

NGO Input on the List of Issues Prior to Reporting (LOIPR)

On the occasion of the fifth State Reporting Procedure on the Implementation of the UN Convention on the Rights of the Child in Ireland

1 July 2020



Founded in 1995, the Children's Rights Alliance unites over 100 members working together to make Ireland one of the best places in the world to be a child. We change the lives of all children in Ireland by making sure that their rights are respected and protected in our laws, policies and services. The material contained in this submission does not represent the views of all the members listed below.

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Ag Eisteacht

Alcohol Action Ireland

Amnesty International Ireland

An Cosán

ASH Ireland

AslAm

Assoc. for Criminal Justice Research and Development (ACJRD)

Association of Secondary Teachers Ireland (ASTI)

ATD Fourth World – Ireland Ltd

Atheist Ireland

Barnardos

Barretstown Camp

Bedford Row Family Project

BeLonG To Youth Services

Care Leavers' Network

Catholic Guides of Ireland

Child Care Law Reporting Project

Childhood Development Initiative

Children in Hospital Ireland

COPE Galway

Cork Life Centre

Crosscare

Cybersafe

Daughters of Charity Child and Family Service

Dental Health Foundation of Ireland

Department of Occupational Science and Occupational Therapy, UCC

Disability Federation of Ireland

Down Syndrome Ireland

Dublin Rape Crisis Centre

Dyspraxia/DCD Ireland

Early Childhood Ireland

Educate Together

EPIC

Extern Ireland

Focus Ireland

Foróige

Gaelscoileanna Teo

Good Shepherd Cork

Home-Start National Office

Immigrant Council of Ireland

Inclusion Ireland

Independent Hospitals Association of Ireland

Institute of Guidance Counsellors

Irish Aftercare Network

Irish Association for Infant Mental Health

Irish Association of Social Workers

Irish Centre for Human Rights, NUI Galway

Irish Congress of Trade Unions (ICTU)

Irish Council for Civil Liberties (ICCL)

Irish Foster Care Association

Irish Girl Guides

Irish Heart Foundation

Irish National Teachers Organisation (INTO)

Irish Penal Reform Trust

Irish Primary Principals Network

Irish Refugee Council

Irish Second Level Students' Union (ISSU)

Irish Society for the Prevention of Cruelty to Children

Irish Traveller Movement

Irish Youth Foundation (IYF)

Jack & Jill Children's Foundation

Jesuit Centre for Faith and Justice

Jigsaw

Kids' Own Publishing Partnership

Lifestart National Office

Mecpaths

Mental Health Reform

Mercy Law Resource Centre

Migrant Rights Centre Ireland

Mothers' Union

Mounttown Neighbourhood Youth and Family Project

Museum of Childhood Project

Music Generation

My Mind

National Childhood Network

National Parents Council Post Primary

National Parents Council Primary

National Youth Council of Ireland

Novas

One Family

One in Four

Parentstop

Pavee Point

Peter McVerry Trust

Rainbows Ireland

Rape Crisis Network Ireland (RCNI)

Realt Beag

Respond Housing

SAFE Ireland

Saoirse Housing Association

SAOL Beag Children's Centre

Scouting Ireland

School of Education UCD

Sexual Violence Centre Cork

Simon Communities of Ireland

Social Care Ireland

Society of St. Vincent de Paul

Sonas Domestic Violence Charity

Special Needs Parents Association

SPHE Network

SpunOut.ie

St. Nicholas Montessori College

St. Nicholas Montessori Teachers' Association

St. Patrick's Mental Health Services

Step by Step Child & Family Project

Suas Educational Development

Teachers' Union of Ireland

Terenure Rugby Football Club

The Ark, A Cultural Centre for Children

The Prevention and Early Intervention Network

The UNESCO Child and Family Research Centre, NUI Galway

Traveller Visibility Group Ltd

Treoir

UNICEF Ireland

Youngballymun

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Introduction

1. Ireland ratified without reservation the UN Convention on the Rights of the Child in 1992,¹ the Optional Protocol on the Involvement of Children in Armed Conflict in 2002² and the Optional Protocol on a Communications Procedure in 2014.³ Ireland has yet to ratify the Optional Protocol on The Sale of Children, Child Prostitution and Child Pornography. Ireland was examined by the UN Committee on the Rights of the Child under the Convention in 1998, 2006 and 2016.
2. Many children growing up in Ireland are experiencing a happy childhood where their rights are respected, protected and fulfilled. The Government has prioritised children with the appointment of a Minister for Children and Youth Affairs with full Cabinet status, an amendment to the Constitution of Ireland on children, and the establishment of a dedicated agency for children and families. However, despite these and other positive initiatives, some children continue to be marginalised within society and failed by inadequate/ overstretched services and supports.

Definition of a Child (art 1)

Age of Criminal Responsibility

3. The Criminal Justice Act 2006 raised the age of criminal responsibility in Ireland from seven to 12 years for most criminal offences, but also provided that, in the case of allegations of serious offences such as murder, manslaughter, rape or aggravated sexual assault, a child aged 10 and 11 years may be prosecuted.⁴ The Criminal Justice Act 2006 also repealed Article 52(2) of the Children Act 2001 which had provided for a rebuttable presumption that children between the ages of 12 and 14 years were incapable of committing an offence.⁵ In the 2006 Act the rebuttable presumption was replaced with a requirement that a child under 14 years may not be prosecuted without the consent of the Director of Public Prosecutions.⁶
4. In 2016 the Committee recommended that the State 'reinstate the provisions regarding the age of criminal responsibility as established in the Children Act 2001 at 14 years'.⁷ In its 2019 conclusions on Ireland, the European Committee on Social Rights found that Ireland is in violation of Article 17(1) of the European Social Charter on the ground that the age of criminal responsibility is too low.⁸
5. **Can the State party explain why it has not reduced the age of criminal responsibility in line with international human rights standards?**

¹ Office of the High Commissioner for Human Rights, *Ratification Status for CRC*, <https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CRC&Lang=en> accessed 2 June 2020.

² Office of the High Commissioner for Human Rights, *Ratification Status for CRC-OP-AC - Optional Protocol to the Convention on the Rights of the Child*, <<https://www.ohchr.org/en/professionalinterest/pages/opaccrc.aspx>> accessed 2 June 2020.

³ *ibid*.

⁴ Criminal Justice Act 2006 s129 as amended Children Act 2001 s52.

⁵ Children Act 2001, s52(2).

⁶ Criminal Justice Act 2006, s129 (4).

⁷ UN Committee on the Rights of the Child (2016) Concluding Observations Ireland, CRC/C/IRL/CO/3-4, para. 72.

⁸ European Committee of Social Rights, Conclusions 2019 on Ireland <<https://rm.coe.int/rapport-irl-en/16809cfbc0>> accessed 1 July 2020.

3 Children's Rights Alliance (2020) *NGO Submission on the List of Issues Prior to Reporting On the occasion of the fifth State Reporting Procedure on the Implementation of the UN Convention on the Rights of the Child in Ireland*

Consent to medical treatment

6. Despite the recommendation of the Committee in 2016 that Ireland ‘enact legislation that explicitly and comprehensively provides for children’s consent to and refusal of medical treatment’⁹ the law in Ireland does not expressly state when a child can consent to medical treatment without the agreement of their parents. However, by virtue of the Non-Fatal Offences Against the Person Act 1997,¹⁰ which applies in the context of a criminal law defence, the *de facto* position is that children aged 16 and over can consent to medical treatment without the agreement of their parents.¹¹ The Act is very limited in its scope – for example, it does not provide guidance on whether a child under 16 years can provide consent or whether a child aged 16 or 17 years can refuse medical treatment or social care interventions. Even when a child does consent at 16 or 17 to medical treatment confidentiality cannot be assured as their parents may have rights to access their medical records.¹²
7. The Mental Health Act 2001 sets the age of consent for mental health treatment at 18 years¹³ creating distinction between the age at which a child has capacity to consent to mental health treatment and physical health treatment. The lack of clarity in this area may hinder a child’s right to healthcare and to their ability to seek confidential advice. The legal vacuum also leaves the actions of health professionals who do not seek, or who ignore, parental consent open to legal challenge.
8. **Can the State party provide detailed information about measures taken and plans to introduce legislation that explicitly provides for children to consent to and refuse medical treatment that encompasses a clear recognition of children’s evolving capacities.**

General Principles (arts. 2, 3, 6 and 12)

Non – Discrimination

Habitual residence condition

9. The Habitual Residence Condition was introduced in 2005¹⁴ and restricts access to certain social welfare payments¹⁵ to those who can prove a close link to Ireland.¹⁶ This has resulted in certain children being denied access to the Child Benefit payment – a monthly universal cash payment and the State’s key mechanism to support children. This amounts to indirect discrimination against children as they are denied the payment due to their parents’ immigration status or migration history. The Habitual Residence Condition has a

⁹ UN Committee on the Rights of the Child (2016) Concluding Observations Ireland, CRC/C/IRL/CO/3-4, para. 54(a).

