportionately affected by poverty, including Roma and Traveller children,²⁹⁶ children in one-parent families²⁹⁷ and children in Direct Provision.²⁹⁸

Recommendations

The State should:

- **establish an ambitious new target for reducing consistent child poverty and do so in the context of working systematically to eradicate child poverty; and**
- **strengthen income supports and access to key services for children, with a particular focus on specific cohorts of children who are most at risk of poverty and social exclusion.**

The OCO welcomes recent commitments made to address food poverty among children,²⁹⁹ including the increased budget allocation for the [School Meals Programme](#) to €68.1 million from the start of 2022 and an evaluation of the programme to inform its continued expansion.³⁰⁰ However, we are concerned about the lack of national oversight of the [Nutritional Standards for Hot School Meals](#) to ensure that hot school meals provided as part of the programme meet the dietary needs of children, in line with the European Child Guarantee.³⁰¹

Recommendations

The State should:

- **expand the School Meals Programme so that all children in need have access to a healthy meal; and**
- **establish a monitoring mechanism to ensure that food provided to children through the Hot School Meals Programme meets nutritional standards.**

The Habitual Residence Condition restricts access to certain social welfare payments to those who can prove a close link to Ireland. The OCO remains concerned about the adverse impact that the HRC has on particular groups of children, including Roma and asylum-seeking children, as it mitigates

²⁹³ Central Statistics Office, [Survey on Income and Living Conditions \(SILC\) 2021](#), 6 May 2022.

²⁹⁴ Ibid.

²⁹⁵ Central Statistics Office, [Consumer Price Index May 2022](#), 9 June 2022.

²⁹⁶ European Union Agency for Fundamental Rights (2020), [Travellers in Ireland: Key results from the Roma and Traveller survey 2019](#).

²⁹⁷ Department of Children, Equality, Disability, Integration and Youth (2020), [Income, Poverty and Deprivation among Children – A Statistical Baseline Analysis](#).

²⁹⁸ Ibid.

²⁹⁹ Government of Ireland (2020), [Roadmap for Social Inclusion 2020 – 2025: Ambition, Goals, Commitments](#), pp. 70-71 and p. 75.

³⁰⁰ Department of Social Protection, [Minister Humphreys announces a comprehensive review of the School Meals Programme](#), 6 April 2022.

³⁰¹ Ombudsman for Children's Office (2022), [Department of Children, Equality, Disability, Integration and Youth: Consultation on a National Action Plan for the European Child Guarantee – Submission by the Ombudsman for Children's Office](#), p. 6.

against their being able to access child benefit and free or subsidised healthcare.³⁰² The OCO notes proposals in the White Paper on ending Direct Provision to introduce a payment equivalent to child benefit for asylum-seeking families.³⁰³ However, we are worried that, despite concerns expressed by the UN Independent Expert on the question of human rights and extreme poverty,³⁰⁴ and the UN Committee on Economic, Social and Cultural Rights, about the discriminatory impact of the HRC,³⁰⁵ this qualifying condition remains in place.

Recommendation

The State should implement measures to mitigate the barriers that the Habitual Residence Condition has on access to social welfare payments and healthcare by specific cohorts of children.

35. Housing and homelessness

Ireland's housing crisis has worsened in recent years. While the OCO welcomes the State's publication of a new National Housing Strategy, [Housing for All](#), this strategy has little focus on children and their rights. While the Government's commitment to hold a referendum on housing is welcome³⁰⁶ given the lack of progress to date in providing legal underpinning for the right to adequate housing, this commitment is expressed in vague terms.

Children remain invisible in housing legislation under the [Housing Act 1988](#), with local authorities having no legal obligation to provide accommodation appropriate to children's needs.³⁰⁷ As noted elsewhere in this report, an OCO investigation found that a local authority failed to consider the best interests of children living in extreme overcrowding and poor living conditions in a Traveller halting site in its decision-making, and to act to ensure that children residing on the site enjoy a safe, suitable standard of accommodation.³⁰⁸ Also concerning are findings of the European Committee of Social Rights that Ireland is in breach of its human rights obligations to provide appropriate accommodation to Travellers and to social housing tenants.³⁰⁹

Recommendation

The State should progress a referendum on enumerating a right to housing in Ireland's Constitution in furtherance of the State's commitment to safeguard children's right to an adequate standard of living, including housing, under the Convention.

³⁰² Pavee Point Traveller and Roma Centre and Department of Justice and Equality (2018), [Roma in Ireland: A National Needs Assessment](#).

³⁰³ Department of Children, Equality, Disability, Integration and Youth (2021), [A White Paper to End Direct Provision and to Establish a New International Protection Support Service](#), p. 64.

³⁰⁴ M. Sepúlveda Carmona (2011), [Report of the independent expert on the question of human rights and extreme poverty, Magdalena Sepúlveda Carmona: Addendum - Mission to Ireland](#), A/HRC/17/34/Add.2, para. 45.

