



**Convention on the  
Rights of the Child**

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**COMMITTEE ON THE RIGHTS OF THE CHILD**  
**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES**  
**UNDER ARTICLE 44 OF THE CONVENTION**

**Second periodic reports of States parties due in 1999**

**IRELAND\* \*\***

[11 August 2005]

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\* For the initial report submitted by the Government of Ireland, see CRC/C/11/Add.12; for its consideration by the Committee, see documents CRC/C/SR.436, 437, 438 and CRC/C/15/Add.85.

\*\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

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## Introduction

### A. Background

1. Ireland's commitment to the aims of the UN Convention on the Rights of the Child (UNCRC) is evident in the increased and enhanced development of policies and services for children in the 1990s and recent years. Significant resources, investment and new legislation have supported these developments.

(a) The single most significant development has been the publication of the National Children's Strategy in 2000, entitled *Our Children - Their Lives*. The strategy, rooted in the UN Convention on the Rights of the Child, is a cross-government response to improving children's lives and was developed with the assistance of NGOs and academics. Ireland is one of the few countries in the world with such a strategy. The National Children's Office (NCO) was set up to drive implementation of the strategy and to ensure better coordination of services for children. The NCO has become a centre of excellence in children and young people's participation and children's research, the two areas for which it has lead responsibility. It has also been innovative in developing policies that meet the needs of children and in finding solutions where better coordination is required;

(b) The Irish Government is cognisant of the fact that putting children at the heart of policy and practice is a new way of working and is at an early stage of development. However, the Government is committed to listening to children. Play and recreation were the concerns most frequently cited by children in the consultation leading to the publication of the National Children's Strategy. A targeted consultation was carried out with children and young people with the assistance of schools and voluntary organisations. Children also wrote or e-mailed the Minister for Children with suggestions, comments and observations on growing up in Ireland. In response to the wishes of children, the Government assigned responsibility to the NCO to develop play and recreation policies. *Ready, Steady, Play: A National Play Policy* was published in March 2004, making Ireland the first country in the world with a detailed national play policy. During 2004, the Government allocated €5m to local authorities for the provision or improvement of playgrounds around the country as part of the implementation of *Ready, Steady, Play* and of the RAPID scheme for areas of disadvantage. The NCO is currently engaged in a public consultation about the development of a Recreation Policy for Teenagers in 2006.

To put all of these developments in context, it is useful to outline some important trends that are relevant to the lives of children in Ireland today.

#### A1. Ireland's economy

2. Ireland has experienced considerable economic and social progress since its First Report (CRC/C/11/Add. 12) in 1996 to the UN Committee on the Rights of the Child. There has been continued strengthening of the economy, with associated improvements in employment levels, overall income levels and spending trends. To provide a few statistics:

- 1996 - 2003: the Irish economy grew, in GDP terms, by an annual average of over 8%, well in excess of the EU average;
- Ireland's standard of living (as measured by GDP per capita) is estimated to have been 132% of the EU25 average in 2003, up from 103% in 1996;
- The number of people at work has increased by over 400,000 since 1996;
- The unemployment rate was at an average of 4.6% in 2003, compared to 11.9% in 1997;
- Long-term unemployment has also fallen, from 6.9% in 1996 to 1.4% in 2003;
- General Government Debt to GDP ratio has more than halved, from just over 73% in 1997 to a sustainable rate of just 30.5% in 2004.

### **A2. Demographic trends**

3. There were 1,013,031 children under the age of 18 in Ireland in the 2002 Census. Ireland has the highest proportion of young people in the EU<sup>1</sup>, representing approximately 34% of the population, compared to the EU average of 24% (Eurostat, 2002).

- Over the last number of years, the change in population levels and demographic structure has continued to be influenced by increases in the birth rate, increasing life expectancy and increasing inward migration;
- In the period since 1996, the population of Ireland has grown by about 300,000, increasing from 3,626,087 in 1996 to 3,917,203 in 2002 (Census of Population data);
- The number of births was at its lowest in 1996, when 50,655 babies were born, and has risen more or less steadily since then. In 2003, there were 61,517 births. Almost one-third of births (19,313) were outside marriage in 2003. This compares with 12,797 births outside marriage in 1996, just over one-quarter of the total.

4. These demographic trends suggest that Ireland is in a relatively strong position to support children over the next ten years. The young age dependency ratio<sup>2</sup> has been in decline since the 1970s. The factors effecting this reduction have been changes in birth rates and emigration. The demographic trends indicate that while the number of older people in Ireland will increase, there will be decreasing numbers of children. Thus, the support base for the child population is relatively stable in comparison to that of many other Western countries.

### **A3. Family size and structure**

5. Family size has changed significantly in recent decades. The number of large families has fallen sharply. In 2002, only 4.5% of children under 15 years were living in households



with 5 or more children and 55.6% were living in households with 1 or 2 children. The increased number of smaller families has eased some of the concerns related to the higher level of poverty and overcrowding associated with larger families. There are, however, new challenges to be faced associated with changing family patterns. These include:

- The extent of lone parenthood through marital breakdown or the absence of a partner, and the implications for the stability of family life and the welfare of children. In 2002, 17.4% of families with children under 15 years were headed by lone parents;
- In 1997, the first year in which divorce legislation operated in Ireland, there were 95 divorces granted. There were 2,970 divorces granted in 2003. The number of divorced persons more than trebled between 1996 and 2002 - from 9,800 to 35,100. The number of separated (including divorced) persons increased from 87,800 in 1996 to 133,800 in 2002;
- As more and more women remain economically active in the labour market, the tendency has been towards small family units. The increased participation of women in the labour force is partly due to equality legislation, but mainly because of improving economic conditions and flexible working patterns. In 1997, 47.7% of women aged 22-44 with children under 15 were in employment. Females now account for about 42% of the numbers at work. This has implications for the demand and supply of childcare services for those children with both parents working outside the home.

#### **A4. Changing lifestyles**

6. Changing lifestyles have a significant impact on children's lives, affording both opportunities and challenges. As income levels increase, more money is spent on items such as transport (new cars) and services (entertainment, holidays, dining out), representing 15.4 % and 20.2 % of average household expenditure, respectively.

7. Children are also becoming more independent and are negotiating greater freedoms within the family. However, there are concerns arising from the scope for participation in harmful activities, such as smoking and the taking of drugs and alcohol.

8. Findings from the *Health Behaviour in School-Aged Children Survey*, published in April 2003, showed that almost one-fifth of respondents were currently smokers, indicating a level of risk of progressing to regular smoking with the attendant long-term physical damage. The consumption of alcohol by children under 18 also gives cause for concern: the same survey showed that 25% of 10-17 year-olds questioned had consumed an alcoholic drink in the previous month. Other lifestyle changes that have implications for the health and well-being of children include concerns about safety, decreased opportunities for play due to building development and a greater concentration on indoor activity by Irish children.

## **A5. Multiculturalism**

9. Promoting equality and social inclusion are significant issues that need to be addressed, particularly in view of the increasing cultural diversity of Irish society. The increase in inward migration in the 1990s has been a major contributor to the broadening of cultural diversity in Ireland. The patterns of inward migration in relation to the origin of migrants has also changed in recent years. According to the 2002 Census, the number of foreign-born usual residents from countries other than the EU or USA has grown from 26,100 in 1996 to 97,200 in 2002. Accordingly, 90% of persons usually resident in the State were born in Ireland. In the 12 months leading up to Census Day in 2002, 76,000 persons immigrated into the State.

## **B. Concluding observations**

### **B1. Comprehensive national policy**

10. The National Children's Strategy, *Our Children - Their Lives*, was published in November 2000 after extensive consultation with parents and groups working with children, as well as with children themselves. The strategy is a 10-year plan of action, which calls on the statutory agencies, the voluntary sector and local communities to work to improve the quality of all children's lives. It includes a range of actions across such areas as giving children a voice so that their views are considered in relation to matters that affect them, eliminating child poverty, ensuring children have access to play and recreation facilities, and improving research on children's lives in Ireland.

11. The publication of the National Children's Strategy responds to a number of observations made by the UN Committee on the Rights of the Child in relation to Ireland's First Report (1996). In particular, it provides the first comprehensive national policy document for the full range of statutory and non-statutory providers in the development of services for children and is underpinned by the UN Convention itself.

12. The strategy seeks to provide a clear direction to all those concerned with advancing the status and quality of life of children. Its vision is: *'An Ireland where children are respected as young citizens with a valued contribution to make and a voice of their own; where all children are cherished and supported by family and the wider society; where they enjoy a fulfilling childhood and realise their potential.'*

13. The strategy adopts a 'whole child perspective', recognising the multidimensional nature of all aspects of children's lives. The recognition that all parts of children's lives are interlinked has, in turn, implications for public policy-making and the integration of services relating to children.

14. The actions to be taken under the National Children's Strategy are grounded in six operational principles, namely:

- Child-centred;
- Family-oriented;

- Equitable;
- Inclusive;
- Integrated;
- Action-oriented.

15. The National Children's Office (NCO) is a cross-cutting government office that works with government departments and other agencies to improve policies and services for children. The NCO has a particular responsibility to support the Minister for Children in overseeing the implementation of the National Children's Strategy and in coordinating government policy on children. The Minister reports to the Cabinet Committee on Children on implementation of the strategy.

16. Further details on the supporting structures and progress on the implementation of the strategy are dealt with in the appropriate sections of the main body of this report.

## **B2. Promoting knowledge and understanding of the Convention**

17. The publication of the National Children's Strategy is the most significant initiative in Ireland to implement the UN Convention on the Rights of the Child (UNCRC) and to promote knowledge and understanding of the UN Convention. The strategy mirrors the Convention and there are numerous references to it in the text. The strategy was widely distributed throughout the State - to Ministers, TDs, Senators, government departments, schools, libraries, health boards, county councils, corporations, city and county development boards, voluntary agencies, VECs and education centres. The NCO has been active in promoting the strategy and works closely with all of the relevant State bodies in promulgating it among their staff and supporting implementation across the State sector. The appointment of the Ombudsman for Children will allow for a renewed focus on the UNCRC and a specific function of the Ombudsman is the promotion of the UNCRC.

## **B3. Collaboration with non-governmental sector**

18. The National Children's Strategy strongly features the need to incorporate collaboration with non-governmental organisations (NGOs) in the development and delivery of services for children. Under the strategy, the National Children's Advisory Council has been established, with an independent advisory role on implementation of the strategy. It reports to the Minister for Children and is funded by the NCO. It includes in its membership representatives of the statutory agencies, the voluntary sector, the research community, parents and children.

19. This new structure provides the NGO sector the opportunity to contribute to the development of children rights policy in Ireland. Apart from this significant development, the NCO has a very positive relationship with the NGO sector, liaising with many organisations in the course of its work. It has commissioned the NGO sector to undertake a number of projects or involved NGO representatives in steering projects in which the NGO sector has experience or specialist expertise.

#### **B4. Human rights education**

20. A number of initiatives have been undertaken in the schooling system to educate children and young people on the importance of social, political and civic development, and respect for human life and dignity.

21. The Social, Personal and Health Education (SPHE) curriculum is intended to foster in children respect for their own dignity and that of others, and to promote a healthy lifestyle and a commitment to the democratic process (for further details, *see para. 326*). As SPHE has a moral and spiritual dimension, it is always developed within the context of the ethos or characteristic spirit of the school. Pupils are taught to be aware of and to respect the various cultural, religious, ethnic or other groups that exist in their communities.

22. At secondary level, Civic, Social and Political Education (CSPE) prepares students for active participatory citizenship. The syllabus is based on a number of central concepts, which collectively inform and clarify the concept of citizenship (for further details, *see para. 327*). These include democracy, rights and responsibilities, human dignity and law. The CSPE syllabus taught at second level seeks, inter alia, to:

- Encourage pupils to apply positive attitudes, imagination and empathy in learning about, and encountering, other people and cultures;
- Enable pupils to develop their critical and moral faculties in agreement with a system of values based on human rights and social responsibilities;
- Develop knowledge and understanding of processes taking place at all levels of society that lead to social, political and economic decision-making.

23. The National Children's Office (NCO) and the Curriculum Development Unit (CDU) have agreed to develop a Civic, Social and Political Education (CSPE) learning/teaching resource on 'Giving young people a voice'. The resource will cover all aspects ranging from the rights of children and young people to having a voice in matters that affect their lives under the National Children's Strategy and the UN Convention on the Rights of the Child. It will incorporate information about *Dáil na nÓg* and *Comhairle na nÓg*, and their potential links with student councils. The establishment or improvement of the student council in each school will be the action project accompanying the resource. The NCO and CDU will commence working on this resource in September 2005, which will be funded by the NCO. The idea for the resource grew out of the ongoing work of the Student Council Working Group, chaired by the NCO and supported by the Department of Education and Science, on the need to encourage the establishment of effective and democratic student councils.

24. In addition to the above, the Department of Education and Science has been working with a wide range of stakeholders on a Cross-border Primary Human Rights Education Initiative ('Lift Off'). The project is a joint endeavour by Amnesty International (UK and Irish sections), the Irish National Teachers' Organisation, the Ulster Teachers' Union and Education International (representatives of the Departments of Education both North and South), and the curriculum bodies (i.e. National Council for Curriculum and Assessment and the Northern Ireland curriculum body, Council for the Curriculum, Examination and Assessment).

25. This project was formally established in 2000 with the primary aim of supporting the development of a human rights culture on the island of Ireland by supporting the mainstreaming of human rights education in the primary education systems of Northern Ireland and Ireland. Following an initial pilot phase, an evaluation was carried out and the project was granted funding for a further 3-year period (2003-2006). The aims of the project remain broadly the same, with a further development of linking participating schools through information and communications technology (ICT).

26. The project is currently run by a project coordinator (Dublin-based) and two project leaders, one based in Dublin and the other in Belfast. The management is overseen by a steering committee, which includes representatives of all the partners listed above. There are currently 34 primary schools involved, of which 16 were part of the original pilot.

27. Main activities for the project team include:

- Development of curricular support materials;
- Whole school initiatives (integrating the project to all class groups in a school);
- ICT and linking schools;
- Training teachers involved in the initiative.