¹⁰ Non-Fatal Offences Against the Person Act 1997, s23 (1).

¹¹ HSE, National Consent Policy HSE V.1.3 2019 < <https://www.hse.ie/eng/about/who/qid/other-quality-improvement-programmes/consent/national-consent-policy-hse-v1-3-june-2019.pdf> > 53 accessed 4 June 2020.

¹² Freedom of Information Act, 1997 (Section 28(6)), Regulations 2009.

¹³ Mental Health Act 2001, s2.

¹⁴ Social Welfare (Consolidation) Act 2005 as amended, s246. The ‘habitual residence’ condition was reinforced in 2009 when s246 of the Social Welfare (Consolidation) Act 2005 was amended by s 15 of the Social Welfare and Pensions (No. 2) Act 2009 which introduced a ‘right to reside’ test. The amended legislation provides that a person who does not have a right to reside in the State shall not be regarded as being habitually resident in the State.

¹⁵ These include Child Benefit, Jobseeker’s Allowance, Disability Allowance and Carer’s Allowance. For a full list see, Citizen’s Information Board, Citizens Information, Residence requirements for social assistance in Ireland, <http://www.citizensinformation.ie/en/social_welfare/irish_social_welfare_system/social_assistance_payments/residency_requirements_for_social_assistance_in_ireland.html> accessed 5 June 2020.

¹⁶ The Social Welfare and Pensions Act 2007 sets out five criteria to determine habitual residence: 1) the length and continuity of living in the State or another country, 2) the length and reason for any absence from the State, 3) the nature and pattern of the person’s employment, 4) the person’s main centre of interest and 5) the future intentions of the person applying for the social welfare payment.

disproportionate impact on particular groups of children,¹⁷ including Traveller children,¹⁸ Roma children,¹⁹ undocumented children and asylum seeking child²⁰

10. Can the State party:

- a) provide up to date figures for the number of children affected by the Habitual Residence Condition**
- b) outline any plans to review the Habitual Residence Condition to assess its impact on vulnerable children and families**
- c) provide information on whether it has considered removing the Child Benefit payment from the ambit of the Habitual Residence Condition as its inclusion is inappropriate, given that it is intended to be a universal payment, access to which is not dependent on either social insurance contributions or means testing.**

Religious Discrimination in Education

11. Census 2016 highlights the increase in the number of people who identified as having no religion or a religion other than Catholic.²¹ In 2016, the Committee recommended Ireland, 'expeditiously undertake concrete measures to significantly increase the availability of nondenominational and multi-denominational schools'²² and amend the 'existing legislative framework to eliminate discrimination in school admissions, including the Equal Status Act'.²³

12. In July 2018, the Education (Admission to Schools) Act 2018 was signed into law. The Act amended the Equal Status Acts 2000–2015 to remove the provision that enabled recognised denominational schools to use religion as an eligibility criterion for admission. The Act also provides that children of minority religions are to be given priority in admission to the school of their faith in the event of that school being oversubscribed.²⁴ However due to the lack of multi or non – denominational schools, children whose parents are members of a minority religion, or not members of any religion continue to have little choice in the type of school to which they can send their children.²⁵ Despite the State engaging in a divestment and reconfiguration process, the majority of publicly funded schools in the Irish education system are denominational in nature.²⁶

¹⁷ Minister for Social Protection, Joan Burton TD, Social Welfare Benefits, [5458/11], Dáil Debates, 23 March 2011. Crosscare, Doras Luimni and Nasc (2012) Person or Number? Issues Faced by Immigrants Accessing Social Protection, Limerick: Crosscare, Doras Luimni and Nasc; Immigrant Council of Ireland (2014) ICI Response to FLAC Questionnaire for Shadow Report under the International Covenant on Economic, Social and Cultural Rights, Dublin: ICI; Barnardos (2014) Submission to Shadow Report for Ireland on the International Covenant on Economic, Social and Cultural Rights.

¹⁸ Pavee Point Irish Travellers and Roma Shadow Report: Response to Ireland's Third and Fourth Combined Report under the International Covenant on the Elimination of All Forms of Racial Discrimination (CERD), (Dublin 2011) 4; Pavee Point Position Paper: The Impact of the Habitual Residence Condition on Travellers and Roma (Dublin 2011); End Child Poverty Coalition Pre-Budget Submission 2015 (Dublin 2014).

¹⁹ Pavee Point, Roma Seminar Series, Theme Three, Roma and Education (Dublin 2014) 6.

²⁰ Department of Social Protection, Guidance for Deciding Officers on the Determination of Habitual Residence, <<http://www.welfare.ie/en/Pages/Habitual-Residence-Condition--Guidelines-for-Deciding-Offic.aspx#sect>>, section 5 and section 7, accessed 1 July 2020; S. Arnold, State Sanctioned Child Poverty and Exclusion: The Case of Children in Accommodation for Asylum- Seekers, (Dublin 2011)

²¹ People who have no religion represent 10 per cent of the general population there was a 28 per cent increase in the number of people identifying as Muslim and a 37 per cent increase in people identifying as Orthodox, each representing just over one per cent of the population and Central Statistics Office, 'Census 2016 – Chapter 8 'Census 2016 - Irish Travellers, Ethnicity and Religion', (Central Statistics Office 2017).

²² UNCRC 'Concluding Observations Ireland,' (2016) CRC/C/IRL/CO/3-4 para 64(a).

²³ *ibid.*

²⁴ Education (Admissions to Schools) Act 2018, s 11.

²⁵ M Darmody, E Smyth and E McCoy, School Sector Variation Among Primary Schools in Ireland (ESRI and Educate Together, 2012) 10.

²⁶ Per the Department of Education and Skills, *Statistical Bulletin Enrolments September 2019 – Preliminary Results* (DES 2019) Of the 3,106 mainstream primary schools in the 2019/20 academic year, 88.9 per cent have a Catholic ethos; 5.5 per cent have a Church of Ireland ethos; 0.8 per cent are categorised as having an ethos other than Catholic, Church of Ireland or multi-denominational, and 4.8 per cent have a multi-denominational ethos. Of the 723 post-primary schools in the country, 47.6 per cent have a Catholic ethos, 3 per cent have a Church of Ireland ethos; 0.7 per cent have an ethos other than Catholic, Church of Ireland or multi-denominational, and 48.7 per cent have a multi-denominational ethos. In total, at post-primary level, there are 352 schools with a multi-denominational ethos and one fee-paying, non-denominational school.

13. **Can the State party outline the reasons why the divestment and reconfiguration process has progressed slowly and provide a detailed plan and timeline of envisaged actions to increase parental choice in the type of school they can send their child to.**

Respect for the views of the Child

Family Law

14. Article 42A.4 of the Irish Constitution states that provision shall be made by law for the best interests of the child to be ‘the paramount consideration’ in child protection and care, adoption and family law proceedings, and for the views of the child to be ‘ascertained and given due weight’.²⁷ The Children and Family Relationships Act 2015 gives effect to Article 42A.4 in relation to private law proceedings providing that an expert can be appointed to determine and convey the child’s views to the Court.²⁸ The legislation requires that one or both of the parties must pay the fee of the expert appointed, as this will not be covered by the State.
15. In 2016, the Committee called on Ireland to ‘[t]ake measures to ensure the effective implementation of legislation recognising the right of the child to be heard in relevant legal proceedings, particularly family law proceedings...’ and to ensure that ‘there are provisions under the Children and Family Relationships Act 2015 for covering the cost of an expert to hear the child’s views in family law proceedings, guarantee that the views of the child are taken into account in all child care proceedings’.²⁹ The fact that parents, not the State, will have to cover the fee of the child views expert in family law proceedings means that the availability of this service to children will be dependent on their parents being able to afford, or being willing, to pay for the service and may give rise to situations where children will not have the opportunity to exercise their right to be heard.
16. **Can the State party provide detailed information on:**
- a) **the measures taken to ensure that every child has an equal opportunity to have their views heard in matters that affect them either directly or through a qualified expert irrespective of the ability of their parents to pay for an expert**
 - b) **whether it has considered adopting a common approach in the mechanisms used to hear the voice of the child in both public and private law proceedings to ensure that children can exercise their right equally regardless of the nature of the proceedings.**

Voting Age

17. The right to vote is restricted to those over the age of 18 years. In 2012, the Convention on the Constitution considered whether there should be a constitutional amendment to reduce the voting age.³⁰ A majority of the Convention voted in favour of lowering the voting age – 48 per cent of those were in favour of lowering the age to 16 years and 38 per cent were in favour of lowering it to 17 years. In spite of a commitment to hold a referendum on the issue, the Taoiseach (Prime Minister) confirmed that additional referenda will not go ahead in the

²⁷ Constitution of Ireland, Art 42A.4.