³⁰⁵ UN Committee on Economic, Social and Cultural Rights (2015), [Concluding observations on the third periodic report of Ireland](#), E/C.12/IRL/CO/3, para. 21.

³⁰⁶ Department of Housing, Local Government and Heritage, [Minister for Housing, Local Government and Heritage welcomes establishment of Working Group on Referendum on Housing](#), 1 March 2022.

³⁰⁷ Ombudsman for Children's Office (2019), [No Place Like Home: Children's views and experiences of living in Family Hubs](#).

³⁰⁸ Ombudsman for Children's Office (2021), [No End in Site: An investigation into the living conditions of children on a local authority halting site](#).

³⁰⁹ European Committee of Social Rights (2021), [Follow-up to decisions on the merits of collective complaints: Findings 2021](#).

The OCO welcomes the State's signature of the Lisbon Declaration on combatting homelessness,³¹⁰ with Ireland committing to work towards ending homelessness by 2030. However, we are very concerned about the negative impacts of homelessness on children and that homelessness among children has increased significantly in recent years.³¹¹ As of June 2022, 3,071 children were being accommodated in State-funded emergency accommodation, the highest number since the start of Covid-19.³¹²

The OCO is also concerned about the challenges faced by homeless families in accessing appropriate accommodation and supports, with a majority of homeless families still being accommodated in unsuitable emergency accommodation.³¹³ Children and families living in family hubs have reported many challenges to the OCO, including the negative effects of living in these circumstances on family life, children's development and mental health.³¹⁴ We are particularly concerned that children in lone parent families and Traveller children represent a disproportionate number of homeless children.³¹⁵

Recommendations

The State should:

- **strengthen existing legislation and public policy to ensure that homeless families with children are provided with emergency accommodation and supports appropriate to their needs; and**
- **implement specific child and family homelessness strategies, which prioritise timely access to adequate, secure, and long-term accommodation for families with children.**

H. Education, leisure and cultural activities (arts. 28-31)

36. Education

The Delivering Equality of Opportunity in Schools (DEIS) programme targets additional resources to schools in disadvantaged areas.³¹⁶ While the inclusion of an additional 273 primary schools and 37 post-primary schools in the programme from September 2022 is positive,³¹⁷ the OCO is concerned that disadvantaged children in non-DEIS schools do not receive the same level of support as those attending DEIS schools.

³¹⁰ Department of Housing, Local Government and Heritage, [Minister O'Brien to sign European declaration on combatting homelessness](#), 15 June 2021.

³¹¹ Department of Housing, Local Government and Heritage (2022), [Homeless Report – June 2022](#); S. Bowers, [Continued rise in Homeless a 'serious concern', Minister says](#), *The Irish Times*, 29 April 2022.

³¹² Department of Housing, Local Government and Heritage (2022), [Homeless Report – June 2022](#).

³¹³ Ombudsman for Children's Office (2022), [Resilience Tested: Ombudsman for Children's Office Annual Report 2021](#), p. 22-23; Ombudsman for Children's Office (2019), [No Place Like Home: Children's views and experiences of living in Family Hubs](#).

³¹⁴ Ombudsman for Children's Office (2019), [No Place Like Home: Children's views and experiences of living in Family Hubs](#).

³¹⁵ Mercy Law Resource Centre (2021), [Minority Groups and Housing Services: Barriers to Access](#); H. Russell, I. Privalko, F. McGinness and S. Enright (2021), [Monitoring Adequate Housing in Ireland](#).

³¹⁶ Department of Education, [Extension of DEIS to further schools](#), 9 March 2022.

³¹⁷ Ibid.

Although State-funded primary and post-primary education is meant to be free of school fees, and recent increases to the Back to School Clothing and Footwear Allowance³¹⁸ are welcome, school costs remain an area of concern for many parents.³¹⁹ The cost of digital devices for school use is among the issues brought to the OCO's attention in this regard during the Covid-19 pandemic, which amplified many existing challenges faced by children experiencing educational disadvantage.³²⁰

Recommendations

The State should:

- **review the DEIS scheme to identify how DEIS supports can be provided to disadvantaged children attending non-DEIS schools; and**
- **implement additional measures to address costs incurred by families that mitigate against full access by children to education provision.**

Alternative education in Ireland encompasses provision in schools and other educational centres for children who have disengaged from mainstream education. In 2019, 470 children were attending such provision in 23 services.³²¹

In 2017, the Department of Education commenced a review of out-of-school, second chance education for children, and published the report of this review in May 2022.³²² The OCO is concerned that the recommendations of this review will not give effect to the right to education to all children in need of alternative provision. Particular concerns relate to:

- the focus on 13 to 15 year olds only, while many providers cater for children aged 16 and over;
- the emphasis on short-term intervention aimed at reintegrating children in mainstream schools, despite the previous failure of mainstream schools to provide for their needs;
- an emphasis on vocational education, training and career pathways to the detriment of more academic pathways and particularly progression to Leaving Certificate Established;
- references to children that infer that any deficiencies reside in the child rather than the mainstream education system;
- lack of due consideration of the views of the child; and
- the narrow referral pathway for children to alternative education provision.