#### **B5. Age limits**

28. A child is defined as a person under 18 years of age in the National Children's Strategy, the Child Care Act, 1991 and the Children Act, 2001. There have also been some changes in the definition of a child for the purposes of young persons' working and educational participation. These are referred to in the relevant sections of this report. The most significant change in age limits relates to the area of juvenile justice. The Children Act, 2001 includes provision for the raising of the age of criminal responsibility from 7 to 12 years. This element of the Act has not yet been commenced.

#### **B6. Access to education, housing and health for vulnerable and disadvantaged groups**

29. In 2003, the Irish government published *Sustaining Progress: Social Partnership Agreement 2003-2005*. This document includes commitments to a series of 'special initiatives' to be undertaken during the period of the Agreement. These include:

- Housing and accommodation;
- Migration and interculturalism;
- Tackling educational disadvantage (literacy, numeracy and early school-leaving);

- Care (children, people with disabilities and older people);
- Ending child poverty;
- Alcohol and drug misuse.

30. The selection of these issues as special initiatives indicates the government's acknowledgement of areas where a '*sustained focus of effort*' is required to '*yield a significant return to the community*'. There are references to these special initiatives throughout this report and to the associated action plans developed within sectors and across sectors to deal with them. Important elements include the work of the Task Force on the Traveller community; the development of Traveller health, Traveller education and Traveller accommodation strategies; the establishment and development of family and community programmes in the health and social welfare sectors; the development of equality legislation and associated promotion and investigation agencies; and the launch of the National Action Plan against Racism.

31. Challenges remain in ensuring equity of access to services in some areas, due not necessarily to policy provisions but more often to systemic barriers to access and service capacity. The Government continues to invest heavily in the health, personal social services and social welfare areas of the economy, with record levels of funding in these areas in 2004-2005. There is a significant reform programme underway in the health and personal social services sector, aimed at improved service delivery at local level (in terms of quantity and quality) and the removal of barriers to access. More information on progress and difficulties in individual sectors is provided throughout this report.

#### **B7. Views of children within the family, schools and society**

32. The first goal of the National Children's Strategy echoes Article 12 of the UN Convention, which states that '*Children will have a voice in matters which affect them and their views will be given due weight in accordance with their age and maturity*'.

33. As part of developing the strategy, a public consultation process was undertaken to inform the process. A critically important aspect of that consultation was to listen to what children and young people themselves had to say. Involving children in such a direct way from the very beginning was, in itself, a major innovation in the formulation of government policy.

34. The NCO has responsibility for the implementation of the first goal of the National Children's Strategy. Since its establishment, the NCO has developed a wide range of activities to promote the concept of children's participation with the statutory sector, as well as developing opportunities for children to express their views at regional and national fora with links to the social partnership process. These activities of the NCO are considered very innovative and positive in terms of an increasing awareness of the need to consult with children and young people, and the very valuable contribution they have to make. The NCO's role in supporting the statutory sector in consulting with and involving children and young people in planning and decision-making will be further complemented by the promotional role of the recently appointed Ombudsman for Children. Full details of the activities of the NCO on children and young people's participation are provided throughout this report.

## **B8. Guardian ad litem**

35. The Child Care Act, 1991 makes provision for the appointment of Guardians ad Litem (GALs) by the courts under Section 26 in the case of public law proceedings. The appointment of GALs also comes under the provisions of the Guardianship of Infants Act, 1964 and the Children Act, 1997 in the case of private law proceedings. In addition, the rules of the Courts govern the appointment of GALs. It should be noted that the provisions of the Children Act, 1997 have not yet been commenced. Therefore, in private law proceedings, there is not yet full provision for the appointment of a GAL to report on the child's articulated views and independently to assess the child's best interests as part of the court's deliberations.

36. The National Children's Strategy provided for a review of the Guardian ad Litem services in Ireland. The NCO commissioned a review of GAL services in 2003; the consultants' report was completed in 2004, at which stage the NCO invited submissions from the major stakeholders on the review. The outcome of the review and the views of stakeholders is currently under consideration by the NCO.

## **B9. Corporal punishment**

37. There have been a number of important legislative changes in the area of corporal punishment since Ireland's First Report (1996). These include:

- Section 12 of the Criminal Law Act, 1997, which abolishes the power of a court to impose a sentence of corporal punishment;
- Section 246 of the Children Act, 2001, which makes it an offence for a person who has the custody, charge or care of a child to wilfully assault, ill-treat, neglect, abandon or expose the child or to cause or procure or allow the child to be assaulted, ill-treated, neglected, abandoned or exposed, in a manner likely to cause unnecessary suffering or injury to the child's health or seriously to affect his or her well-being;
- Section 24 of the Non-Fatal Offences against the Person Act, 1997, which abolishes the common law rule under which teachers had immunity from criminal liability for physically punishing pupils.

38. A prohibition in legislation of corporal punishment within the family has not been brought forward. It is the Government's view that there is a balance to be found in trying to dissuade parents from using physical chastisement, supporting them in effective parenting *versus* criminalising parents who smack their children. The policy focus to date has been on changing parent's attitudes and understanding of the problems associated with physical punishment and offering them alternatives as the most appropriate course. The National Children's Strategy specifically commented on the need to change public attitudes to physical punishment in the home. Actions supporting this are focused on the provision of quality parenting programmes with a focus on alternative approaches to managing difficult behaviour in children.

39. Since the publication of the strategy in 2000, there has been significant progress in this area. Examples include:

- National conference on 'Investing in Parenthood' in 2002;
- Publication of *Investing in Parenthood: To achieve best health for children*, to inform the development of a parents' support strategy;
- Piloting of parent support services by health boards;
- Establishment of the Family Support Agency in 2003, with functions including promoting and disseminating information about a range of family issues including parenting;
- Currently 70 Family Resource Centres in place around the country, with a commitment to expand;
- National roll-out of the Springboard Family Support Projects by health boards working intensively with families and young people, including group work aimed at imparting parenting and personal development skills;
- Teen Parents Support Initiative for teenage mothers and fathers, in which young parents are encouraged in their new role and given skills to enhance their confidence to enjoy parenthood and to understand child development.

40. The specific issue of a prohibition in legislation of corporal punishment within the family is one that is being kept under review. It is the Government's view that there will be an appropriate time for the introduction of an outright ban, which would be widely accepted and endorsed by all of society.

### **B10. Mandatory reporting**

41. In 1996, the Department of Health issued a discussion document on the question of mandatory reporting of child abuse in line with a Government commitment to introduce mandatory reporting. Following an extensive consultation process, the majority view was against the introduction of mandatory reporting. In February 1998, the then Minister of State at the Department of Health and Children established the Working Group to review the Child Abuse Guidelines.

42. The report of this working group, entitled *Children First: National Guidelines for the Protection and Welfare of Children*, provides guidelines to assist people in identifying and reporting child abuse and to improve professional practice in both statutory and voluntary agencies and organisations that provide services for children and families. The guidelines aim to offer a comprehensive framework to assist professionals and other people who have contact with children and wish to deal with any concerns they may have in relation to their safety and well-being. The guidelines embody the principles contained in the UN Convention on the Rights of the Child.



43. These guidelines are complemented by the Protections for Persons reporting Child Abuse Act, 1998, which came into operation on 23 January 1999. For further details about progress on the promulgation and implementation of the guidelines and the new legislative provisions (*see paras. 299-316*).

### **B11. Birth information**

44. The Civil Registration Act, 2004 revised aspects of the procedures relating to the registration of births, deaths and marriages in Ireland. Parts 1-3, 5 and 8 of the Act are due to be commenced shortly. There are important provisions within the Act that improve the rights of the child as regards Articles 7 and 8. These include:

- An emphasis on facilitating the registration of the father's details in the Register of Births through the cooperation of both parents;
- Provision for an application to name the father in the Register from either the mother or the father of the child acting alone, where such an application is supported by a court order;
- Provision for mechanisms for the rebuttal of a husband's paternity to facilitate the entry of the father's details in the Register;
- Provision that where a birth has been registered without paternity details being recorded, such a birth may be re-registered to include the father's details on the application of the parents or on the application by one of the parents supported by a court order.

### **B12. Breastfeeding**

45. Ireland's approach to the promotion, protection and support of breastfeeding has been to adopt best evidence-based initiatives mainly from WHO and UNICEF.

46. In an EU Review published in 2004, Ireland is one of only 16 countries to have a National Breastfeeding Coordinator; one of 21 countries to have a breastfeeding committee; and the only country to have reviewed its national policy on breastfeeding. In addition, Ireland is one of only 5 countries to have some form of certified breastfeeding course and one of only 2 countries with Community Baby Friendly Initiatives (breastfeeding supportive paediatric hospital initiatives for older infants and children). Ireland also has a breastfeeding supportive workplace project for health service employees as part of the Baby Friendly Hospital Initiative (BFHI).

47. Ireland now has in place many of the structures necessary to support, promote and protect breastfeeding effectively within the health service sector. The new Strategic Action Plan on Breastfeeding (developed by the National Committee on Breastfeeding) is due to be published in 2005. While Ireland still lags behind most other countries in its breastfeeding initiation, exclusivity and duration rates, it is confidently expected that the above evidence-based

initiatives will result in significant improvements in breastfeeding rates in Ireland within the coming years. (For full details of the range of initiatives and key improvement, *see para. 556-559*).

### **B13. Teenage problems - drug and alcohol abuse/teenage pregnancy**

48. The National Health Promotion Strategy 2000-2005 identified the need for overall health policy to develop within the context of addressing the broader determinants of health. This policy agenda has since been incorporated into the National Health Strategy, *Quality and Fairness: A Health System For You*, and thereby represents a move towards a cross-government commitment to addressing the broader determinants of health. In moving towards a system that can address the determinants of health and inequalities, working in partnership across government and with the community and voluntary sector is essential. During the life time of the National Health Promotion Strategy, the development of such partnerships has been a core feature of the work undertaken. The Health Promotion Unit of the Department of Health and Children has responsibility for policy development and coordination of activity aimed at promoting and maintaining the health of children and young people. In this regard, the Unit works in close partnership with the Department of Education and Science, and with a range of other statutory, voluntary and community organisations.

49. From a European perspective, young people in Ireland can be described as generally healthy, but with some key issues causing concern. These include overweight and obesity, harmful use of alcohol and other drugs, and high rates of suicide, particularly in young men. The key health behaviour research programmes informing policy and practice in Ireland are the *WHO Health Behaviour of School-Aged Children (HBSC)* and the *European School Survey on Alcohol and other Drugs (2003)*. Other more specific topic-based research is conducted on a needs basis and to date has included such issues as regional mental health surveys, small scale sexual knowledge, attitudes and behaviour studies, and a range of qualitative studies looking at young people's life experiences.

50. A review of the National Health Promotion Strategy has recently been published, highlighting gaps and new priorities for health promotion in the coming years. In addition, policy developments are underway on a range of emerging issues for children and young people. The policies of relevance to young people include:

- Mental Health Policy;
- Report of the National Task Force on Obesity;
- Strategic Action Plan on Breastfeeding;
- Review of the National Drugs Strategy;
- Review of the National Alcohol Policy;
- National Men's Health Policy.

51. In addressing specific highlighted issues, agencies and bodies have been established with responsibility for progressing strategy in these priority areas. These include the Crisis Pregnancy Agency and implementing agencies for the National Drugs Strategy, the National Task Force on Obesity; the Strategic Task Force on Alcohol and the Expert Group on Mental Health.

52. The current priorities for promoting health and addressing the particular concerns as outlined above include the following.

**(a) School setting**

53. *Progress to date:* Implementation of the **Social, Personal and Health Education (SPHE)** curriculum in schools from primary to junior cycle post-primary in the context of the Health-promoting School. Physical and emotional health are core elements of this curriculum and specific programmes for Substance Use Education are incorporated. Over the past two years, a range of Mental Health Promotion materials and programmes have been developed, piloted and tested for the school setting. These programmes are now available for use by all schools. Guidelines for the Development of School Substance Use Policy have been developed under the direction of the National Drugs Strategy 2001-2008, *Building on Experience*, and all schools are now required to have this policy in place.

54. *Next steps:* Progress is being made in developing the SPHE curriculum for senior cycle schools, including Mental Health Promotion and Substance Use Education as core elements. A model of the Health-promoting School is also being developed at national level.

**(b) Youth sector**

55. *Progress to date:* Implementation of the **National Youth Health Programme** to support health promotion development in the youth sector. This programme offers a wide-ranging training and development package to all organisations and also coordinates an award-based initiative to acknowledge health promotion development in the setting based on achievement of set criteria.

56. In 2004, new materials specifically addressing sexual health and mental health promotion have been developed for use by youth workers nationwide. A new Strategic Plan was developed in 2004, setting out the priorities and direction for the programme to 2007.

57. To complement the work underway in the school and youth work settings, a range of information and communication campaigns aimed at young people are implemented by the Health Promotion Unit on an annual basis. Recent and current campaigns include:

- Healthy eating and nutrition;
- Physical activity and obesity prevention;
- Sexual health and awareness of sexually transmitted infections (STI);
- Drug awareness.

#### **B14. Rights of children with disabilities**

58. There were a series of important developments during 2004 in relation to the rights and access to services for people with disabilities. The framework builds on work underway for a number of years in the area of disability and on the information being provided by the Government's national disability databases (*see paras. 510-513*).

59. The Disability Bill, 2004 is a core element of the framework being put in place to support equal participation of people with disabilities in society.<sup>3</sup> Taken with the Education for Persons with Special Educational Needs Act, 2004, this suite of initiatives forms a National Disability Strategy building on the strong equality framework and the progress that has been made in mainstreaming services for people with disabilities. This strategy clearly shows the Government's determination to have the most effective combination of legislation, policies, institutions and services in place to support and reinforce equal access for people with disabilities.

60. The National Disability Strategy was launched by the Government on 21 September 2004 and comprises 4 elements:

- The Disability Bill, 2004;
- The Comhairle (Amendment) Bill, 2004 (published by the Department of Social and Family Affairs), which provides for the establishment of a Personal Advocacy Service;
- Six Outline Sectoral Plans published by six government departments as provided in the Disability Bill, 2004, which set out programmes for action to improve service provision and access to infrastructure by people with disabilities;
- A multi-annual investment programme for high-priority disability support services, the details of which were announced in Budget 2005.