²⁸ Children and Family Relationships Act 2015, s 63 inserts Part V into the Guardianship of Infants Act 1964. This Part outlines the factors to consider in determining the best interests of the child and s 32(1)(b) provides for the appointment of an expert by the Court ‘to determine and convey the child’s views’. This provision was commenced in January 2016. Children and Family Relationships Act 2015 (Commencement of Certain Provisions) Order (SI No. 12/2016).

²⁹ UNCRC, ‘Concluding Observations: Ireland’ (2016) UN Doc CRC/C/IRL/CO/3-4 para 32(a) and (b).

³⁰ The Convention on the Constitution was established by Resolution of the Houses of the Oireachtas in July 2012. It was a forum of 100 people, representative of Irish society and parliamentarians from the island of Ireland, with an independent chairman. For more see <<https://www.constitution.ie/Convention.aspx>> accessed 1 July 2020.

lifetime of the last government.³¹ In 2016 the Committee recommended that the State 'consider implementing its plan to carry out a national referendum on lowering the voting age to 16 years in accordance with its previous commitment'³² which has not been progressed.

18. Can the State party outline measures envisaged to progress its commitment to hold a referendum to lower the voting age?

Civil Rights and Freedoms (arts. 7, 8 and 13-17)

Preservation of Identity

Gender Recognition

19. In 2015 the Irish Government passed the Gender Recognition Act which provides a process enabling Transgender people over the age of 18 to achieve full legal recognition of their preferred gender by self-declaration and allows for the acquisition of a new birth certificate that reflects this change.³³ Young people aged 16-17 can also apply to be legally recognised, though the process is more onerous³⁴ as they are required to obtain parental consent, two medical opinions and a court order, which can be a lengthy and cost-prohibitive process.³⁵ There is currently no method available to young people under the age of 16 to have their preferred gender recognised.

20. Can the State party outline its plans to:

- a) introduce legislation to provide a mechanism for children aged 16 and 17 to have their preferred gender more easily recognised in law
- b) to allow children under the age of 16 have their preferred gender recognised.

Violence Against Children (arts. 19, 24(3), 28(2), 34, 37(a) and 39)

Childhood and Domestic Violence

More than 2,572 children received support from a domestic abuse service in 2018.³⁶ Refugee services reported that in 2018 they were unable to provide accommodation for 3,256 requests as they were full. The average number of domestic abuse incidents reported per month between 2016 and 2018 was 1,753 with An Garda Síochána acknowledging that domestic abuse is often underreported³⁷ and there are no official statistics for the numbers of children affected by domestic abuse. Children who grow up in families affected by domestic violence and abuse have a higher risk of mental health difficulties throughout their lives,³⁸ increased risk of physical health

³¹ 5 National Youth Council of Ireland, 'No referendum on voting age Youth Council expresses disappointment but says campaign will go on' [press release], 15 January 2015 <<http://www.youth.ie/nyci/No-referendum-voting-age-Youth-Council-expresses-disappointment-says-campaign-will-go>> accessed 5 June 2020.

³² UN Committee on the Rights of the Child (20016) Concluding Observations Ireland, CRC/C/IRL/CO/3-4, para. 32(d).

³³ Transgender Equality Network Ireland, "Gender Recognition", <<https://www.teni.ie/gender-recognition/>> accessed 9 June 2020.

³⁴ Ibid.

³⁵ Sinead Keane, Gender Recognition Act Ignores Young People <<https://www.belongto.org/gender-recognition-act-ignores-young-people/>> accessed 9 July 2020

³⁶ Safe Ireland, Domestic Abuse Services National Statistics 2018 <https://www.safeireland.ie/policy-publications/#dfliip-df_7319/1/> accessed 3 June 2020.

³⁷ An Garda Síochána, Annual Report 2018 (2019) 46.

³⁸ Peltonen, K., Ellonen, N., Larsen, H.B. and Helweg-Larsen, K., 2010. Parental violence and adolescent mental health. *European Child & Adolescent Psychiatry*, 19(11) at 813-822.

difficulties,³⁹ risk of educational drop out and other educational challenges⁴⁰, risk of involvement in criminal behavior⁴¹ and interpersonal difficulties in their own future intimate relationships and friendships.⁴²

21. Can the State party outline actions taken and planned to:

- a) support reporting of domestic violence affecting children**
- b) ensure that children and families have access to adequate refuge accommodation.**

Online Sexual Abuse and Exploitation

22. There has been a significant increase in the number of new cases of online abuse and exploitation of children from 116 in 2016 to 392 in 2018. Cases involving distribution of child abuse material are taking up to 10 years for the State to complete, with the problem deteriorating in the last year.⁴³ These delays are caused by a number of factors including the number of devices which need to be seized, a lack of capacity in An Garda Síochána to deal with devices with sophisticated encryption,⁴⁴ delays in acting on tip-offs from foreign police and in sending seized devices to the bureau for examination.⁴⁵ Delays are reported at every stage in the process including taking victim statements, arresting or interviewing suspects and sending the file to the Office of the Director of Public Prosecutions.⁴⁶

23. The Online Child Exploitation Unit has responsibility for monitoring the enforcement of the provisions of the Child Trafficking and Pornography Act, 1998. It is the single point of contact for An Garda Síochána for referrals in connection with online child abuse material. It is critical that this unit is both adequately staffed as well as being promoted amongst other members of the force as well as the general public.

24. Can the State party provide detailed information on:

- (a) any measures planned to review the resources required by the Gardaí to investigate crimes involving images of child sex abuse**
- (b) actions taken to adequately resource the Gardaí to investigate crimes involving images of child sex abuse**
- (c) any actions taken or planned to roll out the one-stop-shop model for investigating allegations of child sexual abuse whereby the Gardaí, child protection social workers and child psychologists would interview children collectively rather than subjecting children to multiple interviews.**

³⁹ Bair-Merritt, M.H., Blackstone, M. and Feudtner, C., 2006. Physical health outcomes of childhood exposure to intimate partner violence: a systematic review. *Pediatrics*, 117(2), e278-e290.

⁴⁰ Willis, D., Hawkins, J.W., Pearce, C.W., Phalen, J., Keet, M. and Singer, C., 2010. Children who witness violence: What services do they need to heal? *Issues in mental health nursing*, 31(9), 552-560.

⁴¹ Gilbert, R., Kemp, A., Thoburn, J., Sidebotham, P., Radford, L., Glaser, D. and MacMillan, H.L., 2009. Recognising and responding to child maltreatment. *The Lancet*, 373(9658), 167-180.

⁴² Siegel, J.P., 2013. Breaking the links in intergenerational violence: An emotional regulation perspective. *Family process*, 52(2), 163-178.

⁴³ Conor Gallagher, *Delays to child porn inquiries put abused at further risk, Cases taking up to 10 years as technological and data issues impede prosecutions*, Irish Times, 7th January 2020 <<https://www.irishtimes.com/news/crime-and-law/delays-to-child-porn-inquiries-put-abused-at-further-risk-1.4132063>> accessed on 5 June 2020.

⁴⁴ Conor Gallagher, *Backlogs a dangerous flaw in child porn and abuse inquiries Resource and Data leave perpetrator at large – and child vulnerable to further abuse*, The Irish Times 7th January 2020 <<https://www.irishtimes.com/news/crime-and-law/backlogs-a-dangerous-flaw-in-child-porn-and-abuse-inquiries-1.4132041>> accessed on 5 June 2020.