Recommendations

The State should:

- **reconsider the review of out-of-school provision in terms of its scope and proposed governance and funding framework; and**

³¹⁸ Department of Social Protection, [Minister Humphreys announces increased payments for the 2022 Back to School Clothing and Footwear Allowance](#), 11 July 2022.

³¹⁹ Barnardos (2022), [Back to School Survey Results 2022](#), pp. 5-15.

³²⁰ Ombudsman for Children's Office, [Statement from Office of Children's Ombudsman following meeting with Minister for Education and Skills to discuss Leaving Certificate](#), 7 May 2020; Ombudsman for Children's Office (2022), [The impact of school closures on children's rights in Ireland - A pilot Child Rights Impact Assessment](#).

³²¹ Department of Education (2022), [Review of Out-of-School Education Provision](#).

³²² Ibid.

- **consider the provision of both vocational and academic pathways, on both a short and long-term basis, for all children up to the age of 18 or completion of the Leaving Certificate, if appropriate.**

In light of concerns about the disproportionate use of reduced timetables in respect of certain groups of children, including Traveller children and children with special needs, the OCO welcomes the [Guidelines for the use of Reduced School Days in Schools](#), which came into force on 1 January 2022.³²³ We also welcome commitments to publish data on the use of reduced school days³²⁴ and that data gathered will inform future policy in this area.³²⁵

Recommendation

The State should collect, analyse and publish data on the use of reduced timetables on a regular basis (e.g. twice yearly), including for the purpose of identifying whether additional measures, including placing guidelines on a statutory footing, are needed to ensure their appropriate use by all schools.

Complaints received by the OCO have raised concerns about the lack of a legislative or administrative framework to inspect, examine and report on schools that have higher rates of suspension or permanent exclusion, along with a lack of clarity about how suspension and exclusion rates are monitored and reviewed. The OCO is particularly concerned about evidence, which suggests that suspensions and expulsions are more common among children with special educational needs.³²⁶

Recommendation

The State should develop a framework to identify and monitor suspensions and permanent exclusions of children from schools to ensure that specific cohorts of children are not being disproportionately affected.

The Education (Admission to Schools) Act 2018 removed significant barriers that some children faced in accessing a school place, including on the grounds of religion. However, the OCO is concerned that schools can continue to allocate 25% of places to children and grandchildren of former students if they are over-subscribed,³²⁷ which may place particular children, including Traveller children and children of immigrant parents, at a particular disadvantage in accessing a school place.³²⁸

³²³ Ombudsman for Children's Office (2019), [Oireachtas Committee on Education and Skills opening statement from Ombudsman for Children](#), p. 2.

³²⁴ Houses of the Oireachtas, Dáil Éireann Debate, [Departmental Data](#) [2781/22], 20 January 2022.

³²⁵ Houses of the Oireachtas, Dáil Éireann Debate, [Departmental Data](#) [40756/21], 27 July 2021.

³²⁶ Oireachtas Joint Committee on Education and Skills Debate, [Use of Reduced Timetables: Discussion \(Resumed\)](#), 13 June 2019.

³²⁷ [Education \(Admission to Schools\) Act 2018, s. 9](#).

³²⁸ Ombudsman for Children's Office (2022), [Oireachtas Committee on Education, Further and Higher Education, Research, Innovation and Science: Opening Statement by the Ombudsman for Children, Dr Niall Muldoon](#); Ombudsman for Children's Office (2016), [Advice of the Ombudsman for Children on the Education \(Admission to Schools\) Bill 2016](#).

Discussions about a Private Members Bill,³²⁹ which aims to remove the provision that allows schools to do this, resulted in a welcome recommendation by the Oireachtas Joint Committee on Education, Further and Higher Education, Research, Innovation and Science to end this practice.³³⁰ However, the OCO is concerned that the State's plans to establish an expert group to review this issue, over a number of years, will delay the removal of this provision.³³¹

Recommendation

The State should repeal the statutory provision, which allows schools to give preference to children and grandchildren of former students when they are over-subscribed.

37. Leisure and cultural activities

Children's enjoyment of their rights to play, leisure and cultural activities were severely impacted by the Covid-19 pandemic.³³² The State's efforts to prioritise the reopening of play and recreation facilities for children as well as recent funding commitments for playgrounds and play areas across the country are welcome.³³³ However, we are concerned that insufficient attention is being given to the needs and inclusion of children whose opportunities in this regard are limited.