61. The National Disability Strategy builds on existing legislation, including the Employment Equality Act, 1998; the Equal Status Act, 2000; the Equality Act, 2004; and the Education of Persons with Special Educational Needs Act, 2004. The strategy also builds on the existing policy of mainstreaming service provision for people with disabilities within the State agencies that provide the service to citizens generally.

62. The **Disability Bill, 2004** is a positive action measure designed to support the provision of disability-specific services to people with disabilities and to improve their access to mainstream public services. The Bill provides an individual right to an independent assessment of need, to a related Service Statement and to independent redress and enforcement. It provides a statutory basis for accessible public buildings and services, six Sectoral Plans, positive action for employment in the public service, restrictions on the use of genetic information and the establishment of a Centre for Excellence in Universal Design to support the design of buildings, products, systems, etc. which are usable by all.

63. The **Comhairle (Amendment) Bill, 2004** introduces personal advocacy services specifically for people with disabilities. The new service will be administered by Comhairle and envisages the provision of a personal advocate to people with a disability who have difficulty in obtaining, without assistance or support, a social service.

64. Under the legislation, ministers from six government departments were required to draw up **Sectoral Plans** for action to improve service provision and access to infrastructure by people with disabilities. The departments involved were Health and Children; Social and Family Affairs; Transport; Environment, Heritage and Local Government; Communications, Marine and Natural Resources; and Enterprise, Trade and Employment. The six plans were published in outline form on 21 September 2004.

65. A **multi-annual investment programme** will apply to a number of priority disability-specific services. Details were announced in the Estimates and Budget 2005 of the multi-annual programme, which will have both a capital and a revenue (current) element starting in 2005. The following publications are being made available to the UN Committee:

- Disability Bill, 2004 and Explanatory Memorandum;
- National Disability Strategy;
- A Guide to the Disability Bill;
- Government Statement in relation to Funding.

66. The Department of Health and Children in conjunction with the National Disability Authority (NDA) have developed draft **National Standards for Disability Services (NSDS)** in consultation with people with disabilities, their families, carers, service providers, the health boards/authority and other stakeholders. These standards are designed to ensure that services are provided to an agreed level of quality and that the level of quality is consistent on a national basis. It is proposed that the standards will apply to a range of services for people with disabilities as funded by the Health Service Executive.

67. The draft NSDS have been considered within the framework of the Health Services Reform Programme. A critical element in this process is the establishment of the Health Information Quality Authority (HIQA). Consequently, the draft NSDS have been forwarded to the Interim-HIQA for its consideration. The implementation of the process for the NSDS will necessarily involve an incremental process of planning, training and implementation over the coming years.

### **B15. Suicide/mental health of young people and their families**

68. Suicide is a serious social problem in Ireland. There were 444 deaths from suicide in 2003. The high incidence of suicide in the general population is not confined to Ireland, but is a growing global problem. A disturbing feature is the significant rise in the male suicide rate, with young males showing a significant increase in the rate of suicide. These are worrying trends and require further research so that better strategies are developed to help people who are particularly at risk.

69. The number of deaths by suicide, as published annually by the Central Statistics Office, is as follows:

1998 = 504; 1999 = 439; 2000 = 413; 2001 = 448; 2002 = 451; 2003 = 444.

70. Additional funding has been provided over the last number of years for suicide prevention programmes in the health boards and towards research aimed at improving our understanding of this issue. Suicide prevention programmes are an integral part of the boards' mental health and health promotion services. Initiatives include awareness and case training, multidisciplinary team work, support services, access to information, working in partnership with clients and voluntary groups, media awareness campaigns and research. (For further details of initiatives and plans, *see paras. 546-553.*)

71. It is recognised by the Government that this is an area in which more investment is required to meet the desired level of specialised services for children and young people.

### **B16. Child poverty**

72. Ireland has made progress in reducing consistent poverty among children. In 2001, 6.5% of children were living in households considered to be consistently poor. This is compared to 1987 where one in four children experienced this type of poverty.

73. Ireland's First Report (1996) outlined the Government's targets set in the National Anti-Poverty Strategy (NAPS), and now also in the National Children's Strategy (2000), to reduce consistent child poverty to 2% by 2007. It is acknowledged that poverty for children has a range of effects, including health status, educational attainment and overall life chances. Parental unemployment is still the single biggest factor in child poverty. Ending child poverty is a special initiative under the Government's *Sustaining Progress* Agreement (2003): the policy approach is to target services as well as income in order to ensure a better start for all children. The NAPS was independently reviewed on behalf of Government in 2001 and the strategy document, *Building an Inclusive Society: Review of the National Anti-Poverty Strategy under the Programme for Prosperity and Fairness*, was published in 2002. This document is Ireland's national contribution to the EU Initiative on Poverty and Social Exclusion. In the NAPS, the Government acknowledged that, despite advances, tackling poverty and social exclusion remains one of the major challenges facing Irish society today. The Government commitments set the following targets:

- An objective of reducing, and ideally eliminating, poverty in Ireland;
- A specific target of eliminating long-term unemployment;
- A new benchmark for the lowest social welfare payments of €150 by 2007 (in 2002 terms).

74. In addition, recognising the cross-cutting nature of poverty and exclusion, the Government has set targets in the areas of education, health and housing policy. The NAPS also sets out to address poverty and exclusion as it affects particularly vulnerable groups,

including vulnerable women, children and young people, older people, people with disabilities, migrants and ethnic minorities. A copy of the document is being provided to the UN Committee.

### **B17. Youth homelessness**

75. The Government published a National Youth Homelessness Strategy in October 2001. The health boards have lead responsibility for implementation of this strategy and they have prepared detailed action plans in this regard.<sup>4</sup> The NCO has been assigned responsibility by the Cabinet Committee on Children in relation to coordinating and monitoring the implementation of the strategy. The Cabinet Committee identified key areas that required attention in order to drive the implementation of the strategy in an effective, coordinated way, on a nationwide basis:

- Approximately €12m has been allocated by the Department of Health and Children to the health boards for the development of youth homelessness services since 2001;
- 195 new whole-time equivalent posts have been filled across the 10 Health Board regions (up to 31 December 2004);<sup>5</sup>
- 11 new units have opened nationwide;
- Over 42 new or extended services have been developed around the country.

### **B18. Exclusion of children from school**

76. A number of legislative and policy developments have taken place in the education sector since Ireland's First Report (1996) with regard to the UN Committee's concerns relating to the exclusion of children from school and the adverse consequences for pupils. The enactment of the Education Act, 1998 and the Education (Welfare) Act, 2000 are particularly relevant to the issue and represent major improvements in attempting to protect the rights of children in the school setting and to ensure that those children who are in need of support to stay in the school system are identified early and given targeted individual support to ensure their participation in the school system. (For details of the provisions of this new legislation, *para. 627.*)

77. With regard to the exclusion of children from school, Section 29 of the Education Act, 1998 gives parents (and students who have reached the age of 18) the right to appeal certain decisions made by a school's board of management, or a person acting on behalf of the board of management, to the Secretary-General of the Department of Education and Science.

78. The same Act provides that a decision of a board of management to permanently exclude, suspend or refuse to enrol a student may be appealed on commencement of Section 29. The legislation provides that the Minister for Education and Science will establish one or more appeals committees, for the purpose of hearing and determining appeals, and that such committees will act in accordance with such procedures as may be determined from time to time by the Minister, following consultation with the partners in education.

79. The Education (Welfare) Act, 2000 also provides for the National Educational Welfare Board to appeal certain categories of decisions and make submissions to appeals hearings. The Department of Education and Science is also establishing an Appeals Administration Unit to administer the new appeals process.

### **B19. Full incorporation of UN Convention as part of domestic law**

80. While there are outstanding issues on the enshrining of the rights of the child in the Irish Constitution, recent policy and legislative developments have been framed in the context of human rights and specifically children's rights. There have been important developments regarding equality provisions in legislation and provision of education and personal social services for people with disabilities; the issue of the rights of the child vis-à-vis the family is currently under consideration by the All-Party Oireachtas Committee on the Constitution. There have also been shifts in the development of child protection and juvenile justice legislation and services to reflect more child-centred, preventive and rehabilitative approaches. (For further details, *see Chapter I*.)

## **C. Ratification of international instruments**

### **C1. Statistics**

81. The absence of accurate and up-to-date social statistics is something which has become more and more evident in the policy-making context, particularly when the trend towards evidence-based policy-making is considered, alongside the need for greater transparency and accountability. This issue was raised by the UN Committee in its concluding observations on Ireland's First Report (1996) and despite some improvements, the dearth of data in some areas remains evident throughout this report.

82. Against this background, a Steering Group on Social and Equality Statistics was established under the aegis of the Cabinet Committee on Social Inclusion (CCSI) to undertake a scoping study of what needed to be done to develop Irish social and equality statistics so that they could meet current and impending policy needs. In the context of recommendations made by the Steering Group, Government approved the development of a Framework for Social and Equality Statistics to capture a comprehensive set of indicators of trends across the main dimensions of life. This framework is being developed by the Central Statistics Office (CSO) under the guidance of the National Statistics Board and the Senior Officials Group on Social Inclusion (who report to the CCSI).

83. This is a priority area for government and is being augmented by the development of databases to assess the need for public services (such as the pupil databases and disability databases) and greater support for research and evidence-based policy-making. In the area of children's lives, the NCO plays a key role in the development, support and dissemination of research about children's lives. Details of the many initiatives being undertaken under the NCO's remit are set out in *Chapter I*. This work is one of the significant developments in our understanding of children's lives in Ireland since it focuses on both qualitative aspects of children's well-being as well as quantitative data.



## I. GENERAL MEASURES OF IMPLEMENTATION

84. The status of the United Nations Convention on the Rights of the Child (UNCRC) in Irish law is as follows. Ireland ratified the UNCRC without reservation on 21 September 1992. The Convention entered into force for Ireland on 21 October 1992. Ireland signed the European Convention on the Exercise of Children's Rights in 1996 and proposes to ratify the European Convention as soon as possible (for further details, *see Ireland's First Report*). Ireland also signed the Optional Protocol on the UNCRC on the sale of children, child prostitution and child pornography in September 2000 and is working towards ratification.

85. Similar to other common law countries, Ireland has a 'dualist' system under which international agreements, to which Ireland becomes a party, are not automatically incorporated into domestic law.

- Article 29.3 of the Constitution of Ireland states: 'Ireland accepts the generally recognised principles of international law as its rule of conduct in its relations with other States.'
- Article 29.6 of the Constitution of Ireland provides: 'No international agreement shall be part of the domestic law of the State save as may be determined by the Oireachtas.'

86. These Constitutional provisions have been interpreted as precluding the Irish courts from giving effect to an international agreement if it is contrary to domestic law or grants rights or imposes obligations additional to those of domestic law. Consequently, whereas Ireland has ratified the UNCRC, the Convention did not thereby automatically become part of Irish law.

### A. Measures taken to harmonise national law and policy with the provisions of the UN Convention

#### A1. Existing constitutional rights

87. Children's rights in the Irish Constitution are found under Article 40 (personal rights), Article 41 (family), Article 42 (education), Article 43 (private property) and Article 44 (religion). A number of the rights set out in the UN Convention on the Rights of the Child are already provided for in the Constitution, either expressly or implicitly. Others are provided for in legislation or on an administrative basis. Article 3.1 of the UN Convention provides: '*In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.*' This is a variant of what is known as 'the welfare principle' and although this principle appears in a number of Irish statutes relating to children, it is absent, at least in express form, from the Constitution.

88. The Constitution Review Group, in its report published in 1996, recommended, inter alia, that the Constitution be amended to include the welfare principle and provide an express guarantee of certain other children's rights deriving from the UN Convention.

89. These recommendations relating to children are linked to other recommendations made by the Constitution Review Group in respect of the family. These recommendations have not yet been implemented by Government.

90. The All-Party Oireachtas Committee on the Constitution is carrying out a review of the Articles in the Constitution dealing with the family. This follows a long-standing request from the Department of Health and Children to consider a Constitutional amendment to underpin the individual rights of children. The Oireachtas Committee has stated that the study of children's rights is in the context of an examination of the place of the family in the Constitution. It is studying the case law that has been developed under these Articles, the report of the Constitution Review Group (1996), referred to above, and the Report of the Commission on the Family (1998). The Committee also has available to it submissions on the family from interest groups and individuals to the Constitution Review Group, and has undertaken a public consultation process as part of its work.

91. The NCO's submission has drawn the Committee's attention to the UNCRC and the concluding observations of the UN Committee on this issue.

## **A2. National legislative milestones**

### **(a) European Convention on Human Rights Act, 2003**

92. The European Convention on Human Rights Act, 2003, which gives further effect to the European Convention on Human Rights in Irish law, was enacted on 30 June 2003. It came into operation on 31 December 2003 in accordance with the provisions of Section 9 of the Act (*copy provided*).