⁴⁵ *ibid* at 9 “A report from the Garda Inspectorate, published in February 2018, stated it could take up to a year for gardaí to act on tip-offs received from the force’s child exploitation intelligence unit.”

⁴⁶ Report of the Garda Síochána Inspectorate, Responding to Child Sexual Abuse, A Follow Up Review from the Garda Inspectorate (Garda Inspectorate, December 2017).

Family Environment and Alternative Care (arts. 5, 9-11, 18(1) and (2), 20, 21, 25, 27(4))

Family Law Proceedings

25. There is no separate or specialist Family Court in Ireland, cases are heard by generalist judges and significant delays exist. In 2016, the Committee recommended that the State 'encourage and provide sufficient resources for the training of judges for family law cases involving children and ensure that such cases are prioritised in the court system'.⁴⁷
26. **Can the State party provide detailed information on what measures have been taken to establish a separated and specialist Family Court.**

Secure Care

27. Children with behavioural and emotional difficulties are routinely sent out of the jurisdiction under court order in order to receive appropriate care. In 2016, the Committee recommended that the State '[p]rioritise the development of its special care services to ensure that the needs of such children are addressed, that this takes place within the territory of the State party'. At the end of 2018 there were 20 children receiving specialist care out of the State.⁴⁸
28. **Can the State party provide detailed information on:**
- (a) the measures taken to end the practice of sending children with behavioural and emotional difficulties out of the jurisdiction to access secure care
 - (b) the length of time children and young people spend in secure care and what supports and oversight are provided to ensure that the length of time is the 3 months as legislated for
 - (c) outline cases where children requiring secure care have not been provided with it
 - (d) whether a step-down placement is provided to support children and young people moving from Special Care to help with their transition.

Children in Alternative Care with Additional Needs

29. Many children in alternative care have disabilities or mental health needs. In 2016, the Committee recommended that the State 'should establish appropriate coordination mechanisms to ensure effective interagency cooperation' between the Child and Family Agency and the Health Service Executive.
30. **Can the State party outline actions that have been taken to ensure an integrated approach to the provision of supports and services to children in alternative care that have disabilities or mental health needs.**

⁴⁷ UNCRC, 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/ para 42.

⁴⁸ Tusla, Quarterly Service Performance and Activity Report Quarter 4 2019
<https://www.tusla.ie/uploads/content/Q4_2019_Service_Performance_and_Activity_Report_V2.pdf> 36 accessed 1 July 2020.

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Children in the care of the State

31. There are currently 5,971 of children in the care of the State in Ireland.⁴⁹ Of this, just under seven per cent are in residential care, 65 per cent in general foster care and 26 per cent in relative foster care.⁵⁰ In 2016 the Committee recommended that State 'ensure the effective implementation of individual needs assessments and care planning and record keeping for children in alternative care'⁵¹ and 'adequately prepare and support young people prior to their leaving care by providing for their early involvement in the planning of transition as well as by making assistance available to them following their departure'.⁵² Currently aftercare is provided to a care leaver until the age of 21.⁵³
32. In a 2020 report the Health Information and Quality Authority (HIQA) found that in some areas of the country there are high number of children in care without a social worker who were not receiving a good quality service.⁵⁴ In January 2020 seven percent of all children in care did not have a social worker⁵⁵ and in March 2020, 6 per cent of children did not have an up-to-date care plan.⁵⁶
33. **Can the State party provide detailed information on:**
- (a) steps that have been taken to ensure that all children in the care of the State are allocated a social worker and outline the reasons why some children do not have an allocated social worker.**
 - (b) the number of young people leaving state care that have been allocated an aftercare worker**
 - (c) steps that have been taken to track outcomes for young people leaving care**
 - (d) steps taken to ensure that the immigration status of migrant children in care is addressed appropriately in care and aftercare plans**
 - (e) whether civil legal aid is provided to ensure access to legal assistance during family reunification applications involving minors granted international protection status**
 - (f) systems that are in place to ensure the gathering and disaggregation of data regarding Roma & other ethnic minority children in care**
 - (g) whether there are any plans to extend aftercare to the age of 26 to ensure a better start in life for all care-leavers**
 - (h) plans to commence the longitudinal study on young people leaving care.**

⁴⁹ Tusla National Performance and Activity Dashboard January 2020

<[tusla.ie/uploads/content/National_Performance_and_Activity_Dashboard_January_2020.pdf](https://www.tusla.ie/uploads/content/National_Performance_and_Activity_Dashboard_January_2020.pdf)> accessed 7 June 2020.

⁵⁰ *ibid.*

⁵¹ UNCRC 'Concluding Observations Ireland,' (2016) CRC/C/IRL/CO/3-4 para 44(a).

⁵² *ibid.*, para 44(d).

⁵³ Where a child leaves the care of the Child and Family Agency, they may, in accordance with *subsection (2)*, assist him for so long as they are satisfied as to his need for assistance and, subject to *paragraph (b)*, he has not attained the age of 21 years." *Child Care Act 1991*, s45(a)(1).

⁵⁴ HIQA, HIQA publishes overview of its monitoring and inspecting of Ireland's children's services during 2019 <<https://www.hiqa.ie/hiqa-news-updates/hiqa-publishes-overview-its-monitoring-and-inspecting-irelands-childrens-services>> accessed 7 June 2020.

⁵⁵ Tusla National Performance and Activity Dashboard January 2020 <[tusla.ie/uploads/content/National_Performance_and_Activity_Dashboard_January_2020.pdf](https://www.tusla.ie/uploads/content/National_Performance_and_Activity_Dashboard_January_2020.pdf)> accessed 7 June 2020.

⁵⁶ Tusla, Monthly Service Performance and Activity Report March 2020 <https://www.tusla.ie/uploads/content/Monthly_Service_Performance_and_Activity_Report_March_2020_Final_for_web.pdf> accessed: 17 June 2020.

Disability, Basic Health and Welfare (arts. 6, 18(3), 23, 24, 26, 27(1)-(3) and 33)

Children with Disabilities

34. In 2016, the Committee recommended that the State should ‘adopt a human rights-based approach to disability’⁵⁷ and take action to ‘train and employ a sufficient number of specialized teachers and professionals in order to provide special needs education support’ and to establish ‘a clear and objective framework to ensure that children with disabilities are provided with reasonable accommodation for their education needs’.⁵⁸ Ireland ratified the UN Convention on the Rights of Persons with Disabilities on 20 March 2018⁵⁹ which is a welcome step.
35. The vast majority of students with special educational needs attend mainstream schools with additional supports.⁶⁰ The number of children in special classes in mainstream primary schools increased substantially between 2014 and 2018, rising from 3,816 to 6,229 (an increase of 63 per cent). At post-primary level, the numbers increased by 772 between 2014 and 2017 (figures for 2018 not provided), rising from 1,042 to 1,814 (an increase of 74 per cent).⁶¹ However, some special schools are oversubscribed and there are hundreds of children on waiting lists for special classes in mainstream schools; in many cases, the only place that parents can find may be far outside the local school-catchment area.⁶² A significant number of children are being educated at home with the support of home tuition grants because a school place has not been available⁶³ meaning they are missing out on the key social development elements of being in an educational setting.
36. **Can the State party outline measures taken and envisaged to ensure that all children with disabilities have access to appropriate school places.**

Mental Health

37. In 2016, the Committee called on the State to improve its mental healthcare services for children and adolescents, particularly in the areas of ‘inpatient treatment, out-of-hours facilities and facilities for treating eating disorders’.⁶⁴ Child and Adolescent Mental Health Services (CAMHS) is a specialist clinical service that provides assessment and treatment to children and young people up to the age of 18 who are experiencing mental health difficulties.⁶⁵ In September 2019 there were 1,876 children waiting for a first appointment with CAMHS.⁶⁶ Staff shortages and recruitment difficulties remain an issue despite a ‘significant number’ of staff having been recruited.⁶⁷ Of the children requiring inpatient mental healthcare between January and September 2019, 85 per cent were admitted to child and adolescent

⁵⁷ibid para 48 (a).

⁵⁸ibid para 48.

⁵⁹UN Convention on the Rights of Persons with Disabilities A/RES/61/106 (3 May 2008).