For example, families with children that are homeless or that are seeking international protection are housed in accommodation that limits children's ability to enjoy their right to play and leisure.³³⁴ In this regard, the OCO's direct work with homeless children living in family hubs identified that a lack of space and play areas, as well as rules relating to supervision and visitors, make it difficult for children to play and socialise with friends.³³⁵

Our 2019 consultation with children living in Direct Provision centres highlighted a lack of play and recreation areas in some centres.³³⁶ Furthermore, the remote location of many centres, away from local communities, presents difficulties for children without access to transport to participate in local sporting and cultural activities.

Traveller families living on halting sites have also raised concerns with us about a lack of safe play areas. In the context of one OCO investigation, children living on a halting site stated that they felt unable to rest adequately or to bring their friends home due to overcrowding, insufficient privacy,

³²⁹ [Education \(Admission to Schools\) Bill 2020](#).

³³⁰ Oireachtas Joint Committee on Education, Further and Higher Education, Research, Innovation and Science (2022), [Report on Detailed Scrutiny of the Education \(Admissions to School\) Bill 2020](#).

³³¹ Houses of the Oireachtas, Dáil Éireann Debate, [Education \(Admission to Schools\) Bill 2020 Report: Motion](#), 19 May 2022; Houses of the Oireachtas, Select Committee on Education, Further and Higher Education, Research, Innovation and Science debate, [Education \(Admission to Schools\) Bill 2020: Committee Stage](#), 28 June 2022.

³³² A. Kourti et al. (2021), [Play Behaviours in Children during the COVID-19 Pandemic: A Review of the Literature](#), *Children*, Vol. 8, No. 8, p. 706.

³³³ Department of Children, Equality, Disability, Integration and Youth, [Minister O'Gorman announces funding to Local Authorities for the refurbishment and development of playgrounds and play areas](#), 7 April 2022.

³³⁴ Ombudsman for Children's Office (2012), [Homeless Truths: Children's experiences of homelessness in Ireland](#); Ombudsman for Children's Office (2019), [No Place Like Home: Children's views and experiences of living in Family Hubs](#).

³³⁵ Ombudsman for Children's Office (2019), [No Place Like Home: Children's views and experiences of living in Family Hubs](#).

³³⁶ Ombudsman for Children's Office (2020), [Direct Division: Children's views and experiences of living in Direct Provision](#).

excessive traffic, unsafe structures, and a lack of play equipment.³³⁷ The OCO has received a number of similar complaints about halting sites across the country.

Commissioned research published by the OCO in 2021 focused on the rights of children with disabilities, highlighted that an insufficient number of accessible play facilities, as well as a lack of adequate data and national oversight, is adversely affecting these children's enjoyment of their right to play and leisure.³³⁸ While we welcome the inclusion of accessibility initiatives in recent funding announcements relating to play facilities,³³⁹ this research indicates that additional measures are needed, including legislative reform, assessment and guidance on the accessibility of play spaces, and consultation with children with disabilities.³⁴⁰

Recommendation

The State should implement additional measures to address the barriers that specific groups of children can face as regards enjoying their rights to leisure and cultural activities.

I. Special protection measures (arts. 22, 30, 32, 33, 35, 36, 37(b)–(d), and 38–40)

38. Accommodation and supports for asylum-seeking and refugee children

As of 19 June 2022, 12,244 people were residing in Direct Provision, including 2,833 children.³⁴¹

Clarity as regards the OCO's statutory complaints remit in relation to children living in Direct Provision was achieved in 2017. Common issues brought to our attention through complaints made by or for children since April 2017, as well as through our consultation with children living in Direct Provision in 2019, include:

- delays in the asylum application process;
- overcrowded living spaces and insufficient privacy;
- no access to own door accommodation;
- lack of facilities for recreation and study;
- inappropriate or inadequate food;
- family reunification issues;
- racism, bullying and discrimination; and
- isolation from peers and local communities.³⁴²

³³⁷ Ombudsman for Children's Office (2021), [*No End in Site: An investigation into the living conditions of children on a local authority halting site*](#).

³³⁸ C. Moloney et al. (2021), [*Mind the Gap: Barriers to the realisation of the rights of children with disabilities in Ireland*](#), p. 52.

³³⁹ Department of Children, Equality, Disability, Integration and Youth, [Minister O'Gorman announces funding to Local Authorities for the refurbishment and development of playgrounds and play areas](#), 7 April 2022.

³⁴⁰ C. Moloney et al. (2021), [*Mind the Gap: Barriers to the realisation of the rights of children with disabilities in Ireland*](#); H. Lynch, A. Moore, C. Edwards and L. Horgan (2019), [*Community Parks and Playgrounds: Intergenerational Participation through Universal Design*](#).

³⁴¹ Department of Children, Equality, Disability, Integration and Youth, [Opening statement by Minister O'Gorman at International Covenant on Civil and Political Rights Review](#), 4 July 2022.

³⁴² Ombudsman for Children's Office (2020), [*Direct Division: Children's views and experiences of living in Direct Provision*](#).