### **(b) National legislative provisions specific to children or children's services**

93. In addition to the Constitutional protections already in place, there have been a wide range of legislative changes in recent years that enshrine the principles of the UN Convention into national law. Important legislative milestones in Ireland aimed at strengthening children's rights include:

- **Status of Children Act, 1987**, which abolished discrimination against non-marital children;
- **Child Care Act, 1991**, which deals with children in need of care and protection. The promotion of the welfare of children is the paramount principle underpinning the Act;
- **Maternity Protection Act, 1994**, which repealed and re-enacted with amendments the Maternity Protection of Employees Acts, 1981 to 1991. The Act implements the employment rights aspects of the EU Pregnant Workers Directive (92/85/EC);
- **Adoptive Leave Act, 1995**, which redresses the imbalance in the treatment of adoptive mothers compared with natural mothers;

- **Children Act, 1997**, which updated the law on guardianship, custody and access, and introduced a comprehensive range of measures to safeguard the interests of the child;
- **Criminal Law Act, 1997**: Section 12 of the Act abolished the power of a court to impose a sentence of corporal punishment;
- **Non-Fatal Offences against the Person Act, 1997**: Section 24 of the Act abolished the common law rule under which teachers had immunity from criminal liability for physically punishing pupils;
- **Parental Leave Act, 1998**, which implemented the EU Parental Leave Directive (96/34/EC) providing for an individual and non-transferable entitlement by both parents to 14 weeks' unpaid leave from work to take care of children up to the age of 5 years;
- **Education Act, 1998**, which gives a statutory basis to existing arrangements governing the running of schools at primary and post-primary level, including making provision, in the interests of the common good, for the education of every person in the State, including those who have a disability or who have other special educational needs;
- **Protections for Persons reporting Child Abuse Act, 1998**, which provides immunity from civil liability to any person who reports abuse 'reasonably and in good faith' to designated officers in the health system and to any member of An Garda Síochána (police);
- **Education (Welfare) Act, 2000**, which established the National Educational Welfare Board (NEWB) on a statutory basis as the single national body with responsibility for school attendance and provides a comprehensive framework promoting regular school attendance and tackling the problems of absenteeism and early school-leaving;
- **Equal Status Act, 2000**, which provides protection against direct and indirect discrimination outside of employment on 9 grounds - gender, marital status, family status, sexual orientation, religion, age, disability, race and membership of the Traveller community;
- **Children Act, 2001**, which constitutes a fundamental revision of existing legislation governing the treatment of children in conflict with the law and non-offending children in need of special care or protection. The Act was passed by the Oireachtas in June 2001;
- **Ombudsman for Children Act, 2002**, which established the Office of the Ombudsman for Children;
- **Education for Persons with Special Educational Needs Act, 2004**, which provides for the education of people with special educational needs.

### **A3. National policy initiatives**

94. The major policy initiative has been the preparation and publication of the National Children's Strategy in 2000; full details of the strategy are given below. Other important national policy initiatives include:

- National Anti-Poverty Strategy (1997 and reviewed in 2001);
- Report of the Commission on the Family (1998);
- National Childcare Strategy (1999);
- Children First: National Guidelines for the Protection and Welfare of Children (1999);
- National Health Promotion Strategy 2000-2005 (2000);
- National Youth Homelessness Strategy (2001);
- National Health Strategy (2001);
- National Play Policy (2004);
- Strategic Task Force on Alcohol (2002).

The substance and impact of these policies are dealt with under the relevant sections of this report (*copies provided*).

### **B. Steps taken to adopt a comprehensive National Children's Strategy in the framework of the UN Convention**

#### **B1. Development and purpose of National Children's Strategy**

95. In July 1999, the Irish government announced its decision to develop a National Children's Strategy. The development of the strategy was the result of cross-departmental cooperation between relevant government departments, assisted by NGOs and academics.

96. The purpose of the National Children's Strategy is to provide a blueprint for improving the lives of all children, especially those who experience disadvantage or have particular needs. The strategy offers a clear and unifying vision of:

*'An Ireland where children are respected as young citizens with a valued contribution to make and a voice of their own; where all children are cherished and supported by family and the wider society; where they enjoy a fulfilling childhood and realise their potential.'*

97. Six principles are identified to guide all the actions to be taken under the National Children's Strategy, namely:

- *Child-centred*: The best interests of the child shall be a primary consideration and children's wishes and feelings should be given due regard;
- *Family-oriented*: The family generally affords the best environment for raising children and external intervention should be to support and empower families within the community;
- *Equitable*: All children should have equality of opportunity in relation to access to, participation in and deriving benefit from the services delivered and have the necessary levels of quality support to achieve this. A key priority in promoting a more equitable society for children is to target investment at those most at risk;
- *Inclusive*: The diversity of children's experiences, cultures and lifestyles must be recognised and given expression;
- *Integrated*: Measures should be taken in partnership, within and between relevant players (be it the State, the voluntary/community sector and families), and services for children should be delivered in a coordinated, coherent and effective manner through integrated needs analysis, policy-planning and service delivery;
- *Action-orientated*: Service delivery needs to be clearly focused on achieving specified results to agreed standards in a targeted and cost-effective manner.

98. Underpinning the National Children's Strategy is a more holistic view of children and childhood - the 'whole child' perspective. This view reflects a contemporary understanding of childhood, which the strategy seeks to establish at the centre of policy development and service delivery. This perspective, the result of a public consultation programme and advice from key advisory groups (including NGOs and research academics), contributed to informing and shaping the three national goals of the strategy (*see below*), which form an integrated set of ambitions that reinforce each other with related measures to ensure implementation.

- **National Goal 1:** *Children will have a voice in matters which affect them and their views will be given due weight in accordance with their age and maturity.* The objectives of this goal (which is based on Article 12 of the UN Convention) are to put in place new mechanisms for children's participation across all sectors of Irish society, to ensure children are aware of their rights and responsibilities as citizens, and to put in place support for children and organisations.
- **National Goal 2:** *Children's lives will be better understood; their lives will benefit from evaluation, research and information on their needs, rights and effectiveness of service.* The measures proposed will serve to build up a more coherent understanding of children's development and needs; develop an evidence-based approach to decision-making at all levels; improve the commissioning, production and dissemination of research and information; and improve evaluation and monitoring of children's services.

- **National Goal 3:** *Children will receive quality supports and services to promote all aspects of their development.* The aim of this goal is to reorientate children's supports and services so that they provide a strong community-based response, with a renewed emphasis on prevention and early intervention, and so that they are fully integrated and more easily accessed.

99. Copies of the National Children's Strategy document and the Consultation Report are made available to the UN Committee. Further reference to progress on implementation and the impact of the strategy is made in the relevant sections below.

## **B2. Initiatives to support implementation of children's rights (including cooperation with civil society)**

### **(a) Social partnership in Ireland and central government approaches**

100. *Sustaining Progress: Social Partnership Agreement 2003-2005* is the 6th social partnership agreement between the Irish government and the social partners. Its aim is to continue to progress towards the realisation of economic inclusion based on full employment; consistent economic development that is socially and environmentally sustainable; and social inclusion and a commitment to social justice and continuing adaptation to change. The Agreement focuses on 10 key issues, called 'special initiatives', of economic and social policy, identified by all parties concerned:

- Housing and accommodation;
- Cost and availability of insurance;
- Migration and interculturalism;
- Long-term unemployed, vulnerable workers and those who have been made redundant;
- Tackling educational disadvantage (literacy, numeracy and early school-leaving);
- Waste management;
- Care - children, people with disabilities and older people;
- Alcohol/drug misuse;
- Including everyone in the information society;
- Ending child poverty.

101. One of these special initiatives is focused on ending child poverty through a multifaceted response, which includes income support and equal access to core services such as education, health, housing and a safe and stimulating physical environment.

102. All relevant policy areas are ‘poverty-proofed’ with a view to ensuring that, at a minimum, they do not inadvertently contribute to poverty and social exclusion, but that they can be developed and implemented in a way that maximises their impact on eradicating poverty and promoting inclusion.

103. The Economic and Social Policy Division in the Department of the Taoiseach (Prime Minister) provides the Secretariat for the following Cabinet Committees:

- Cabinet Committee on Social Inclusion;
- Cabinet Committee on Children;
- Cabinet Committee on the Implementation of the Health Strategy;
- Cabinet Committee on Infrastructure, Housing and Public-Private Partnerships.

104. There are a number of bodies under the aegis of the Department of the Taoiseach that examine economic and social policies:

- The National Economic and Social Forum (NESF), the role of which is to monitor and analyse the implementation of specific measures and programmes identified in the context of social partnership arrangements, especially those concerned with the achievement of equality and social inclusion;
- The National Economic and Social Council (NESC), which advises the Government and provides a forum in which views can be exchanged between stakeholders who have a common interest in the development of the economy and in the pursuit of social justice.

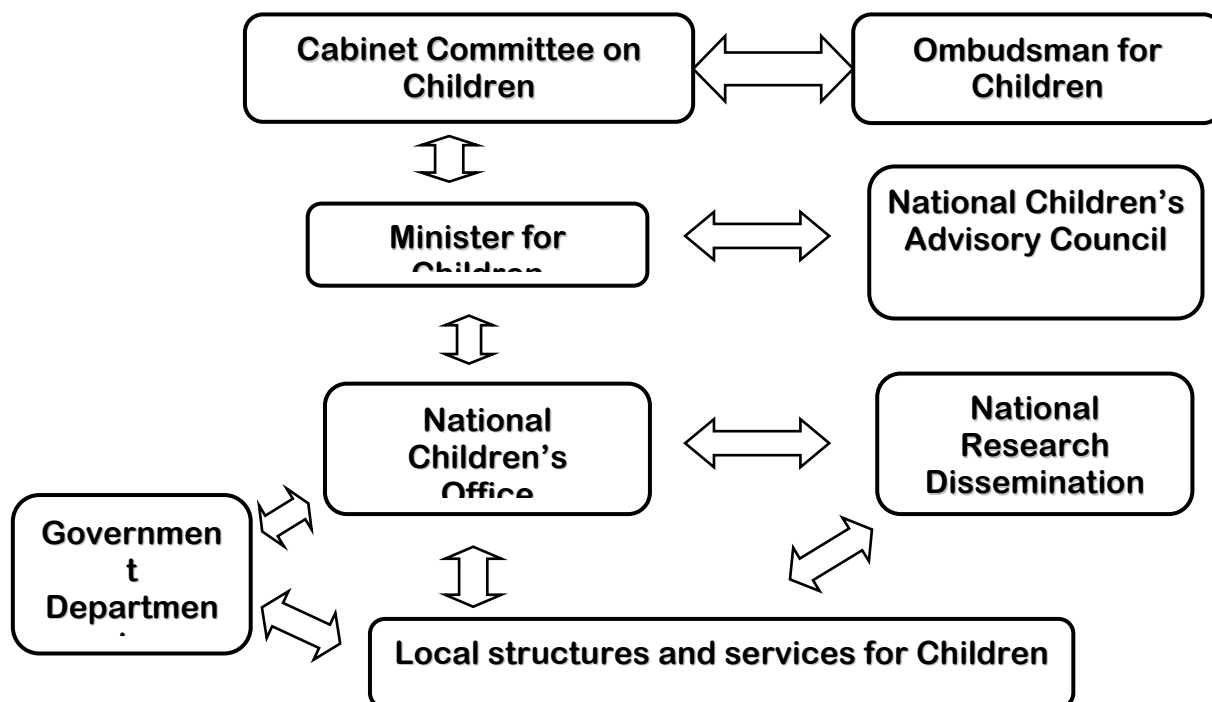
### **B3. Targeting disadvantage**

105. The Government has implemented targeted investment programmes in urban and rural disadvantaged areas to support physical, community and social infrastructure, several of which directly benefit children. The RAPID and CLÁR programmes target 25 urban centres and 20 provincial towns with the greatest concentration of disadvantage for priority funding under the National Development Plan. The Department of Community, Rural and Gaeltacht Affairs has responsibility for overseeing implementation of the RAPID and CLÁR programmes, which were implemented as commitments under social partnership.

### **B4. Structures supporting implementation of National Children’s Strategy**

106. The National Children’s Strategy provides for new structures, which are intended to bring a better focus and greater impact to government activity on children through stronger leadership and coordination. These are described in the strategy as the ‘Engine for Change’ and are represented diagrammatically in Figure 1.

**Figure 1: Coordination of National Children’s Strategy**



107. These developments are particularly noteworthy given the UN Committee’s comments following Ireland’s First Report (1996) in relation to:

- The lack of adequate coordination among bodies promoting and protecting the rights of children (a number of the new structures have specific cross-cutting and coordinating functions);
- The lack of an independent monitoring mechanism (the Office of the Ombudsman for Children has been established and the first Ombudsman for Children appointed, *see below*).

**(a) Minister for Children**

108. Ireland’s First Report (1996) referred to the appointment of a Minister of State to the Departments of Health, Education and Justice with special responsibility for children and, in particular, coordinating the activities of the three government departments in relation to child protection and juvenile justice. With the publication of the National Children’s Strategy in 2000, the Minister’s role has been broadened and enhanced. The Minister for Children is now responsible for overseeing implementation of the strategy and coordinating government policy on children in order to maintain the policy coherence achieved through the publication of the strategy. The Minister has specific statutory delegated functions in each of the three departments - Health and Children, Education and Science, and Justice, Equality and Law Reform. The Minister reports to the Cabinet Committee on Children regarding progress on the implementation of the strategy.



**(b) Cabinet Committee on Children**

109. A Cabinet Committee on Children, chaired by the Taoiseach (Prime Minister), meets on a quarterly basis to review progress in implementing the National Children's Strategy and to agree priorities for action. The Cabinet Committee comprises Government Ministers who have a significant role in implementing the strategy. Its membership is as follows:

- Chairman - **An Taoiseach**
- Minister for the Environment, Heritage and Local Government
- Minister for Social and Family Affairs
- Minister for Arts, Sport and Tourism
- Minister for Enterprise, Trade and Employment
- Minister for Justice, Equality and Law Reform
- Minister for Education and Science
- Minister for Health and Children
- Minister for Finance
- Minister of State at the Department of Enterprise, Trade and Employment, with special responsibility for labour affairs including training
- Minister of State at the Department of Justice, Equality and Law Reform, with special responsibility for equality issues including disability issues
- Minister of State at the Department of the Environment, Heritage and Local Government, with special responsibility for housing and urban renewal; and at the Department of Community, Rural and Gaeltacht Affairs, with special responsibility for drugs strategy and community affairs
- Minister of State with special responsibility for children at the Departments of Health and Children; Justice, Equality and Law Reform; and Education and Science

**(c) National Children's Office**

110. The role of the National Children's Office (NCO) is to lead and oversee the implementation of the National Children's Strategy, which is to operate within a 10-year time frame, and to progress its three national goals. The NCO has lead responsibility for Goal 1 (children's participation) and Goal 2 (research). In regard to Goal 3 (improving supports and services), the NCO has a particular responsibility for progressing key policy issues identified as priorities by the Cabinet Committee on Children and which require

cross-departmental/inter-agency action. Individual departments retain responsibility for implementing the strategy in these areas, with the NCO coordinating and monitoring progress.

111. The NCO is an innovative development in that it has a key role in ensuring greater collaboration between the statutory and voluntary bodies providing services to children and to avoid duplication of existing services. In so doing, it adopts a project approach based on identified priorities where cross-cutting action is required.