⁶⁰Department of Education and Skills, *Review of the Pilot of a New Model for Allocating Teaching Resources to Mainstream Schools to Support Pupils with Special Educational Needs* (DES 2016) 1.

⁶¹DES *Education Indicators for Ireland* (DES 2019) 19 <<https://bit.ly/2Sc5tpQ>> accessed 21 January 2020.

⁶²Dail Debate, Special Educational Needs: Motion [Private Members], 9 July 2019; AslAm, *Invisible Children: Survey of School Absence and Withdrawal in Ireland’s Autism Community* (AslAm 2019); Carl O’Brien, ‘Over 500 children with special needs are without school places’, *The Irish Times*, 16 December 2019.

⁶³Carl O’Brien, ‘Over 500 children with special needs are without school places’, *The Irish Times*, 16 December 2019.

⁶⁴UNCRC, ‘Concluding Observations: Ireland’ (2016) UN Doc CRC/C/IRL/CO/3-4, para 53 (b).

⁶⁵Communication received by the Children’s Rights Alliance from the HSE Mental Health Services, 4 December 2018.

⁶⁶Communication received by the Children’s Rights Alliance from HSE Mental Health Services, 30 January 2020.

⁶⁷Communication received by the Children’s Rights Alliance from the Department of Health, 22 November 2019.

inpatient units, an increase of 15 per cent on the same period in 2018.⁶⁸ Thirty-five children were admitted to adult units.⁶⁹

38. Many mental health services across Ireland are only open Monday-Friday, 9am to 5pm. Currently, the majority of children and young people can only access out-of-hours mental health treatment through hospital emergency departments as most CAMHS do not offer this support. Young service users have highlighted difficulties in accessing CAMHS including long waiting times and differences in availability and consistency of services across the country.⁷⁰ In 2019 the Health Service Executive Service Plan included a commitment to develop a seven day per week CAMHS service however this commitment remains unfulfilled.
39. The age of consent for mental health treatment for children and young people is 18.⁷¹ The Mental Health Act 2001 allows for children to be detained in an inpatient mental health unit for treatment on the consent of their parents alone. When a parent does not consent the HSE can bring proceedings before the District Court for the involuntary detention of the child.⁷² The child themselves does not have access under the Act to an independent review of their detention in the same manner an adult does under the Act.
40. **Can the State party:**
- a) **provide detailed information on actions taken to reduce the length of time children and young people have to wait for an appointment from the Child and Adolescent Mental Health Services**
 - b) **outline how it intends to stop the admission of children to adult in-patient units**
 - c) **provide detailed information and timelines on how it will progress 24-hour mental health treatment for children and young people**
 - d) **consider conducting an independent review of the Mental Health Act to ensure its compliance with children's rights under the Convention.**

Alcohol

41. *Growing Up In Ireland* studies found that 89 per cent of 17 and 18 year olds drink alcohol, while 15 percent of 13 year olds drink alcohol.⁷³ On average children are 15.9 years when they have their first drink. Over three quarters of young people aged between 13 and 17 have previously reported exposure to online marketing.⁷⁴ Pre-natal exposure to alcohol can leave children compromised from a neurobiological perspective, resulting in problems carried with them throughout their lives. Ireland is estimated to have the third highest prevalence of Foetal Alcohol Spectrum Disorder (FASD) in the world.⁷⁵
42. In October 2018, the Public Health (Alcohol) Act was passed into law. The Act restricts alcohol advertising at events where children are present and at places frequented by children including public transport, sports events or in grounds where the majority of competitors or participants are children. It also prohibits alcohol advertising targeted at children.⁷⁶ Other positive measures include the introduction of minimum unit pricing;⁷⁷ mandatory health warnings on

⁶⁸ Communication received by the Children's Rights Alliance from HSE Mental Health Services, 30 January 2020.

⁶⁹ *ibid.*

⁷⁰ Ombudsman for Children, *Take My Hand: Young People's Experiences of Mental Health Services* (OCO 2018) 40.

⁷¹ Mental Health Act 2001, s2.

⁷² Mental Health Act 2001, s25.

⁷³ *Growing up In Ireland*, Key Findings: Cohort '98 at 20 years old in 2018/19, No. 2 Physical Health <<https://bit.ly/20IjMAj>> accessed 5 June 2020.

⁷⁴ Alcohol Action Ireland and the Health Promotion Research Centre NUI Galway, *Alcohol marketing and young people's drinking behaviour in Ireland* (Alcohol Action Ireland 2015) 4.

⁷⁵ Global Prevalence of Fetal Alcohol Spectrum Disorder Among Children and Youth A Systematic Review and Meta-analysis, available <https://alcoholireland.ie/download/publications/jamapediatrics_Lange_2017_oi_170049.pdf> accessed 26 June 2020.

⁷⁶ Public Health Alcohol Act 2018, section 17 to 19.

⁷⁷ *ibid* s 11.

advertising;⁷⁸ a prohibition on price-based promotions; mandatory health warnings on labels and structural separation.⁷⁹ In November 2019, three sections of the Act came into operation including a prohibition on alcohol advertising in or on public service vehicles, at public transport stops or stations and within 200 metres of a school, early years centre or a local authority playground.⁸⁰ A prohibition on alcohol advertising in a cinema except around films with an 18 classification or in a licensed premises in a cinema and a prohibition on children's clothing which promotes alcohol were also introduced.⁸¹ However, the control of minimum unit pricing,⁸² the content of advertising⁸³ and the introduction of a broadcast watershed for advertising⁸⁴ have yet to be commenced. Given that the proposed legislative amendments to limit this type of marketing simpliciter were not passed,⁸⁵ these sections are more vital than ever to assuage concerns that the legislation does not address the issue of alcohol sports sponsorship more generally. Young people can be exposed to alcohol marketing which encourages, normalises and glamorises alcohol consumption.⁸⁶ There remains a need to address the digital marketing of alcohol to children and young people⁸⁷ and the failure of government to progress the commencement of these sections undermines the impact of the Public Health Alcohol Act.

43. Will the State party:

- a) **provide a detailed timeline for when the remaining sections of the Public Health (Alcohol) Act 2018 will be enacted**
- b) **outline measures being taken to address the digital marketing of alcohol to children and young people**
- c) **consider the development of a national strategy around the prevention of Foetal Alcohol Spectrum Disorder.**

Child Poverty

44. Efforts have been made to tackle child poverty with the 'consistent poverty' rate for children falling from 10.9 per cent in 2016 to 7.7 per cent in 2018, and the 'at risk of poverty' rate declining from 19.1 per cent to 15.9 per cent.⁸⁸ Despite these reductions, over 200,000 children are in households at risk of poverty, and among these children more than 100,000 are in consistent poverty⁸⁹ with 'consistent poverty' rates highest among one parent households.⁹⁰ In 2016 the Committee recommended the State 'ensure that the revisions of its poverty reduction targets for 2020 takes into account increases in the number of children living in consistent poverty and put in place a detailed Action Plan to ensure that targets are met within a specified

⁷⁸ *ibid* s13.

⁷⁹ *ibid* s 11.

⁸⁰ Communication received by the Children's Rights Alliance by the Department of Health, 10 December 2019.

⁸¹ *ibid*.

⁸² Public Health (Alcohol) Act 2018 s 11.

⁸³ *ibid* s 13.

⁸⁴ *ibid* s 14.

⁸⁵ Ailbhe Conneely, 'Sinn Féin Amendment to Public Alcohol Bill Opposed by Government' (RTE, 26 September 2018) <<https://bit.ly/2vETOCj>> accessed 3 February 2020.

⁸⁶ Alcohol Action Ireland and the Health Promotion Research Centre NUI Galway, *Alcohol marketing and young people's drinking behaviour in Ireland* (Alcohol Action Ireland 2015) 2.

⁸⁷ Seventy-seven per cent of children aged 13 to 17 have reported exposure to online marketing. Alcohol Action Ireland and the Health Promotion Research Centre NUI Galway, *Alcohol marketing and young people's drinking behaviour in Ireland* (Alcohol Action Ireland 2015) 4.

⁸⁸ Central Statistics Office, *Survey on Income and Living Conditions (SILC) 2018 Results* (CSO 2019), Table 3.1: 'At Risk of Poverty, Deprivation and Consistent Poverty Rates by Year' <<https://bit.ly/37RuM6w>> and Central Statistics Office, *Survey on Income and Living Conditions (SILC) 2017 Results* (CSO 2018), Table 3.1: 'At Risk of Poverty, Deprivation and Consistent Poverty Rates by Year' <<https://bit.ly/2wbglcA>> accessed 26 June 2020.