As noted, an OCO investigation into the protection and welfare of children in Direct Provision found a lack of inter-agency cooperation, to ensure that all decisions concerning children treated their best interests as a priority, as well as a failure to put in place necessary safeguards to ensure children are safe from harm.³⁴³

The OCO welcomes the White Paper published in February 2021, which commits to end Direct Provision and replace it with a new international protection support service, underpinned by a human rights approach, by 2024.³⁴⁴ While a detailed implementation plan has been developed, the DCEDIY reported in June 2022 that the 2024 target is particularly challenging and ambitious in light of the number of people arriving in Ireland from Ukraine as well as the increase in international protection applicants.³⁴⁵ In July 2022, the Minister for Children, Equality, Disability, Integration and Youth stated that a review of projected timelines for the implementation of the White Paper is currently underway.³⁴⁶ Though the review's outcome has not yet been published, the OCO is concerned that implementation is reported to be delayed.³⁴⁷

Although progress has been achieved in establishing a transition team and governance structures, and putting in place an accommodation model,³⁴⁸ it is currently unclear if and when applicants will begin to transition to the new model, as originally scheduled for 2022.³⁴⁹ No progress reports, including biannual monitoring reports of the Programme Board³⁵⁰ and periodic reports of the External Advisory Group, have been published to date.³⁵¹

Recommendations

The State should:

- **progress work to develop an interagency protocol to inform how Tusla, IPAS and accommodation centre management should work together, liaise and share information at a local, regional and national level;**
- **put in place robust mechanisms for monitoring compliance of designated accommodation centres with the Children First Act 2015 in order to ensure that all mandated persons and providers of relevant services under their remit are aware of and comply with their statutory child welfare and protection obligations;**
- **provide clarity regarding the implementation of its commitment to phase out Direct Provision by 2024, including by publishing regular updates and timelines concerning the implementation of the White Paper.**

³⁴³ Ombudsman for Children's Office (2021), [Safety & Welfare of Children in Direct Provision: An Investigation by the Ombudsman for Children's Office](#).

³⁴⁴ Department of Children, Equality, Disability, Integration and Youth (2021), [A White Paper to End Direct Provision and to Establish a New International Protection Support Service](#).

³⁴⁵ Houses of the Oireachtas, Committee of Public Accounts Debate, [Vote 40 - Children, Equality, Disability, Integration and Youth](#), 2 June 2022.

³⁴⁶ Houses of the Oireachtas, Dáil Éireann Debate, [Direct Provision System](#) [36525/22], 7 July 2022.

³⁴⁷ Ibid.; M. Brennan and C. Thomas, [Target of ending direct provision by 2024 set to be dropped](#), *The Business Post*, 6 August 2022.

³⁴⁸ Department of Children, Equality, Disability, Integration and Youth, [Minister O'Gorman marks one-year anniversary of White Paper on ending Direct Provision with progress update](#), 24 February 2022.

³⁴⁹ Houses of the Oireachtas, Dáil Éireann Debate, [International Protection](#) [15324/22], 24 March 2022.

³⁵⁰ Government of Ireland (2022), [Programme Board to oversee the transition to the new International Protection Support Service: Finalised Terms of Reference](#).

³⁵¹ Government of Ireland (2022), [External Advisory Group to oversee the transition to the new International Protection Support Service: Finalised Terms of Reference](#).

39. Vulnerability assessments

The European Communities (Reception Conditions) Regulations 2018 incorporated Directive 2013/33/EC into Irish law. These Regulations require that all international protection applicants must have an assessment to identify whether they have special reception needs and the nature of those needs.³⁵² Such assessments must be conducted within 30 days of an application for protection being made, and may also be conducted after 30 days, where it is considered necessary to do so.³⁵³

While it is welcome that a pilot vulnerability assessment process was commenced in December 2020,³⁵⁴ the OCO is concerned at the delay in implementing vulnerability assessments for all applicants, including those already residing in Direct Provision.³⁵⁵ Issues brought to our attention through complaints include delays in completing vulnerability assessments and vulnerability assessments not leading to more appropriate accommodation. An evaluation of the pilot programme – the findings of which are expected to inform long-term implementation of the assessments – was due to be completed by the end of 2021.³⁵⁶ However, in May 2022, the Minister for Children, Equality, Disability, Integration and Youth stated that this evaluation has been delayed due to the need to respond to the Ukrainian crisis.³⁵⁷

As of May 2022, 5,879 persons had been invited to participate in a vulnerability assessment since December 2020. Between 1 February 2021 and May 2022, 668 applicants had been deemed to be vulnerable, 26% of whom were children.³⁵⁸

The OCO is also concerned that the State has not yet established a clear mechanism to monitor the situation of children identified as having special reception needs to ensure that supports provided to such children take into account any needs that arise at a later stage of the protection process, in line with Ireland's obligations under EU law.