112. The NCO has a particular responsibility to support the Minister for Children on overseeing the implementation of the National Children's Strategy and coordinating government policy on children. The stated objectives of the NCO for the period 2003-2005 under its Statement of Strategy are to progress the three national goals of the National Children's Strategy and to develop an overview of public policy in relation to children in order to identify gaps and recommend appropriate action to address them.

113. The NCO is headed up by a Director. There is also an Advisory Board comprising Assistant Secretaries from the main departments involved in the implementation of the National Children's Strategy. There are also links to public bodies at local level. The Assistant Secretaries and local-level representatives assist in driving the implementation of the strategy in their own departments and organisations.

**(d) Ombudsman for Children**

114. The National Children's Strategy provided for the appointment of an Ombudsman for Children. The enactment of the Ombudsman for Children Act, 2002 established the Office of the Ombudsman. Ireland's first Ombudsman for Children, Ms. Emily Logan, was appointed in December 2003 and took up duty in March 2004.

115. The Ombudsman for Children is an independent office, accountable to the Oireachtas. The primary aim of the Office of the Ombudsman for Children is to provide an independent mechanism to vindicate the rights of children as required under the UN Convention on the Rights of the Child. This includes a promotional role for the Ombudsman for Children relating to the welfare and rights of children. The Ombudsman also has the power to investigate complaints for or on behalf of children.

**(e) National Children's Advisory Council**

116. The National Children's Advisory Council has an independent advisory role on implementing the National Children's Strategy and reports to the Minister for Children. It has a membership of 30 and includes representatives of the statutory agencies, voluntary sector, research community, parents and children. The functions of the Council are set out in the National Children's Strategy, which seeks to support and involve a wide variety of stakeholders in influencing policy on children's issues.

117. This development is important since it responds to the UN Committee's concerns that the potential of the non-governmental sector in contributing to the development of children's rights policy is more fully realised.

**(f) County and City Development Boards**

118. A County or City Development Board (CDB) has been set up in each of 34 city and county areas in Ireland. The CDBs, led by local government, operate on a partnership basis and comprise representatives from local development organisations, state agencies and the social partners. The remit of the CDBs is to bring about more coordinated delivery of public services at local level, including through developing and overseeing the implementation of an agreed County/City Strategy for Economic, Social and Cultural Development.

119. The CDBs were identified in the National Children's Strategy as the bodies to deliver the strategy at local level. Each CDB's Strategy for Economic, Social and Cultural Development takes account of the National Children's Strategy. Links have been established between the NCO and the CDBs, especially on the establishment of local youth councils, called Comhairle na nÓg. The local Comhairle nominates representatives to go forward to a national youth parliament, or Dáil na nÓg. (For further details, *see paras. 345-348.*)

**B5. Other mechanisms and structures at national and local level**

**(a) Irish Human Rights Commission**

120. The Irish Human Rights Commission was established in July 2001 in accordance with the 1998 Good Friday Agreement, which provided for the setting up of Human Rights Commissions North and South, and that the Commission in this jurisdiction have a mandate and remit at least equivalent to the Human Rights Commission in Northern Ireland. It operates under and in accordance with the provisions of the Human Rights Commission Acts, 2000 and 2001, which set out the powers and functions of the Commission.

121. The main functions of the Human Rights Commission are the promotion, protection and development of human rights and, through its work, to create and foster a human rights culture in the State in line with its extensive statutory mandate. The Commission is independent in the exercise of its functions as laid down in law.

**(b) Social Services Inspectorate**

122. The Social Services Inspectorate (SSI) was established in April 1999 with a view to being established on a statutory basis. Legalisation is being drafted during 2005 to accomplish this. The main function of the SSI is to improve quality standards in child welfare and protection services by advising the Department of Health and Children on the formulation of standards and then monitoring those quality standards across the sector. The SSI inspects Health Board residential centres for children and foster care, and monitors inspection of the non-statutory sector. It also provides information and advice generally on the best practice and quality of residential child care social work and social services. (For further details, *see 305-306.*)

## **B6. Initiatives taken in cooperation with civil society**

123. A comprehensive consultation process informed the development of the National Children's Strategy. Its publication was an invitation to all those who work with children to work together more effectively and an encouragement to children to continue to be actively involved in shaping their lives, present and future. The full implementation of the strategy requires close cooperation of government departments, teachers, healthcare workers, NGOs and all those who work with and support children in the implementation of this ambitious plan for action to create a brighter future for our children.

124. The NCO works regularly with a range of NGOs in driving the implementation of the strategy. The 'Engine for Change' includes an important role for the National Children's Advisory Council (*see Figure 1*).

125. The NCO also works closely with groups in civil society to ensure implementation of Goal 1 of the National Children's Strategy on children's participation: 'Children will have a voice in matters which affect them and their views will be given due weight in accordance with their age and maturity.'

126. More detailed information on this type of cooperation (Article 12) will follow later in this report (*see Chapter III, Section D*).

## **C. Remedies for infringement of rights**

127. For rights enshrined in legislation or the Constitution, there are the usual legal options of judicial review, the bringing of injunctions and actions for damages against the State or its agents. For other rights, recourse can be had to the Ombudsman in relation to matters regarding the maladministration of State services. Under the Strategic Management Initiative, departments and State agencies have introduced formal complaints mechanisms as part of improving customer service. In the education and health sector, these complaints mechanisms have been placed on a legislative footing.

### **C1. Ombudsman for Children**

128. In addition to the above measures available to all citizens of the State, including children, the functions of the Ombudsman for Children includes a statutory role to examine and investigate complaints by or on behalf of children against public bodies, schools and voluntary hospitals, excluding where decisions have been in the exercise of clinical judgement, actions relating to public appointments, immigration, prison administration and court administration.

### **C2. Child welfare and protection**

129. The Child Care Act, 1991 sets out the statutory framework for child welfare and protection services, including court intervention where appropriate. Further details on the provisions of this legislation and the services provided follow throughout this report.

## **D. Implementation of the UN Convention/monitoring arrangements**

### **D1. Role of the National Children's Office**

130. Progress on the implementation of the National Children's Strategy is monitored on the basis of information supplied to the National Children's Office (NCO) by the relevant government departments. The Annual Progress Report provides a comprehensive outline of progress on an action-by-action basis. The report is also made available to the National Children's Advisory Council, which has an independent monitoring role in relation to the strategy. The Progress Report for 2003 is provided; the Progress Report for 2004 is being prepared and will be published shortly.

### **D2. Role of the Ombudsman for Children**

131. The Ombudsman for Children Act was passed into legislation in 2002. The Ombudsman for Children has two main functions:

- To promote the rights and welfare of children;
- To examine and investigate complaints against public bodies, schools and voluntary hospitals.

132. In promoting the rights and welfare of children, the Ombudsman for Children can, inter alia, provide advice to the Government; encourage the development of policies, practices and procedures to promote children's rights and welfare; highlight issues that are of concern to children; and monitor and review the operation of legislation insofar as it refers to children. The Ombudsman for Children will also have regard to the UN Convention on the Rights of the Child.

133. With regard to examining and investigating complaints, the remit of the Ombudsman for Children extends to public bodies, schools and voluntary hospitals. Complaints can be made by a child, a parent of the child or a person who has either a personal or professional relationship to the child concerned and is considered a suitable person by the Ombudsman for Children. Before investigating a complaint, a parent of the child must be informed. The action complained of must be one which is taken in the performance of an administrative function.

134. The Ombudsman for Children can investigate, make recommendations and seek a response to a complaint. The Ombudsman will have regard to the best interests of the child, taking into account the age and understanding of the child when promoting the rights and welfare and when investigating complaints. Due consideration must be given to the child's own wishes. The Ombudsman will issue her first annual report in respect of 2005.

## **E. Systematic gathering of data on children**

135. The UN Committee commented, in response to Ireland's First Report (1996), on certain lacunae in the statistical and other information collected by the State, in particular with respect to the selection and development of indicators to monitor the implementation of the principles and

provisions of the UN Convention. Since then, there have been general improvements in the development of information management systems across the range of State bodies. Many of these are particularly relevant to children.

136. In addition, in a number of sectors there are improved provisions within legislation for the collection of data, as well as specific strategic plans for the improvement of data sources, standards and indicators (e.g. National Children's Strategy, National Health Information Strategy). There is also a government-wide initiative to improve social and equality statistics (*see below*).

### **E1. Role of the National Children's Office**

137. As well as monitoring general progress on the National Children's Strategy, the National Children's Office (NCO) has an active research function.

138. As stated above, Goal 2 of the National Children's Strategy is to achieve a greater understanding of children's lives to support evidence-based decision-making. To progress work in this area, a Head of Research and a Research Officer were appointed to the NCO in January 2003. These staff members have lead responsibility for progressing actions concerned with improved research and information. The objectives to be achieved under the research goal of the strategy are:

- To build up a more coherent understanding of children's development and needs among those working with children;
- To develop an evidence-based approach to decision-making at all levels, down to the point of service delivery;
- To improve the commissioning, production and dissemination of research and information;
- To improve evaluation and monitoring of children's services.

139. The current initiatives underway to meet these objectives include:

#### **(a) National Longitudinal Study of Children**

140. A National Longitudinal Study of Children in Ireland is currently being commissioned. Its aim is 'to study the factors which contribute to, or undermine, the well-being of children in contemporary Irish families and, through this, contribute to the setting of effective and responsive policies relating to children and to the design of services for children and their families'. This study will describe the lives of Irish children in order to establish what is typical and normal, as well as what is atypical and problematic. Specifically, it will:

- Chart the development of Irish children over time by examining the progress and well-being of children at critical periods from birth to adulthood;

- Identify the key factors that, independently of others, most help or hinder children's development;
- Establish the effect of early child experiences on later life;
- Map dimensions of variation in children's lives;
- Identify the persistent adverse effects that lead to social disadvantage and exclusion, educational difficulties, ill health and deprivation;
- Obtain children's views and opinions on their lives;
- Provide a bank of data on the whole child;
- Provide evidence for the creation of effective and responsive policies and services for children and families.

141. It is anticipated that a sample of approximately 18,000 children will be included in the National Longitudinal Study of Children; 10,000 of these will be infants (accounting for 20% of the total infant population) and 8,000 will be aged 9 years. Re-surveying will take place at regular intervals over an initial 7-year period, although it is expected that this study will continue beyond that time. The study is currently out to tender and it is expected that a contract will be awarded in the summer of 2005.

**(b) National Set of Child Well-being Indicators**

142. A National Set of Child Well-being Indicators was developed in 2003-04, using a Delphi research methodology in order to gain consensus. Agreement was reached on approximately 40 indicators, including recommendations made by children. The overall set includes indicators that highlight positive as well as negative aspects of children's lives; objective and subjective measures; measures that enable the tracking of national goals; and measures to represent children of every age, from birth through to adolescence.

143. These indicators will form the basis for a bi-annual report, *The State of the Nation's Children*, which will allow us to:

- Assess and understand the current status of child well-being, as well as identifying trends over time;
- Select priority areas and set goals for the improvement of child well-being;
- Monitor progress towards goals and evaluate whether investments in selected programmes, services and initiatives (such as the National Immunisation Programme) are making a difference to the well-being of children.

**(c) National Children's Strategy Research Scholarship Scheme**

144. In 2001, the National Children's Strategy Research Scholarship Scheme was established with the aim of developing the research capacity in relation to children and supporting research directly related to the National Children's Strategy. By October 2004, four masters scholarships, five PhD scholarships and eleven other studies relating to children's lives had been supported through the Children's Research Programme. In addition, the NCO is the main sponsor of the National School Programme within the ESAT/BT Young Scientist of the Year exhibition and also provides a special award for the best study on 'children's participation'.

**E2. Role of the Central Statistics Office**

145. The Central Statistics Office (CSO) has statutory responsibility for the collection of statistical data for the Government. It collects a wide range of data relating to:

- Macro-economics;
- Business;
- Demographics and social statistics.

146. The CSO provides a wide range of data and analysis relevant to children, including:

- Central government expenditure by purpose and economic category;
- Births, deaths and marriages;
- All relevant population data, with analysis by age.

147. The CSO also collects and analyses data related to population structure, age dependency ratios, socio-economic/family income, family structure, ethnicity, employment, etc. Measures taken to collect disaggregated data on the most disadvantaged groups of children include:

- The most recent census of the Irish population, Census 2002, collected information on nationality and place of birth. It also contained a new question on the Irish Traveller community, analysis of which allowed the CSO to release a volume of results covering the main demographic and socio-economic topics relating to the Irish Traveller community;
- The Quarterly National Household Survey (QNHS) collects information on nationality and place of birth;
- Census 2002 had two new questions on disability. Again, the CSO released a volume of results relating to Disability and Carers, covering the main demographic and socio-economic topics distinguished in the Census;



- Statistics on children born out of wedlock are published in the CSO's *Vital Statistics* reports;
- Census 2002 collected information on place of birth, country of previous residence, usual residence at the time of the census and usual residence one year before the census. Nationality was recorded for the first time in 2002;
- The Department of Justice, Equality and Law Reform publishes figures on the numbers of asylum-seekers and refugees.

### **E3. Role of other government departments and agencies**

148. In addition to the CSO, government departments gather relevant statistical information on children, details of which are set out in the following sections.

#### **(a) Child health and welfare**

149. Health boards (now the Health Service Executive) are required to collect and submit data on child welfare and protection services to the Department of Health and Children. This data is submitted in a number of forms:

- A limited number of performance indicators are collected on a quarterly basis on care planning, foster care, residential care, inter-country adoption, pre-school services and child protection case conferences;
- Statistics on homeless young people are being collected as part of the implementation of the National Youth Homelessness Strategy. These are disaggregated by age, sex, reason for accessing service, other services accessed in past and interventions and service provided to the young person;
- Data in relation to child protection is collected on an annual basis as part of the interim data set. The health boards are currently working on developing a national information system on child care, building on the interim data set;
- Statistics are also compiled of infant, neonatal and perinatal data, immunisation rates, hospital stay and accidents.

A copy of the Health Statistics Report is provided.

#### **(b) Children in education**

150. The Department of Education produces data in relation to the number of children in schools and colleges, i.e. at primary, secondary and third levels. It also collects data in relation to class size, pupil/teacher ratios, etc. A summary of the key statistics is provided in Tables 1 and 2.