⁸⁹ Social Justice Ireland, *Poverty Focus 2019* (SJI April 2019) 3; Social Justice Ireland, 'More than 689,000 living in poverty in Ireland, over 200,000 are children', 28 November 2019 <<https://bit.ly/2Hio0dS>> accessed 10 February 2020.

⁹⁰ Households where there was one adult and one or more children aged under 18 had the highest consistent poverty rate at 19.2 per cent. Central Statistics Office, *Survey on Income and Living Conditions (SILC) 2017 Results* (CSO 2018), Table 3.1: 'At Risk of Poverty, Deprivation and Consistent Poverty Rates by Year' <<https://bit.ly/2wbglcA>> accessed 26 June 2020.

time frame.⁹¹ The recently published *Roadmap for Social Inclusion* includes a commitment to set a new target for reducing consistent child poverty.⁹²

45. Just over one in ten households with children in Ireland experience food poverty.⁹³ This means that almost 80,000 households with children under 18 years⁹⁴ cannot afford a meal with meat or vegetarian equivalent every other day; are unable to afford a weekly roast dinner; or miss one substantial meal.⁹⁵ Parents on the minimum wage have to spend almost a quarter of their income on food, and almost a third if they are dependent on social welfare payments.⁹⁶ Low-income households can often only afford cheap, concentrated energy from foods full of fat, salt and sugar rather than healthier, more expensive foods such as wholegrains, fish, vegetables and fruit.⁹⁷ *Growing Up in Ireland* – the national study on children – has found that where you live determines where you shop. More economically advantaged households do not have as far to travel for food shopping.⁹⁸ In Ireland, by age three, children from lower socio-economic backgrounds are more likely to have consumed energy-dense food like hamburgers and crisps, but less likely to have eaten fresh fruit or vegetables.⁹⁹

46. **Can the State party:**

- a) **provide detail on plans to provide low -cost/free childcare to low income families**
- b) **outline how many new childcare places will be created to support parents on low income to engage in further training and supports**
- c) **provide information on what plans the State has to provide a coordinated approach to dealing with food poverty in Ireland**
- d) **outline what areas that the state's national child poverty strategy will cover.**

Homelessness

47. In April 2020 there were 3,073 children are living in unsuitable emergency accommodation, including B&Bs and hotels.¹⁰⁰ From 2014 to 2020, children under 18 experienced the steepest rise in homelessness of any age group and the number of homeless families has increased over 300 per cent since July 2014.¹⁰¹ One parent families represent 57 per cent of families who are reported as homeless.¹⁰² The official statistics do not include families that are homeless but are accommodated in own-door accommodation or transitional housing. Neither do they include women and children in domestic violence refuges, asylum seekers living in emergency accommodation, or people who have been granted asylum or some other form of protection but cannot find accommodation outside the direct provision system.¹⁰³

⁹¹ UNCRC, 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4, para 49.

⁹² Government of Ireland (2020), *Roadmap for Social Inclusion 2020 – 2025, Ambition, Goals, Commitments* <<https://www.gov.ie/pdf/?file=https://assets.gov.ie/46557/bf7011904ede4562b925f98b15c4f1b5.pdf#page=1>> 53 accessed 1 July 2020.

⁹³ Department of Employment Affairs & Social Protection, *Social Inclusion Monitor 2016*. Dublin; 2018.

⁹⁴ Calculated using Central Statistics Office, *Census 2016 Profile 4 – Households and Families* (2017 CSO).

⁹⁵ Department of Employment Affairs and Social Protection, *Social Inclusion Monitor 2016*, <https://www.welfare.ie/en/downloads/SIM2016.pdf> (accessed 7 June 2020).

⁹⁶ *ibid.*

⁹⁷ Adam Drewnowski, *The Real Contribution of Added Sugars and Fats to Obesity*, *Epidemiologic Reviews*, Volume 29, Issue 1, January 2007, Pages 160–171.

⁹⁸ Richard Layte and Cathal McCrory, *Growing Up In Ireland Overweight And Obesity Among 9-Year-Olds* (DCYA 2011) 33.

⁹⁹ James Williams, Aisling Murray, Cathal McCrory, Sinéad McNally, *Growing Up in Ireland - Development From Birth To Three Years* (Department of Children and Youth Affairs 2013) 37.

¹⁰⁰ Department of Housing, Planning and Local Government, 'Homelessness Report April 2020'

<https://www.housing.gov.ie/sites/default/files/publications/files/homeless_report_-_april_2020.pdf> accessed 7 June 2020.

¹⁰¹ Focus Ireland, 'Latest Figures on Homelessness on Ireland' <<https://www.focusireland.ie/resource-hub/latest-figures-homelessness-ireland/>> accessed 7 June 2020.

¹⁰² *ibid.*

¹⁰³ Focus Ireland, 'Latest figures on homelessness in Ireland' <<https://bit.ly/35TAB1f>> accessed 7 June 2020; Colette Bennett 'Rebuilding Ireland for Everyone: A review of the government's housing strategy for young and old' in Brigid Reynolds and Sean Healy (eds) *The Challenges of Success: Addressing population growth in Ireland* (Social Justice Ireland 2019).

48. In 2016, the Committee said that children, as a priority group, must be ‘accorded full and sustainable access to adequate housing resources’¹⁰⁴ and called on the State to undertake measures to increase the availability of social housing and emergency housing support.¹⁰⁵ Despite the commencement of legislation to protect tenants in January 2017¹⁰⁶ and May 2019,¹⁰⁷ high rents, lack of security of tenure and overall lack of housing supply, particularly of properties falling within stated rent limits for the purposes of Rent Supplement or the Housing Assistance Payment,¹⁰⁸ have fuelled the housing crisis.
49. In July 2017, the roll-out of family supported accommodation facilities or ‘family hubs’¹⁰⁹ began as a way of transitioning families out of unsuitable emergency hotel and B&B accommodation and of providing ‘a greater level of stability than is possible in hotel accommodation’.¹¹⁰ Nationally, there are now 32 family hubs in operation, providing almost 720 units of accommodation for homeless families.¹¹¹ A consultative study on family hubs, carried out by the Ombudsman for Children’s Office in 2019, showed that while some parents living in hubs identified a number of positive features of this form of accommodation (for example, the stability and facilities, including cooking facilities, that they provided, as well as the support of staff) they also described very challenging living situations. Participants pointed out that the rules of the hub, noise levels, living in close proximity to strangers and the lack of space and privacy impacted on normal parenting routines and practices.¹¹² Children who participated in the consultation expressed feelings of shame, sadness, anger, embarrassment, confusion, frustration and worry as well as a sense of injustice at being homeless while other people have a secure home.¹¹³ The lack of space and privacy was particularly difficult for teenagers having to share a room with parents and younger siblings.¹¹⁴
50. **Can the State party:**
- a) **outline how it intends to ensure the systematic collection of data that encapsulates the full number of people who are homeless including those in domestic violence refuges**
 - b) **outline any measures being taken to develop a dedicated child and family homelessness strategy that prioritises families with children’s access to sustainable and permanent accommodation**
 - c) **provide detailed information of actions being taken, including their effectiveness, to prevent more families with children entering homelessness**
 - d) **outline how it will ensure that all families are in secure, permanent accommodation**
 - e) **outline any plans introduce legislation allowing for a referendum on whether or not to include a right to housing into the Constitution.**

¹⁰⁴ UN Committee on Economic, Social and Cultural Rights ‘General Comment No. 4 on the Right to Adequate Housing (Art 11(1) of the Covenant)’ 1991 UN Doc E/1992/23 para 8(e).

¹⁰⁵ UNCRC, ‘Concluding Observations: Ireland’ (2016) UN Doc CRC/C/IRL/CO/3-4 para 62.

¹⁰⁶ Planning and Development (Housing) and Residential Tenancies Act 2016.

¹⁰⁷ Residential Tenancies (Amendment) Act 2019.

¹⁰⁸ Simon Communities in Ireland, *Locked Out of the Market XVI: The Gap between Rent Supplement/HAP Limits and Market Rents*, Snapshot Study December 2019 (Simon Communities in Ireland 2020) <<https://bit.ly/31Ujxzz>> accessed 7 June 2020.