Recommendations

The State should:

- **implement vulnerability assessments for all children residing in international protection accommodation;**
- **respond to needs identified during such assessments in an appropriate and timely manner;**
- **put in place a mechanism to monitor and respond to ongoing and new vulnerabilities experienced by children throughout the international protection process; and**
- **complete the evaluation of the vulnerability assessment pilot programme without further delay.**

³⁵² [European Communities \(Reception Conditions\) Regulations 2018](#) (S.I. No. 230/2018), Regulation 8.

³⁵³ *Ibid.*

³⁵⁴ Houses of the Oireachtas, Dáil Éireann Debate, [International Protection](#) [28736/21], 27 May 2021.

³⁵⁵ Ombudsman for Children's Office (2020), [Department of Children, Equality, Disability, Integration and Youth: White Paper on international protection accommodation - Submission by the Ombudsman for Children's Office](#).

³⁵⁶ Houses of the Oireachtas, Dáil Éireann Debate, [International Protection](#) [36292/21], 6 July 2021.

³⁵⁷ Houses of the Oireachtas, Dáil Éireann Debate, [Immigration Support Services](#) [23845/22], 11 May 2022.

³⁵⁸ *Ibid.*

40. Legal framework for migrant children

The enactment of the International Protection Act 2015, which introduced a single application procedure, was a welcome development. However, the OCO is concerned that the application process does not give sufficient consideration to children's specific needs and that delays in processing applications, which have not been fully addressed, are resulting in children spending longer than necessary living with uncertainty in Direct Provision accommodation.³⁵⁹

Recommendations

The State should:

- **ensure that the specific needs of children are considered throughout the international protection application process; and**
- **allocate additional resources to reduce international protection application processing times.**

The Government has not implemented its commitment to introduce comprehensive immigration and residence-related legislative reforms to address the interaction of migrant children with the immigration system.³⁶⁰ The OCO welcomes the opening in 2022 of the regularisation scheme for long-term undocumented migrants, and the inclusion of a dedicated strand for international protection applicants. However, the scheme is a once-off opportunity that is only available for 6 months.³⁶¹ The OCO is concerned that children who are currently residing in Ireland but who will not have a sufficient period of residence to be eligible for the scheme, and children who become undocumented subsequent to the scheme, continue to lack clear, formal procedures to regularise their immigration status.³⁶²

Recommendation

The State should proceed with implementing comprehensive legislative reforms directed towards establishing statutory mechanisms to confer immigration status on families and children, including separated children and undocumented children.

Tusla has responsibility for the care of separated children in Ireland.³⁶³ There is no national policy or framework setting out Tusla's responsibilities in respect of separated children,³⁶⁴ including as regards the submission of applications for international protection or appropriate immigration permissions by Tusla on behalf of such children and as regards the statutory obligation to register the immigration permission of children aged 16 and over in the State.³⁶⁵

³⁵⁹ Ombudsman for Children's Office (2020), *Direct Division: Children's views and experiences of living in Direct Provision*.

³⁶⁰ Government of Ireland (2014), *Better Outcomes, Brighter Futures: The national policy framework for children & young people 2014 – 2020*, p. 81.

³⁶¹ Department of Justice, [Minister McEntee announces new landmark scheme to regularise long-term undocumented migrants](#), 3 December 2021.

³⁶² Ombudsman for Children's Office (2021), *Department of Justice: Draft scheme to regularise undocumented migrants. Submission by the Ombudsman for Children's Office*.

³⁶³ [International Protection Act 2015, s. 15\(4\)](#).

³⁶⁴ S. Arnold (2020), *Pathways to Irish Citizenship: Separated, Stateless, Asylum Seeking and Undocumented Children*, p. 17.

³⁶⁵ *Ibid.*

Recommendation

The State should develop national guidance on Tusla’s responsibilities for separated children in care, including as regards the timely submission of appropriate applications for residence permission and international protection and subsequent registration of children’s residence permissions.

41. Traveller and Roma children

The expansion of the Department of Children and Youth Affairs in 2020 to become the DCEDIY means that one Government Department now has oversight of policy relating to Traveller and Roma children. This development presents an opportunity to ensure a coherent approach by the State to deliver outcomes for Traveller and Roma children. The OCO remains concerned about delays with implementing actions arising from the [Roma Needs Assessment](#) and the NTRIS.³⁶⁶ While we welcome the State’s commitment to independently evaluate the NTRIS and to develop a successor strategy with a stronger focus on outcomes, we note that the timeline for doing so remains unclear.³⁶⁷

The NTRIS highlights the importance of celebrating the unique cultures and identities of the Traveller and Roma communities. A welcome development in this regard is the Traveller culture and history in the curriculum audit published in 2019.³⁶⁸ However, we are concerned about delays in implementing recommendations arising from this audit, with current actions focused largely on information gathering rather than amendments to curricula.³⁶⁹ It is also disappointing that legislation to make Traveller history and culture an obligatory part of the school curriculum has not progressed.³⁷⁰

Recommendation

The State should progress implementation of the recommendations arising from the Traveller culture and history in the curriculum audit as well as draft legislation to ensure Traveller history and culture are an obligatory part of the school curriculum.