**Table 1**  
**Number of schools and colleges at each level**

School year	2002/03
First level	
National schools	3 155
National schools with pupils with special needs <sup>1</sup>	535
Special National schools	128
Second level	
Secondary	410
Vocational	247
Community and Comprehensive	89
Total: Second level	746
Third level	
HEA Institutions	10
Institutes of Technology/Killybegs HTC/Tipperary Institute	16
National College of Ireland, Mater Dei Institute and Pontifical College	3
Teacher training	
Primary	3
Home Economics	2
Total: Third level	34

<sup>1</sup> Special classes are provided in a number of National Schools for pupils with special needs (e.g. hearing and visually impaired, mild mental disability and Traveller children). This figure is included in the figure for National Schools.

**Table 2**  
**Number of full-time pupils at each level**

School year	No. of full-time pupils
First level	
National schools (ordinary classes only)	427 529
National schools with pupils with special needs	9 384
Special National schools	6 807
Total: First level	443 720
Second level	
Secondary	189 093
Vocational	98 233
Community and Comprehensive	51 905
Total: Second level	339 231

**Table 2 (continued)**

School year	No. of full-time pupils
Third level	
HEA Institutions	74 922
Institutes of Technology/Killybegs HTC/Tipperary Institute	51 507
National College of Ireland, Mater Dei Institute and Pontifical College <sup>2a</sup>	1 696
Teacher training	
Primary - HEA	2 377
Primary - Non-HEA	760
Home Economics	398
Higher Diploma in Education	1 018
<b>Total: Third level</b>	<b>129 283</b>
Number of full-time teachers at:	
First level	24 700
Second level (full-time teachers)	22 062
Second level (FTE of part-time teachers)	3 630
Pupil/Teacher ratio	
First level <sup>1</sup>	18.0
Second level <sup>2</sup>	15.4
Percentage of people in full-time education <sup>3</sup>	
5-12 year-olds	100
13-15 year-olds	100
16 year-olds	95
17 year-olds	82
18 year-olds	64
19 year-olds	52
20 year-olds and over	24

<sup>1</sup> Ratios are based on the total enrolment in all National Schools.

<sup>2</sup> Figures shown are full-time teachers only and do not include full-time equivalent of part-time teachers for ratios calculations.

<sup>3</sup> Estimates of participation in full-time education by age (including non-aided schools/colleges) are based on provisional estimates for January 1<sup>st</sup> each year, as supplied by the Central Statistics Office.

#### **E4. Social and equality statistics**

151. In the section on 'Consultation with NGOs' in Ireland's First Report (1996), the UN Committee considered that there was insufficient statistical analysis and information available in Ireland on the needs of children, which made it difficult to respond adequately to those needs.

152. The Irish Government is committed to developing statistics that inform policy, especially disaggregated data on groups such as children. An example of this commitment is to be found in

the Government's 2003 publication entitled *Developing Irish social and equality statistics to meet policy needs: Report of the Steering Group on Social and Equality Statistics*.

153. A Framework for Social and Equality Statistics, to capture a comprehensive set of indicators of trends, is being developed by the CSO under the guidance of the National Statistics Board and the Senior Officials' Group on Social Inclusion (a group of senior civil servants who report to the Cabinet Committee on Social Inclusion). Each government department is requested to develop a formal Data/Statistics Strategy to be included in its Statement of Strategy and to be reported on in the annual report. In addition, the CSO is taking a lead role in the development of the potential of administrative data across government departments and agencies. The National Economic and Social Council (NESC) has been assigned the lead role in the preparation and dissemination of a periodic overall Social Report in advance of the next cycle of departmental Statements of Strategy.

## **F. Social expenditure for children**

### **F1. Income support**

154. The Department of Social and Family Affairs has responsibility for income support (*see Tables 3 and 4*). Arrangements for child income support fall into three categories:

- Child Benefit is a tax-free payment made to parents who are habitually resident in Ireland in respect of each qualified child normally living with them and being supported by them. It is not means-tested;
- Child Dependant Allowance is paid to a parent in receipt of a social welfare payment;
- Family Income Supplement is paid to low-income families.

155. Initiated in Budget 2001 and restated in the most recent social partnership agreement, *Sustaining Progress* (2003), the Government has committed to the completion of its planned €1.27 billion investment in Child Benefit over the 2004 and 2005 budgets.

156. Arising from the recognition that, on taking up employment, the loss of Child Dependant Allowances by social welfare recipients can act as a disincentive to taking up available work opportunities, a policy decision was made to increase Child Benefit substantially, which is seen as employment neutral. In that context, there have been substantial increases in levels of benefit in recent years - the Child Benefit payment has more than tripled (from €8.10 per month in 1997 to €25.60 in 2003) for the first and second child, with €57.30 for the third and each additional child. This amount increased further in April 2004 (to €31.60 for the first and second child, and to €65.30 for the third and each additional child).

157. Social welfare rates generally have also been increasing. The lowest social welfare rates have been raised by 50% since 1997. (This is 24% above the rise in the cost of living during the period 1997-2003.)

158. The Government intends to meet the National Anti-Poverty Strategy income target of €50 per week (in 2002 terms) for the lowest rates of social welfare payments by 2007, with the equivalent level of child income support being set at 33%-35% of the adult rate.

159. The One-Parent Family Payment is a payment for both men and women who, for a variety of reasons, are bringing up a child (or children) without the support of a partner. In the 2004 estimates, €707.8m is provided for this scheme.

160. The Back to School Clothing and Footwear Allowance is designed to help people, dependent on social welfare and Health Board payments, with the cost of children's school clothing and footwear. In 2003, €16.8m was provided for the scheme, which benefited approximately 143,000 children. This approved funding represented an increase of more than €1.6m on what was paid under the scheme in the previous year. Budget 2004 provides for a further increase, to €17.7m.

161. A range of services benefiting children in low-income families has been introduced in recent years or substantially enhanced. For example, the expanded School Meals Scheme is aimed at assisting children who are unable, by reason of lack of food, to take full advantage of the education provided for them. Funding for the scheme doubled in 2003 to €4m, benefiting approximately 20,000 children. A further increase of €1m was provided in Budget 2004.

**Table 3**  
**Expenditure on social welfare as a percentage of current government expenditure (GNP and GDP), 1996 to 2003**

Year <sup>1</sup>	Total social welfare expenditure <sup>2</sup> (in €m)	Index of expenditure	Consumer Price Index <sup>3</sup>	Social welfare expenditure as a percentage of: <sup>4</sup>			
				Gross current government expenditure	Net current government expenditure	Gross National Product (GNP)	Gross Domestic Product (GDP)
1996	5 558	100.0	100.0	28.5	34.5	10.8	9.6
1997	5 744	103.3	101.6	26.7	32.3	9.7	8.6
1998	6 046	108.8	103.9	27.1	33.1	8.9	7.8
1999	6 283	113.0	105.7	26.0	31.9	8.3	7.1
2000	6 713	120.8	111.6	25.9	32.3	7.7	6.5
2001	7 842	141.1	116.9	26.2	38.4	8.1	6.9
2002	9 520	171.3	122.1	28.8	40.8	9.1	7.3
2003	10 511	189.1	128.5	31.8	45.0	10.0	8.1

<sup>1</sup> Total social welfare expenditure for these years include expenditure on the Redundancy and Insolvency Schemes, which are administered by the Department of Enterprise, Trade and Employment.

<sup>2</sup> Includes the full cost of Supplementary Welfare Allowance, which is administered by the health boards.

<sup>3</sup> Re-based from Consumer Price Index data published by the Central Statistics Office.

<sup>4</sup> Source: Central Statistics Office and Department of Finance.

Table 4

**Number of recipients, qualified adults and qualified children of weekly social welfare payments, 2003 (shaded areas refer to child-related payments)**

Type of payment	Recipients	Qualified adults	Qualified children		Other children	Total
			Full Rate	Half Rate <sup>1</sup>		
Old Age (Contributory) Pension	105 295	24 700	1 170	740	-	131 905
Retirement Pension	83 055	24 776	1 315	465	-	109 611
Old Age (Non-contributory) Pension	87 823	3 907	664	169	-	92 563
Pre-Retirement Allowance	11 222	4 032	1 601	231	-	17 086
Total old age	287 395	57 415	4 750	1 605	-	351 165
Widow/er's (Contributory) Pension	102 494	-	14 944	-	-	117 438
Widow/er's (Non-contributory) Pension	16 318	-	-	-	-	16 318
Deserted Wife's Benefit	11 794	-	8 993	-	-	20 787
Deserted Wife's Allowance	1 582	-	-	-	-	1 582
Prisoner's Wife's Allowance	2	-	-	-	-	2
One-Parent Family Payment	79 195	-	126 263	783	-	206 241
Total widows, widowers and one-parent families	211 385	-	150 200	783	-	362 368
Maternity Benefit	9 603	-	-	-	-	9 603
Health and Safety Benefit	32	1	1	30	-	64
Adoptive Benefit	53	-	-	-	-	53
Orphan's (Contributory) Allowance	1 680	-	-	-	-	1 680
Orphan's (Non-contributory) Pension	1 328	-	-	-	-	1 328
Total child-related payments	12 696	1	1	30	-	12 728
Disability Benefit	54 590	7 815	8 113	36 317	-	106 835
Invalidity Pension	52 147	10 676	7 411	13 910	-	84 144
Injury Benefit	828	154	236	318	-	1 536
Interim Disability Benefit	404	42	71	190	-	707
Disablement Benefit	11 612	226	341	421	-	12 600
Death Benefit Pension	668	-	194	-	-	862
Carer's Benefit	615	-	28	708	-	1 351
Disability Allowance	62 783	5 233	9 575	5 971	-	83 562
Blind Person's Pension	2 095	131	252	190	-	2 668
Carer's Allowance	20 395	-	1 818	16 718	-	38 931
Total illness, disability and caring	206 137	24 277	28 039	74 743	-	333 196
Unemployment Benefit	66 416	7 977	12 171	33 758	-	120 322
Unemployment Assistance	71 566	15 577	31 962	6 854	-	125 959
Total unemployment supports	137 982	23 554	44 133	40 612	-	246 281

**Table 4 (continued)**

Type of payment	Recipients	Qualified adults	Qualified children		Other children	Total
			Full Rate	Half Rate <sup>1</sup>		
Back to Work Allowance - Employee	11 496	3 586	9 049	1 679	-	25 810
Self-employed - First Year	3 229	885	2 276	1 081	-	7 471
Self-employed - Years 2 - 4	10 261	3 786	7 974	3 096	-	25 117
Back to Education Allowance	5 041	341	789	1 288	-	7 459
Part-time Job Incentive Scheme	336	-	-	-	-	336
Family Income Supplement <sup>2</sup>	12 043	-	-	-	26 531	38 574
Farm Assist/Smallholders	8 514	4 063	7 376	2 164	-	22 117
Total employment supports	50 920	12 661	27 464	9 308	26 531	126 884
Supplementary Welfare Allowance <sup>3</sup>	32 073	8 146	23 490	-	-	63 709
Total supplementary welfare allowances	32 073	8 146	23 490	-	-	63 709
Rent Allowance	383	-	-	-	-	383
Total miscellaneous payments	383	-	-	-	-	383
Grand total <sup>4</sup>	938 971	126 054	278 077	127 081	26 531	1 496 714

<sup>1</sup> A Qualified Child increase is payable at half rate where a spouse living with the recipient is not a Qualified Adult. Each spouse may receive half the Qualified Child increase where both spouses are in receipt of a social welfare payment. This can result in some double-counting of the actual number of Qualified Children.

<sup>2</sup> The number of children is an estimated figure.

<sup>3</sup> Includes basic weekly payments only.

<sup>4</sup> The total figures include a small element of double-counting since some persons could be in receipt of more than one payment, the second of which might be, for example, Disablement Benefit, Rent Allowance or Family Income Supplement.

## F2. Education

162. The Department of Education and Science has responsibility for all aspects of State-provided education at primary and post-primary level in Ireland. In addition, to levels of investment that are universally targeted (contained in Key Education Statistics Timeseries), the department also funds a number of schemes aimed at supporting children from disadvantaged and marginalised communities and families, to access and complete the school cycle. Investment levels have been increasing in this area in recent years (*see Table 5*).

**Table 5**

**Comparison of provision for disadvantaged schemes, 2003 and 2004**

Sector	Approx. allocation 2003	Approx. allocation 2004	Individual component (2003) 2004
Early education	€7 million	€7.8 million	Early Start - €4m Rutland Street - ( <del>€45,000</del> ) €83,000 Pre-schools for Travellers - €1.25m Centre for Early Childhood Development and Education - ( <del>€1.1m</del> ) €2m
Primary level	€70 million	€73 million	Disadvantaged Areas Scheme - €14.32m Breaking the Cycle - €3.586m Giving Children an Even Break - ( <del>€17.88m</del> ) €18m HSCL - €7m Support Teachers - €1.68m Book Grants - ( <del>€5m</del> ) €5.3m Traveller education - ( <del>€21m</del> ) €23m
Post-Primary	€33 million	€35 million	Disadvantaged Areas Scheme - €14m Book Grants - €6.4m HSCL - ( <del>€7.25m</del> ) €8.7m Traveller teacher resource - ( <del>€5.4m</del> ) €5m Traveller capitation - €470,000
Primary and Post-Primary	€23 million	€30 million	School Completion Programme - €23.5m Early Literacy (including Reading Recovery, JCSP Literacy strategy, Library Project) - €2.3m Visiting Teachers for Travellers - €1.6m Projects in LDTFs - €2.6m
Further education	€152 million	€175 million	Youthreach Back to Education Initiative Adult literacy VTOS Travellers Drugs Court Equality Initiative Childcare
Youth	€13 million	€20 million	Special Projects for Youth - €12.5m Youth Encounter Projects - ( <del>€15,000</del> ) €47,000 YPFSF - €6.6m
Third-level Access	€158 million	€197 million	Maintenance grants for third-level students - ( <del>€132m</del> ) €170m Third-level Access Fund - ( <del>€26m</del> ) €27m
National Education Welfare Board	€5.4 million	€6.5 million	( <del>€5.4m</del> ) €6.5m



### F3. Child welfare

163. The Department of Health and Children has responsibility for the health and personal social services needs of the population, with specific responsibilities for child and adolescent health, the health and personal social service needs of children with disabilities, children from disadvantaged communities, Travellers and other ethnic minority groups. It also has responsibility for child protection and some family support services. While the department has policy responsibilities, executive responsibility for the delivery of services falls to the health boards<sup>6</sup> and other specialist agencies funded by the department. Funding levels in relation to services for children in 2004, where these can be disaggregated, are given below.