¹⁰⁹ Olivia Kelly, ‘Family hub centres to open at 19 sites in Dublin’, *The Irish Times*, 25 July 2017.

¹¹⁰ *Rebuilding Ireland, Action Plan for Housing and Homelessness: Third Quarterly Progress Report* (DHPLB 2017).

¹¹¹ Communication received by the Children’s Rights Alliance from the DHPLG, 30 January 2020.

¹¹² Ombudsman for Children’s Office, *No Place Like Home: Children’s Views and Experiences of Living in Family Hubs* (Ombudsman for Children’s Office 2019).

¹¹³ *ibid.*

¹¹⁴ *ibid.*

Education, Welfare and Cultural Activities (arts. 28-31)

Reduced hours in school

51. Children in both primary and secondary schools are being put on reduced hours in school. The practice is distinct from a formal suspension and is not subject to any safeguards. There is currently no formal system for recording reduced hours in the education system despite the fact that it is an interference with the constitutional right to access education. However, a new national school study has revealed that approximately 27 per cent of schools reported children being placed on reduced hours.¹¹⁵ This practice is occurring for complex reasons and has become more widespread with the mainstreaming of children with disabilities and the slashing of school supports during the recession, including psychological services. It is common practice to reduce a child's hours in school in response to learning difficulties, behavioural or social/emotional issues. However, it is also used to help with the integration or reintegration of children into school life depending on their needs. At the same time, what is most of concern is that children can be placed on reduced hours for extensive periods of time even from the age of 5 years.¹¹⁶
52. The Department of Children and Youth Affairs and the Department of Education have developed draft guidelines to underpin the practice and to require schools to notify Tusla (the Child and Family Agency) when it has been employed. However, those guidelines have not been published and it is unclear what else they will cover.
53. **Can the State party:**
- a) **explain under what statute schools are permitted to place children on reduced hours**
 - b) **provide clarity on what evidence-based reasons are needed to place children on a reduced timetable**
 - c) **outline what measures schools are required to put in place before resorting to reduced timetables**
 - d) **outline what steps that have been taken to support teachers and schools in dealing with challenging behaviour**
 - e) **outline any plans and timelines to introduce legislation to provide that reduced timetables are only used in specific limited circumstances, where they are in the best interests of the child and their use is closely monitored**
 - f) **provide information on when will the Government publish its draft policy on supporting Alternative Schools to provide children with a choice in education systems.**

¹¹⁵ Children's School Lives, 'The national longitudinal mixed methods cohort study of primary schooling in Ireland', UCD School of Education, UCD (Dublin 2020).

¹¹⁶ Inclusion Ireland, *Education, behaviour and exclusion: The experience and impact of short school days on children with disabilities and their families in the Republic of Ireland* < <http://www.inclusionireland.ie/content/media/1779/one-four-children-disabilities-suspended-short-school-days-new-research-shows> > accessed 26 June 2020.

Special Protection Measures (arts. 22, 30, 32, 33, 35, 36, 37(b)-(d) and 38-40)

Children in Situations of Migration

Undocumented Children

54. In 2016 the Committee recommended the introduction of a comprehensive legal framework that includes a 'clear and accessible formal procedures for conferring immigration status on children and their families who are in irregular migration situations'.¹¹⁷ The State has not taken any action to implement this recommendation. In a survey carried out by the Migrants Rights Centre Ireland it was found that 68 per cent of undocumented children were born inside of Ireland and of these children 58 per cent are over five years old and 20 per cent are over 10 years old. Of the 32 per cent born outside of Ireland 78 per cent of these children and young people have lived in Ireland for over five years, with some living in Ireland for more than 16 years.¹¹⁸

55. **Can the State party:**

- **provide information on any research carried out and provide any data on the number of children living in Ireland undocumented**
- **provide information on how it proposes to support this cohort of children and young people**
- **outline any plans to develop an inclusive plan that incorporates both a retrospective and prospective angle to ensure that undocumented children are given the full support of the State in accessing safe and legal pathways to residency.**

Asylum Seeking and Refugee Children

56. In 2016 the Committee called on the State to bring its 'asylum policy, procedures and practices into line with its international obligations' and ensure asylum seeking and refugee children have the 'same standards and access to support services as Irish children'.¹¹⁹ Direct provision is a system of accommodation provided by the State to people seeking asylum in Ireland. It provides room and board within former hotels, hostels or other large buildings. In 2019, there were 39 Direct Provision accommodation centres nationwide.¹²⁰ Of the 6,750 people in Direct Provision at end October 2019.¹²¹ At any given time approximately 2,000 residents are children.¹²² The position deteriorated in 2019, at the end of October as 1,433 asylum seekers were living in emergency accommodation, primarily in hotels.¹²³

¹¹⁷ UNCRC, 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4, para 68(b).

¹¹⁸ Migrant Rights Centre Ireland, Growing up Undocumented in Ireland <<https://www.mrci.ie/2020/01/21/yp2018/>> accessed 7 June 2020.

¹¹⁹ UNCRC 'Concluding Observations: Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4 para 66

¹²⁰ Committee of Public Accounts, *Periodic Report No. 7 April 2019 – July 2019* (Houses of the Oireachtas 2019).

¹²¹ *ibid* 18.

¹²² Joint Committee on Justice and Equality, *Report on Direct Provision and the International Protection Application Process* (House of the Oireachtas 2019) 37.

¹²³ Committee of Public Accounts, Houses of the Oireachtas, *Periodic Report No. 7 April 2019 – July 2019* (2019) 18.

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57. Both the Ombudsman,¹²⁴ the Ombudsman for Children¹²⁵ and Professor Geoffrey Shannon, Special Rapporteur on the Protection of Children¹²⁶ have stated that the current system of Direct Provision accommodation is not appropriate for children as a long term accommodation option. Despite this some children and families are still being accommodated in institutionalised settings.
58. The *National Standards for accommodation offered to people in the protection process* were introduced in 2019 and aim to improve the quality of care and accommodation provided to children and families living in Direct Provision centres.¹²⁷ However, for the National Standards to have a real impact on families and children living in Direct Provision they must be accompanied by a robust, independent monitoring and inspection system. Without this, the Standards will lack the necessary oversight to achieve meaningful change. The combination of Standards and independent inspections will ensure that life improves for asylum seeking children across every Direct Provision centre as there will be a consistent level and quality of care.
59. **Can the State party outline:**
- what actions have been taken to implement the recommendations of the Committee in 2016 in this area**
 - measures that are being taken to provide child-friendly accommodation and any plans, including detailed timelines for building fit-for-purpose accommodation and/or procuring and purchasing appropriate accommodation for children and families**
 - what funding has the State provided to enable the capacity building of professionals working with and for children, in particular, vulnerable and ethnic minority children in care**
 - if it has addressed the remit of the Ombudsman for Children's Office to include investigating actions of public bodies where those actions involve the administration of the law regarding asylum, immigration, naturalisation and citizenship**
 - any measures being taken, including detailed timelines for the introduction of independent inspections for refugee accommodation.**

Children Belonging to Minority Groups

Traveller and Roma Children

60. In 2016, the Committee recommended in relation to Traveller and Roma children across a range of areas including discrimination,¹²⁸ adequate standard of living¹²⁹ and health.¹³⁰ Census 2016 recorded that 30,987 people identified as Irish Travellers representing a five per cent increase since 2011.¹³¹ In 2016, half of the Traveller population were under the age of 19 years.¹³² There is limited data available on the size of the Roma population in Ireland, but it is estimated to be between 4,000 and 5,000.¹³³ The Traveller community were recognised as an ethnic group in 2017¹³⁴ which is welcome.

¹²⁴ Office of the Ombudsman, *Annual Report 2018: Delivering Outcomes* (Office of the Ombudsman 2018) 15.

¹²⁵ Ombudsman for Children, '20 years later Direct Provision, a temporary solution, continues – Ombudsman for Children' (*Ombudsman for Children*, 13 March 2019) <<https://bit.ly/2HI6fFI>> accessed 25 May 2019.

¹²⁶ Professor Geoffrey Shannon, *Eleventh Report of the Special Rapporteur on Child Protection* (DCYA 2018).

¹²⁷ Department of Justice and Equality, *National Standards*, <<http://www.justice.ie/en/JELR/Pages/PR19000215>> accessed 8 June 2020.