An OCO investigation into a local authority halting site identified serious issues with the standard of accommodation and living conditions of children, in some cases resulting in risk to health.³⁷¹ Members of Traveller and Roma communities across the country are living in unacceptable living conditions.³⁷² While the full amount of funding allocated to Traveller housing was drawn down in

³⁶⁶ Houses of the Oireachtas, Dáil Éireann Debate, [Departmental Schemes](#) [15308/22], 24 March 2022.

³⁶⁷ Ibid.

³⁶⁸ National Council for Curriculum and Assessment (2019), [Traveller culture and history in the curriculum: a curriculum audit](#).

³⁶⁹ Houses of the Oireachtas, Dáil Éireann Debate, [Legislative Measures](#) [13452/22], 10 March 2022.

³⁷⁰ Ibid.

³⁷¹ Ombudsman for Children’s Office (2021), [No End in Site: An investigation into the living conditions of children on a local authority halting site](#).

³⁷² Department of Housing, Planning and Local Government (2019), [Traveller Accommodation Expert Review](#); Pavee Point Traveller and Roma Centre and Department of Justice and Equality (2018), [Roma in Ireland: A National Needs Assessment](#), pp. 85-93.

2021,³⁷³ this follows years of significant underspending on Traveller accommodation. Reviews carried out by the Irish Human Rights and Equality Commission have identified numerous issues with the provision of accommodation for Travellers.³⁷⁴

Additionally, the OCO remains very concerned about high levels of Traveller infant mortality compared to the general population,³⁷⁵ as well as educational disadvantage,³⁷⁶ exacerbated by reductions in Traveller-specific supports.³⁷⁷ Children in the Roma community also experience very significant challenges, including in the areas of education, health, housing and standard of living.³⁷⁸

Recommendations

The State should:

- **implement additional measures to ensure that Traveller and Roma accommodation is adequate and suitable to the needs of Traveller and Roma families and children;**
- **invest additional resources directed towards reducing Traveller infant mortality rates and health inequalities experienced by Traveller and Roma children, including as part of the National Traveller Health Action Plan due to be published in September 2022; and**
- **strengthen measures to combat educational disadvantage among Traveller and Roma children.**

Traveller children are over-represented in alternative care and detention.³⁷⁹ Work by Tusla with the Offaly Traveller movement to recruit Traveller families as foster carers to provide culturally appropriate placements for Traveller children is welcome.³⁸⁰ However, the OCO is concerned that Traveller and Roma children are not mentioned in Tusla strategies for parenting support and residential care.³⁸¹ As regards child justice, it is welcome that the Youth Justice Strategy 2021-2027 includes a strong focus on preventing children coming into contact with the justice system.³⁸² It is disappointing, however, that this strategy does not contain measures directed towards addressing the overrepresentation of Traveller children in the child justice system.

Recommendations

The State should:

³⁷³ Department of Housing, Local Government and Heritage, [Minister Burke welcomes full budget expenditure relating to the provision of Traveller-specific Accommodation in 2021](#), 21 December 2021.

³⁷⁴ Irish Human Rights and Equality Commission (2021), [Accounts of First Council-by-Council Equality Review on Traveller Accommodation in History of State Published](#).

³⁷⁵ Department of Children and Youth Affairs (2020), [Statistical Spotlight #4, Young Travellers in Ireland](#), p. 10.

³⁷⁶ Department of Children and Youth Affairs (2020), [Statistical Spotlight #4, Young Travellers in Ireland](#); Joint Committee on Education and Skills (2019), [Interim Report on the Committee's Examination on the Current Use of Reduced Timetables](#).

³⁷⁷ St. Stephen's Green Trust (2021), [Travellers in the Mainstream Labour Market: Situation, Experience, and Identity](#), pp. 12-13.

³⁷⁸ Pavee Point Traveller and Roma Centre and Department of Justice and Equality (2018), [Roma in Ireland: A National Needs Assessment](#).

³⁷⁹ R. Gilligan (2019), 'The family foster care system in Ireland – advances and challenges', Children and Youth Services Review, Vol. 100, pp. 221-228, p. 227; Oberstown Children Detention Campus (2019), [Key characteristics of young people in detention: A snapshot \(Q1 2019\)](#).

³⁸⁰ Tusla, [Launch of new materials to help Travellers to consider becoming Foster Carers](#).

³⁸¹ Tusla, [Publications](#).

³⁸² Department of Justice (2021), [Youth Justice Strategy 2021-2027](#), p. 5.

- identify and implement additional measures to address the overrepresentation of Traveller children in alternative care and in detention; and
- build on existing good practice in the recruitment of Traveller foster families to increase provision of culturally appropriate placements for Traveller children.