164. There have been considerable increases in investment in child protection and preventative family support services since the publication of the Child Care Act, 1991. The upward trend in expenditure outturn for the years 1996-2004 is worth noting (*see Table 6*).

**Table 6**

**Expenditure on child protection and preventative family support services, 1996-2004**

1996	€78.575m (outturn)
1997	€102.412m (outturn)
1998	€120.503m (outturn)
1999	€139.297m (outturn)
2000	€187.505m (outturn)
2001	€243.770m (outturn)
2002	€301.280m (outturn)
2003	€342.445m (outturn)
2004	€375.497m (estimate)

- Since 1997, the Government has provided an additional €198m revenue and in excess of €40m capital funding to services for children who are at risk and their families;
- Over €40m capital has been provided to increase the number of High Support/Special Care places from 17 to over 120 today. The Department of Education and Science provides educational services for children resident in these units;
- The Review of Capital Requirements 2004-2008 provides a total of €75m for child care over the period 2004-2008. This consists of €10m for projects that have already been approved and €65m for additional priority projects;
- €18.5m has been invested in youth homelessness services. A key element of the National Youth Homelessness Strategy is the prevention of homelessness and since its publication in 2001, 193 new posts have been created with 11 new units and 42 new services developed. The strategy is coordinated and monitored by a committee established by the National Children's Office;

- The Report of the Working Group on Foster Care (2000) is being implemented. The Foster Care Allowance has been increased substantially to €297 for children under 12 years and €324 for children 12 years and over;
- There are now 22 government-funded Springboard Family Support Projects countrywide. A sum of €1.7m is being allocated in 2005 for five additional projects in the former Eastern, South-Eastern, Southern and Western Health Board regions;
- The Teen Parents Support Initiative (TPSI) has been successfully evaluated and the existing projects have been mainstreamed by their health boards. An additional two TPSI projects were established in the former North-Eastern and Northern Area Health Boards in 2004. A sum of €0.3m is being allocated in 2005 to develop two new TPSI projects.

#### **F4. Childcare**

165. Developments in Ireland parallel a growing international concern about, and financial investment in, early childhood education and care. There are five key areas of activity for childcare, which are already part of government policy:

- Care and safety of children;
- Education and children;
- Income support;
- Employment initiatives to support parents;
- Investor incentives.

166. The Equal Opportunities Childcare Programme (EOCP) probably represents the 'core' of the Government's direct funding of childcare provision. Funding provided by the Government for the development of childcare under the Equal Opportunities Childcare Programme 2000-2006 has increased from the original amount of €318m set aside in the National Development Plan to €499.3m, following the increased capital provision made in Budget 2005. The funding approved to date will, when fully drawn down, lead to the creation of about 36,000 additional centre-based childcare places. This supplements the 56,800 centre-based childcare places that existed at the start of the EOCP and is also supplemented by additional private centre-based childcare places created without support under the EOCP, but with capital tax incentives made available by the Government as recommended in the National Childcare Strategy.

167. Current government policy is that Child Benefit is the main instrument through which support is provided to parents with children. One of the main benefits of this approach is that all recipients are treated equally. Child Benefit is paid monthly in respect of each qualified child; it is not means-tested or taxable. It is paid to over 500,000 families in respect of almost 1.1 million children. To qualify for Child Benefit, the applicant must satisfy a habitual residency condition.

168. The present Government has substantially increased Child Benefit since coming into office in 1997. In that year, Child Benefit was paid for 1 million children at a total cost of €506m. The rate of payment was €38.10 per month for the first and second child, and €49.52 for the third and each additional child. In accordance with the Budget 2005 Statement, it is estimated that in 2005 Child Benefit will be paid for 1 million children at a cost of €1,916m - an increase of €1.4 billion since 1997. From April 2005, the rate of payment will be €41.60 per month for the first and second child, and €77.30 for the third and each additional child. These payments represent a 272% increase in the rate for first and second children over the rate prevailing in 1997 and a 258% increase in the rate for third and subsequent children. By comparison, during this period the increase in the consumer price index was 31%.

169. The Government has also removed benefit-in-kind taxation for free or subsidised childcare provided by employers in order to address supply and cost difficulties.

170. Despite increased investment in childcare provision and support, large groups of Irish society are still experiencing difficulties entering the labour market as a result of poor access to childcare facilities and are therefore dependent on a range of State supports. There remain issues about overall capacity, accessibility/affordability and quality within the sector. The Government recognises the importance of this issue, but also the complexity of getting the right mix of initiatives to get the right results for the money invested.

171. The issue of childcare is currently being examined by a High Level Inter-Departmental Group, on behalf of the Cabinet Committee on Children and chaired by the NCO. The terms of reference of the group are to identify the current problems/weaknesses using the OECD Review of Early Childhood Education and other existing policy documents as a basis for deliberations; to formulate a clear national policy statement on childcare and early childhood education; and to list the options for progress in the short and longer term with a particular focus on organisational arrangements. The group will report to the Cabinet Committee on Children in 2005.

## **F5. Housing**

172. Persons unable to provide housing for themselves from their own resources are entitled to apply for social housing, provided by either a local authority or a voluntary housing body. The Department of the Environment, Heritage and Local Government collects annual information on the number of lettings made to households on local authority waiting lists for social housing. However, data on the number of children in these households is not collected. The total capital funding available for social and affordable housing over the period 2005-2009 will be about €6 billion. When non-voted capital and Exchequer current funding is added, spending on housing over the period will be over €10m. In addition to Exchequer funding, local authority capital receipts from house sales are spent on these services, bringing anticipated expenditure in 2004 to €1,143.009m.

173. These funds will enable substantial progress to be made in meeting the broad range of housing needs through social and affordable housing programmes. Earlier in 2005, the department asked local authorities to produce 5-year action plans to deliver across the full range of social and affordable housing programmes and supporting measures for the period 2004-2008. The overall priority is to ensure that housing is delivered in a manner that tackles real need and breaks cycles of disadvantage and dependency.

174. It is important to note that the Irish housing stock is of very recent construction in comparison with most other European countries, with some 50% being constructed in the last 30 years. The Irish National Survey of Housing Quality, conducted for the Department of the Environment, Heritage and Local Government in 2001-2002, found that some 92% of households are satisfied with the general condition of their accommodation.

175. The next assessment of housing needs was due to be carried out by local authorities in March 2005. Information on particular housing needs, household size and composition (including number and ages of children) will be gathered as part of the assessment. This information will be used by authorities when drawing up their social housing programmes.

#### **G. Extent to which international cooperation relevant to the State is designed to foster the implementation of the UN Convention**

176. The principles of the UN Convention are reflected in Ireland's bilateral and multilateral programmes. Ireland's Overseas Development Assistance (ODA) programme has been expanding in recent years and reached €480m in 2004.

177. Ireland contributes to key multilateral organisations that assist children, including the United Nations Children's Fund (UNICEF), World Health Organisation (WHO), United Nations Population Fund (UNFPA), United Nations High Commissioner for Refugees (UNHCR), International Organisation for Migration (IOM), World Food Programme (WFP) and the World Bank.

178. The main aims of Ireland's policy on development cooperation are to reduce poverty and promote sustainable development in some of the poorest countries in the world. These aims have strong links with the 8 UN Millennium Development Goals (MDGs), adopted by the international community at the Millennium Summit in New York in 2000.

179. The second Millennium Development Goal (MDG 2) calls for the achievement of universal primary education. Education is a key sector of engagement by Ireland within its development cooperation programme. Consequently, Ireland regards the completion of primary school as critical in the elimination of extreme poverty and a prerequisite for achieving the other development goals, as well as a building block for participation in all levels of education. The aim of Ireland's education support is to assist partner countries build sustainable education systems appropriate to the needs of the people and the country.

180. Support for MDG 2 has had a major influence on the evolution of Ireland's development cooperation policy in the education sector since the beginning of the decade. This is manifest in the shift of emphasis within the policy towards support for basic education and primary education in particular. Expenditure on primary education accounts for the largest proportion of Ireland's total education expenditure.

181. Ireland recognises the necessity of working towards the attainment of universal primary education in partnership with other key stakeholders in education, both at national and international levels. On a per capita basis, Ireland is currently the sixth largest contributor to UNICEF, one of its key UN partner agencies. In line with the overall policy of Ireland, resources and support for education are focused on bilateral partner countries in

sub-Saharan Africa through the Poverty Reduction Strategy Paper (PRSP) framework. The PRSP is the framework for establishing short- to medium-term poverty reduction targets, prioritising appropriate actions and developing impact assessment indicators. It also creates a process for a systematic involvement of the private sector and civil society in combating poverty.

182. MDG 4 calls for a reduction in child mortality rates around the world. Ireland's Overseas Development Assistance (ODA) programme recognises the strong relationship between poverty reduction and health, and adopts a multisectoral approach to addressing the causes of child mortality. Apart from health services, emphasis is placed on access to clean water and sanitation, and adequate food and nutrition. Within the health sector, Ireland promotes universal access to a basic package of essential health services, enabling the integrated management of childhood illnesses. In services for HIV/AIDS, Ireland emphasises prevention of mother-to-child transmission of HIV. At country level, Ireland's primary approach is to strengthen government capacity and facilitate the development of sustainable national health systems.

183. Ireland's ODA programme gives a high priority to HIV/AIDS in all its development work, with 10% of total ODA being spent on HIV/AIDS. The situation of children orphaned and made vulnerable by HIV and AIDS is reaching crisis proportions and, to date, has not received the global attention it deserves. Development Cooperation Ireland is an active member of the Inter-Agency Task Team on Education and HIV/AIDS, which focuses on keeping children, especially girls, in school. Ireland has also provided funding to the World Bank publication on prevention programmes. Through Development Cooperation Ireland's regional programme on HIV/AIDS, support is being provided for the development of policy frameworks to address the social and welfare needs of children in southern Africa. In addition, through bilateral ODA programmes, Ireland provides support to orphaned children to ensure their access to education, healthcare and welfare programmes. Development Cooperation Ireland is also participating in the Global Partners Forum, a network of UN and bilateral agencies tasked with advocating that the rights of children be included in key policies on HIV/AIDS.

184. Ireland has increased its support to civil society organisations addressing the needs of children, including projects for orphans and vulnerable children affected by HIV/AIDS. Through its support to UNICEF and WHO, Ireland has been engaged at international level in promoting health of children. Increased support has been given to global initiatives that contribute to children's health, such as the Global Fund for AIDS, TB and Malaria, the Global Alliance for Vaccines and Immunisation, the Polio Eradication Initiative and the European Malaria Vaccine Initiative.

## **H. Measures taken or foreseen to make the principles and provisions of the UN Convention widely known (adults and children)**

### **H1. Publicising the provisions of the UN Convention**

185. Ireland's First Report (1996) indicated the levels of dissemination of the UN Convention on the Rights of the Child (UNCRC) through government departments and agencies, as well as through the school system. The UN Committee stated that it was concerned that insufficient steps had been taken to promote widespread awareness of the UNCRC in response to that report.

186. Since then, the most important awareness-raising initiative related to the development of the National Children's Strategy itself as the equivalent of Ireland's national plan in relation to the UNCRC. The strategy was widely distributed throughout the State - to Ministers, Members of the Dáil (Parliament) and Seanad (Senate), government departments, schools, libraries, health boards, country councils, corporations, city and county development boards, voluntary agencies, Voluntary Education Committees and other education centres.

187. A central part of the development of the National Children's Strategy was the wide-ranging consultation process referred to earlier. Invitations for submissions sought contributions from parents and others who care for and work with children. A targeted consultation was carried out with children and young people with the assistance of schools and voluntary organisations. Children also wrote or e-mailed the Minister for Children with suggestions, comments and observations on growing up in Ireland. The aim was to provide young people with an opportunity to share in the development of the strategy. The Report of the Public Consultation was published in September 2000, a copy of which is available on the National Children's Office website ([www.nco.ie](http://www.nco.ie)).

188. The National Children's Office and the Office of the Ombudsman for Children both have official websites ([www.nco.ie](http://www.nco.ie) and [www.oco.ie](http://www.oco.ie), respectively). Details of all their publications can be found there, together with descriptions of work being carried out and information on the UN Convention.

189. In addition, many of the projects undertaken by the National Children's Office, particularly those related to the voice of the child/participation, have helped to raise awareness significantly on the rights of children as set out under the UNCRC. (These initiatives are referred to in more detail in later sections of this report.) All projects taken on by the NCO have as their basis an objective of the National Children's Strategy, which is, in turn, derived from the UNCRC. Thus, the work of the NCO is always clearly related to the UN Convention and this helps raise awareness of it in a practical, focused and proactive way. The recently established Office of the Ombudsman for Children will have a significant role in further promoting the Convention as part of its statutory functions.

## **I. Measures taken or foreseen to make reports widely available to the public at large (including reference to the process of preparation of the present report)**

### **II. Consultation with NGO sector**

190. In accordance with the continued recognition of the important role that the NGO sector plays in matters concerning children, the National Children's Office (NCO), in preparing this report, consulted with a representative cross-section of the NGO sector interested in the welfare of children.

191. Initially, the NCO considered that the National Children's Advisory Council (NCAC) provided an ideal forum for consultation with children's groups and the observations of the NCAC were sought in March 2004.<sup>7</sup> Unfortunately, the term of office of the Council expired in May 2004 and it was not in a position to formulate a response.

192. The NCO decided to consult directly with the NGO sector, principally through the Children's Rights Alliance (CRA)<sup>8</sup> and those organisations that were members of the NCAC. The CRA has 79 members and represents the majority of the organisations in Ireland concerned with the welfare and rights of children.