¹²⁸ UNCRC 'Concluding Observations: On the combined third and fourth periodic report of Ireland' (2016) UN Doc CRC/C/IRL/CO/3-4 para 28(a).

¹²⁹ *ibid* para 60.

¹³⁰ *ibid* para 50, 52(a).

¹³¹ Central Statistics Office, 'Census of Population 2016 – Profile 8 Irish Travellers, Ethnicity and Religion' (Central Statistics Office 2017) <<https://bit.ly/2UDwPH4>> accessed on 8 June 2020.

¹³² *ibid*.

¹³³ Pavee Point & Department of Justice and Equality *Roma in Ireland: A National Needs Assessment* (Pavee Point 2018) 42.

¹³⁴ Dáil Éireann, Traveller Ethnicity: Statements, Dáil Debates, 1 March 2017.

61. A *National Roma Needs Assessment* was published in 2018 which found that members of the Roma community face high levels of discrimination, marginalisation, extreme poverty and social exclusion.¹³⁵ It is welcome that the updated *National Traveller and Roma Inclusion Strategy 2017-2021* (NTRIS) was published in 2017 with a strategic theme focusing on children and youth,¹³⁶ however, the Committee on the Elimination of Racial Discrimination has expressed concern that concrete action plans or sufficient budget have been put in place for implementation.¹³⁷
62. School completion rates for Travellers are significantly lower than the general population,¹³⁸ and analysis of census data suggests Travellers benefitted less from overall improvements in educational levels since the 1960s.¹³⁹ The *Roma Needs Assessment*,¹⁴⁰ found Roma children face significant barriers in education, including financial constraints, yet many Roma families are not deemed eligible for Back to School Footwear and Clothing Allowance due to the Habitual Residence Condition.¹⁴¹
63. The number of Travellers living in temporary accommodation increased between 2011 and 2016 from 3,560 to 3,718 accounting for 12.2 per cent of all Travellers.¹⁴² The vast majority of Travellers live in local authority accommodation.¹⁴³ In 2018, 591 Traveller families lived in unauthorised halting sites, an increase of 6 families on the previous year.¹⁴⁴ Overcrowding remains an issue for Irish Traveller households; 40 per cent live in overcrowded accommodation compared to less than six per cent of all households in the general population.¹⁴⁵ Traveller families are more at risk of homelessness - while they make up less than one per cent of the population, they make up nine per cent of the homeless population.¹⁴⁶ They also face the highest levels of discrimination when accessing housing.¹⁴⁷ Budget 2020 allocated €14.5 million to Traveller-specific accommodation, an increase of €1.5 million on the previous year.¹⁴⁸ Mirroring previous years, in 2019, just €8.6 million of the €13 million fund was drawn down.¹⁴⁹
64. **Can the State party:**
- a) **provide detailed information whether actions will be taken to address the Habitual Residence Condition and in particular the legislative and policy restrictions preventing**

¹³⁵ Pavee Point & Department of Justice and Equality, *Roma in Ireland: A National Needs Assessment* (Pavee Point 2018) 12- 13, 62.

¹³⁶ Department of Justice and Equality, *The National Traveller and Roma Inclusion Strategy 2017-2021* (Department of Justice and Equality 2017).

¹³⁷ UN Committee on the Elimination of Racial Discrimination (2020), Concluding observations on the combined fifth to ninth reports of Ireland, CERD/C/IRL/CO/5-9 <https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/IRL/INT_CERD_COC_IRL_40806_E.pdf> accessed 26 June 2020, paras. 31.

¹³⁸ Central Statistics Office, 'Census of Population 2016 – Profile 8 Irish Travellers, Ethnicity and Religion' <<https://bit.ly/2CGbmTcv>> accessed 8 June 2020.

¹³⁹ Dorothy Watson, Oona Kenny, and Frances McGinnity, *A social portrait of Travellers in Ireland* (ESRI 2017) 34.

¹⁴⁰ Pavee Point & Department of Justice and Equality, *Roma in Ireland: A National Needs Assessment* (Pavee Point 2018) 110- 111.

¹⁴¹ Habitual residence in Ireland is a condition that you must satisfy for certain social welfare payments and Child Benefit. This condition took effect from 1 May 2004 and affects all applicants regardless of nationality. Habitual residence means you are residing in Ireland and have a proven close link to the State. The most important factors for providing this link includes: satisfying the right to reside; length of time you have spent in Ireland; continuity of your residence and the general nature of your residence.

¹⁴² CSO, 'Census of Population 2016 – Profile 8 Irish Travellers, Ethnicity and Religion' <<https://bit.ly/2OLLvQv>> accessed on 10 February 2020.

¹⁴³ Department of Housing, Planning and Local Government (DHPLG), 'Annual Estimate 2018 - Total Number of Traveller Families in all categories of Accommodation' <<https://bit.ly/2uFFbTZ>> accessed 12 February 2020.

¹⁴⁴ *ibid.*

¹⁴⁵ CSO, 'Census of Population 2016 – Profile 8 Irish Travellers, Ethnicity and Religion' <<https://bit.ly/38jpxCI>> accessed on 10 February 2020.

¹⁴⁶ Raffaele Grotti, Helen Russell, Éamonn Fahey & Bertrand Maitre, *Discrimination and Inequality in Housing in Ireland* (Irish Human Rights and Equality Commission 2018) ix.

¹⁴⁷ *ibid.*

¹⁴⁸ Minister of State at the Department of Housing, Planning, Community and Local Government, Damien English TD, Joint Committee on Housing, Planning and Local Government Debate, 5 December 2019.

¹⁴⁹ Communication received by the Children's Rights Alliance from the Department of Housing, Planning, Community and Local Government, 17 January 2020.

Roma with no income from accessing the Back to School Clothing and Footwear Allowance

- b) outline in detail measures being taken and foreseen to improve school completion rates among Traveller young people and ensure that barriers to education are addressed
- c) measures being taken to address the continual underspend by Local Authorities of their full allocation for Traveller accommodation
- d) provide detailed information and timelines on how it intends to progress the implementation of the measures contained in the strategic them on children and youth in in the *National Traveller and Roma Inclusion Strategy 2017-2021*
- e) outline the specific measures has the State taken to address the disproportionate number of Traveller families experiencing homelessness.

Optional Protocol on The Sale of Children, Child Prostitution and Child Pornography

65. In 2016, the Committee recommended that the State ratify the Optional Protocol on the Sale of Children, Child Pornography and Child Prostitution.¹⁵⁰ Ireland signed the Optional Protocol on 7 September 2000 but has yet to ratify it and is now the only Member State of the EU not to have ratified the Protocol.¹⁵¹ Much progress has been made in recent years to ensure that Ireland meets all legal requirements of the Second Optional Protocol, particularly within the provisions of the Child Trafficking and Pornography Act 1998, the Criminal Law (Human Trafficking) Act 2008 and the recent Criminal Law (Sexual Offences) Act 2017. The State indicated in early 2019 that it now meets all the legal requirements for the ratification of the Protocol¹⁵² and steps were being taken for ratification in 2020.¹⁵³ The failure to ratify the Protocol means Irish law is failing to fully protect children from exploitation and is failing to support child victims.

66. **Can the State party provide detailed information, including timelines, of the steps to be taken for the ratification of the Optional Protocol on the Sale of Children, Child Pornography and Child Prostitution.**

¹⁵⁰ UN Committee on the Rights of the Child (2016) Concluding Observations Ireland, CRC/C/IRL/CO/3-4, para. 77

¹⁵¹ Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography A/RES/54/263 of 25 May 2000, <<http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPSCCRC.aspx> accessed> 2 June 2020.

¹⁵² Merrion Street, Ireland joining international stand against sale of children, child pornography and child prostitution, Press Release 2 January 2019 <[https://merrionstreet.ie/en/News-Room/Releases/Ireland_joining_international_stand_against_sale_of_children_child_pornography%C2%A0and_child_prostitution.html#:~:text=Ireland%20signed%20the%20Second%20Optional,procedure\)%20on%2024th%20September%202014.](https://merrionstreet.ie/en/News-Room/Releases/Ireland_joining_international_stand_against_sale_of_children_child_pornography%C2%A0and_child_prostitution.html#:~:text=Ireland%20signed%20the%20Second%20Optional,procedure)%20on%2024th%20September%202014.)> accessed 3 June 2020.

¹⁵³ *ibid.*