42. Administration of child justice

The OCO remains concerned that the [Children Act 2001](#), as amended by the [Criminal Justice Act 2006](#), provides for the age of criminal responsibility as 12 years for most offences and 10 years for certain serious offences. Despite previous recommendations, including by the Committee, the OCO and Ireland's Special Rapporteur on Child Protection,³⁸³ the State has not expressed any clear commitment to review the age of criminal responsibility. In this regard, we note that the State's report to the Committee states that this matter will continue to be kept under review.³⁸⁴ In our view, this is an unsatisfactorily vague and open-ended response.

Recommendation

The State should proceed with conducting a review of the age of criminal responsibility, in consultation with children and other key stakeholders, and having regard to the Committee's recommendation in 2016 that the State should set the age of criminal responsibility at 14 years.

J. Optional Protocol on the involvement of children in armed conflict

43. Accountability of actions of the Defence Forces

The OCO's statutory remit is limited to children living in Ireland and Ireland's Defence Forces are among the bodies that are excluded from our complaints remit.³⁸⁵ Therefore, the OCO has no authority to examine and investigate complaints about administrative actions taken by the Defence Forces in Ireland or outside this jurisdiction that may concern children. Our understanding is that neither the Ombudsman³⁸⁶ nor the Ombudsman for the Defence Forces³⁸⁷ have jurisdiction over such matters. At present, complaints concerning the Defence Forces may only be made by current and former members of the Defence Forces, and such complaints may only be made to the Ombudsman for the Defence Forces. Therefore, it appears that there is a forum gap in relation to this matter.

This lacuna was considered as part of a recently completed independent review of the Ombudsman for Children Act 2002 that the OCO commissioned. This review found that bringing the actions of the Defence Forces within the scope of complaints originating from members of the public that may be

³⁸³ C. O'Mahony (2021), [Annual Report of the Special Rapporteur on Child Protection](#), p. 12.

³⁸⁴ Department of Children, Equality, Disability, Integration and Youth (2022), [The combined fifth and sixth periodic reports submitted by Ireland under article 44 of the Convention pursuant to the simplified reporting procedure](#), para. 331.

³⁸⁵ As substituted by [Ombudsman \(Amendment\) Act 2012, s. 16, Schedule](#).

³⁸⁶ As with the Ombudsman for Children's Office, the Defence Forces exclusion also applies in respect of the Ombudsman.

³⁸⁷ Ombudsman for the Defence Forces, [About Us](#).

considered by the OCO or the Office of Ombudsman would constitute a significant departure from principles that have been enshrined in Irish law since the establishment of the Office of the Ombudsman in 1980.³⁸⁸

While no concerns regarding administrative actions of the Defence Forces concerning children in Ireland have been brought to the OCO's attention, we appreciate that the gap identified by the Committee in 2016 merits attention. However, we concur with the finding of the independent review of the 2002 Act that the OCO may not be the appropriate solution to address this lacuna.

Recommendation

The State should examine the need to establish an independent mechanism to deal with complaints relating to actions of the Defence Forces vis-à-vis children and publish a report detailing corresponding findings and recommendations.

³⁸⁸ Ombudsman for Children's Office (2022), *Review of the Ombudsman for Children Act 2002* (publication upcoming).

Annex

Abbreviations and Irish terms

AIM	Access and Inclusion Model
An Garda Síochána	Ireland's National Police and Security Service
AON	Assessment of need
BOBF	Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People, 2014-2020
CAMHS	Child and Adolescent Mental Health Services
CDNT	Child Disability Network Team
CRIA	Child Rights Impact Assessment
CRPD	UN Convention on the Rights of Persons with Disabilities
Dáil Éireann	Lower house of the Irish parliament
DCEDIY	Department of Children, Equality, Disability, Integration and Youth
DEIS	Delivering Equality of Opportunity in Schools
DSGBV	Domestic, Sexual and Gender Based Violence
ECCE	Early Childhood Care and Education
ELC	Early learning and care
EU	European Union
GAL	Guardian <i>ad litem</i>
GP	General Practitioner
HIQA	Health Information and Quality Authority
HSE	Health Service Executive
Hub na nÓg	Children and young people's participation hub
ICT	Information and communications technology
IPAS	International Protection Accommodation Service
Istanbul Convention	Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence
LGBTI+	Lesbian, gay, bisexual, transgender and intersex plus
LOIPR	List of Issues Prior to Reporting
NAPAR	National Action Plan Against Racism

NCS	National Childcare Scheme
NQSF	National Quality Standards Framework
NTRIS	National Traveller and Roma Inclusion Strategy 2017-2021
OCO	Ombudsman for Children's Office
OECD	Organization for Economic Co-operation and Development
Oireachtas	Irish parliament
OPSC	Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography
SAC	School age childcare
Seanad	Upper house of the Irish parliament
SEN	Special educational needs
SOP	Standard Operating Procedure
Taoiseach	Prime Minister
TPD	Temporary Protection Directive
Tusla	Child and Family Agency
UAM	Unaccompanied minor
UN	United Nations
UNICEF	United Nations International Children's Emergency Fund



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