193. The NCO arranged for a consultation seminar on the 26 November 2004 and invited the CRA to nominate its representatives. Senior officials from each of the relevant government departments were also invited to form a panel to address questions from the NGOs within their areas of competence. Each of the organisations attending the consultation seminar received, in advance, a draft of this report (Ireland's Second Report), which had been prepared in line with the format required by the UN Committee. To facilitate discussion, the attendees were asked to indicate any areas of particular concern in advance of the seminar. This enabled the NCO to structure the meeting to ensure that there was opportunity to cover the varied areas of interest.

194. The seminar covered the draft contents of this Second Report in great detail and resulted in a most constructive input from the NGO organisations. In particular, the NCO was appreciative of the observations on the overall style and approach, as well as comments about omissions and inaccuracies. Every effort was made by the NCO to take on board the comments made in relation to the first draft. The general comments on the report included:

- Need for greater balance in some areas, particularly with regard to the inclusion of lengthy data in relation to certain areas vis-à-vis others;
- Need for a broader State commentary on progress made in a range of areas to complement the statement of facts; also, need for a statement on obstacles to implementation, for example, where further development is needed or expected, or where further investment is earmarked;
- Observation that progress needs to be grounded in reality and where there are major differences in implementation around the country, these should be specifically remarked upon;
- Writing style needs to be made more readable.

195. A revised draft, incorporating many of the changes suggested by the NGOs, was subsequently circulated to the CRA members in April 2005 and a meeting was held between the NCO and CRA on 19 April 2005.

## **I2. Main concerns of NGOs based on results of consultation process**

196. The NGOs had a number of comments in relation to progress that emerged during the consultation process. The first of these related to the need for improved data in several areas. It was commented that the lack of data, particularly disaggregated data, continues to hinder a full understanding of the progress being made for children in a number of areas of State activity.

197. In addition, the NGOs remarked that this lack of data, combined with general statements on policy and legislative measures, underplays the lack of progress actually being achieved in certain areas. In particular, they emphasised a number of areas in which policy or legislative

measures were good but where implementation was slow, either because of the change management required to introduce new measures or because investment is below the levels required for full implementation of provisions.

198. At the meeting of the NCO and CRA on 19 April 2005, the NGO group presented a coordinated summary of general observations on the revised Second Report, as well as an outline of priority areas requiring action. Further amendments were made to the report on foot of that meeting. The NGOs also outlined many detailed points about the need for improved measures. A summary follows of the priority areas identified.

**(a) General measures of implementation**

199. The NGO group called for the Government to implement the recommendations of the Constitution Review Group (1996) by introducing Constitutional reform to give express rights to children under the Constitution.

200. The NGO group urged that there be renewed energy and commitment to implementing government policies that impact on children, in particular the National Children's Strategy (2000), the National Health Strategy (2001), the National Anti-Poverty Strategy 2003-2007, the National Action Plan against Racism 2005-2008, and the Children First: National Guidelines for the Protection and Welfare of Children (1999). Of key importance is the timely implementation and adequate resourcing of legislation, in particular the Children Act, 2001, the Education (Welfare) Act, 2000 and the Education for Persons with Special Educational Needs Act, 2004.

201. The NGO group submitted that all policies and practices that impact on children should reflect the child rights-based approach as enshrined in the UN Convention. The introduction of child impact statements and child well-being indicators, together with the collation of statistical data on children, will be central to ensuring that this becomes a reality. The NGO group emphasised that additional efforts are needed to make children and adults aware of the principles and provisions of the UN Convention, including training for professional groups working with and for children, such as judges, legal practitioners, Gardaí (police), health professionals, teachers, social workers and care staff.

**(b) Definition of the child**

202. The NGO group called for the age of majority to be aligned with the benchmark age of 18 years used by the UN Convention to define a child, in particular in the area of mental health and juvenile justice. The NGO group commented in particular on the need to implement Part 5 of the Children Act, 2001 - to raise the age of criminal responsibility from 7 to 12 years.

**(c) General principles**

203. The NGO group were particularly concerned with the unintended consequences of some legislative and policy provisions not aimed at children but which impact on them. Concerns were raised, in particular, about arrangements in relation to the processing and deportation of asylum-seekers whose application for asylum had failed: it was felt that actions relating to the parents in this context can affect children adversely or put them at risk.



204. In relation to Article 2, the NGO group submitted that the provision of services and standard of care in health, education and other social services can vary, depending on where the child is living and also on the ethnic and social background of the child. It urged greater consistency in the delivery of services, but also improved monitoring and inspection of services for children.

205. In referring to Article 12, the NGO group reiterated the need for adequately resourced and regulated mechanisms for children's representation in legal proceedings, such as Guardian ad Litem and separate legal representation.

**(d) Civil rights and freedoms**

206. In terms of civil rights and freedoms, the NGO group emphasised a greater need to recognise and accommodate the growing multiculturalism in Irish society. It criticised provisions within the Education Act, which it was argued did not promote or facilitate multicultural/religious approaches to education. It was also argued that there is still inadequate provision to recognise and give expression to the religious, cultural and linguistic identity of Irish-speaking children and Traveller children, as well as the growing numbers of non-national children. It was proposed that measures need to include training and anti-bullying and anti-discrimination programmes.

207. The NGO group also raised an issue regarding the registration of the father's name on the birth certificate and urged a full extension of arrangements to facilitate the immediate registration of the child's birth by parents in maternity hospitals.

**(e) Family environment and alternative care**

208. The NGO group submitted that additional measures are needed to support children to maintain contact with both parents following family separation or divorce.

**(f) Basic health and welfare**

*(i) Social security*

209. While acknowledging that recent economic improvements and increased parental employment has successfully lifted many children out of poverty, the NGO group submitted that additional action is needed to address the persistent presence of child poverty in Ireland. Some of the measures proposed include the introduction of a new child income support measure for families on social welfare and on low incomes, and the reversal of the Habitual Residency Condition policy which, from May 2004, denies the children of incoming asylum-seekers and migrants the Child Benefit payment.

*(ii) Social services*

210. The NGO group expressed considerable concern about the provision of adequate social services to vulnerable children, in particular direct and equal access to support services for children with behavioural, psychological and mental health difficulties, children with special needs, children in care and victims of abuse.

*(iii) Disadvantage*

211. The NGO group stated that there is a need for further investment and policy reform to tackle discriminatory access to housing and health services, including the provision of full medical cards and the reduction of waiting lists.

*(iv) Promotional and preventative health measures*

212. The NGO group suggested that there were inadequate preventative measures relating to suicide, alcohol and drug use. In particular, the area of mental health was highlighted and the need to implement reform of services in order to provide dedicated specialist services for children and young people.

**(g) Education, leisure and cultural activities**

213. In considering education, the NGO group had a number of comments. These related to the need for increased investment in certain areas, particularly in the funding of the National Education and Welfare Board, the National Education Psychological Service and for the full enactment of the Education for Persons with Special Educational Needs Act, 2004. Other issues of concern related to the need for a greater acknowledgement of multiculturalism in education. These concerns focus on the need to promote multi-denominational schools and to amend legislative provisions to rule out discrimination against children through admission systems.

214. The NGO group urged the Government to ensure that the provision of high-quality early childhood education and care be provided on a universal basis, with the roll-out prioritising children experiencing disadvantage and social exclusion. NGOs urged the State Party to ensure policies on early childhood are based on principles relating to the rights of the child, as opposed to the needs of the labour market.

**(h) Special protection measures**

*(i) Migrant children*

215. The NGO group submitted that actions are needed to ensure that the rights of all migrant children are protected and actively promoted. Groups of particular concern are Irish children of non-Irish national parents, children of asylum-seekers and refugees, and unaccompanied minors. The area of family reunification was raised as a concern, given the criteria covering the residency of non-Irish national parents. It was claimed that recent deportations had separated family units, leaving children unaccompanied in Ireland. The NGOs urged the State Party to ensure the situation of these children be considered and that measures be put in place to protect them and ensure they are not at risk.

*(ii) Children in conflict with the law*

216. The NGO group outlined its complete opposition to the proposed introduction of Anti-Social Behaviour Orders (ASBOs) in Ireland. Commenting on proposals currently under discussion by the Minister for Justice, Equality and Law Reform under the Criminal Justice Bill, 2004, the NGOs emphasised the need to consider the very negative impact that the introduction of such provisions have had on children in other jurisdictions. It was suggested that the

proposals, if introduced, would undermine the Children Act, 2001, which emphasises diversionary and restorative approaches to juvenile justice. The NGO group also argued that the introduction of ASBOs would contravene commitments made by the Irish State under the UN Convention on the Rights of the Child.

(iii) *Corporal punishment*

217. The NGO group stated that legislation is needed to prohibit corporal punishment within the family through the removal of the common law chastisement exemption. In addition, an education and awareness campaign for parents and other carers will be required to ensure support for, and compliance with, this legislative change.

**I3. Areas proposed by NGO group for action in the short term**

218. The NGO group considered the following areas to be key priorities in the short term and called on the Government to take appropriate action or make a commitment on these areas prior to the Pre-Sessional and Plenary hearings:

- Commit to introduce Constitutional reform to give express rights to children under the Constitution and to enable the incorporation of the UN Convention on the Rights of the Child into domestic legislation;
- Commit to prohibit corporal punishment through the removal of the common law chastisement exemption. In addition, commit to conduct an education and awareness campaign for parents and other carers to ensure support for, and compliance with, this legislation;
- Introduce a new child income support measure for families living on social welfare and low incomes, which would significantly improve the lives of the 66,000 children officially counted as living in consistent poverty;
- Reverse the Habitual Residency Condition policy that, since May 2004, denies the children of incoming asylum-seekers and migrants the Child Benefit payment;
- Implement Part 5 of the Children Act, 2001, which raises the age of criminal responsibility from 7 to 12 years;
- Bring into force legislative measures and make adequate investment to ensure that children in legal proceedings, where appropriate, have access to a Guardian ad Litem service;
- Recognition of the need for universal early childhood education and care, with a commitment to phased implementation of new services for children and families;
- End the practice of separating families during deportation proceedings and recommit to a policy of family reunification in line with Article 9 of the UN Convention;
- Review the impact on Traveller children of the Housing (Miscellaneous) Act, 2004;
- Do not introduce Anti-Social Behaviour Orders (ASBOs).

## II. DEFINITION OF THE CHILD

### A. Definition of the child - minimum legal age provisions of national legislation

219. The definition of the child in Ireland is described in some detail in Ireland's First Report of 1996 (CRC/C/11/Add.12). The information provided there has now been updated where appropriate or clarified where necessary. Significant progress has been made on age limits in national legislation since 1996. In its concluding observations on the First Report, the UN Committee expressed concern at the various low age limits set in the domestic legislation.

220. In Ireland, the Age of Majority Act, 1985 provides that majority is attained at the age of 18 years or on marriage. At this age, citizens also have the right to vote (CRC/C/11/Add.12, para. 64).

221. Section 2(3) of the Social Welfare (Consolidation) Act, 1993 (as amended), which regulates child income support measures, defines the term 'qualified child' as one who must:

- Be ordinarily resident in the State (unless temporarily absent for particular reasons, such as educational activities);
- Not be detained in a reformatory or industrial school;
- Satisfy the condition as to age.

The upper age limit for a qualified child varies according to the social welfare scheme being availed of (*see Table 7*).

**Table 7**

#### **Scheme of upper age limits for a qualified child**

Age	Relevant schemes
Under 18	All schemes
Over 18, but within 3 months following completion of second-level education or the Leaving Certificate, provided the child does not qualify for a social welfare payment in his or her own right (see Note 1)	All schemes

**Table 7 (continued)**

Age	Relevant schemes
Between 18 and 22 years (Provision 1) while the child is in full-time education (see Notes 2 and 3)	Carer's Allowance Carer's Benefit Deserted Wife's Benefit Disablement Pension Family Income Supplement Farm Assist Invalidity Pension OIB Death Benefits Old Age (Contributory) Pension Old Age (Non-contributory) Pension One-Parent Family Payment Pre-retirement Allowance Retirement Pension Long-term Unemployment Assistance Widowed Parent Grant Widow's/Widower's Contributory Pension
Between 18 and 22 years (Provision 2) while the child is in full-time education (see Notes 2, 3 and 4)	Unemployment Benefit Short-term Unemployment Assistance Disability Benefit Injury Benefit Health and Safety Benefit Supplementary Welfare Allowance

**Note 1:** A person is disqualified for receipt of Unemployment Assistance in his/her own right if s/he left school or completed the Leaving Certificate less than 3 months previously. The disqualification is repeated if the student resists the Leaving Certificate exam on a subsequent occasion, and Child Dependant Increase (CDI) can be awarded again for this period.

**Note 2:** Where a student reaches age 22 during an academic year, the CDI is continued for the duration of that academic year (June) provided s/he remains in full-time education until then.

**Note 3:** Payment of CDI will continue until the end of the academic year following the child's 22nd birthday, where the customer is entitled to or is receiving a short-term payment for a period of not less than 156 days, or a combination of any of the relevant payments for a period of not less than 156 days, where not more than 13 weeks (52 weeks for UA) has elapsed between their current claim and their last relevant payment. All previous periods spent on the relevant payments can be combined, provided that no more than 13 weeks (52 weeks for UA) has elapsed between any 2 successive claims.

**Note 4:** Where a customer who in receipt of a short-term payment does not satisfy the 156 days' requirement, a CDI is payable in respect of a child who reaches 18 in an academic year up to the 30 June following the child's 18th birthday or until s/he completes the full-time day course, whichever is the earlier.

**A1. Health and personal social service provisions (including medical counselling without parental consent, medical treatment and surgery, marriage and sexual consent, identity, access to information on biological family, consumption of alcohol and other controlled substances)**

222. It is accepted practice that doctors and other medical professionals obtain the consent of parents or guardians for medical and surgical procedures carried out on minors. A minor over 16 years of age may consent to surgical, medical and dental treatment under Section 23 of the Non-Fatal Offences against the Person Act, 1997. This covers the issue of any procedure undertaken for the purposes of diagnosis or ancillary to any medical treatment, in particular the administration of an anaesthetic. Age limits have also been raised for psychiatric treatment. Under the Mental Treatment Act, 1945, a child was defined as a person under the age of 16 years. However, under the Mental Health Act, 2001 (enacted but not yet fully commenced), a child is defined as a person under the age of 18 years, other than a person who is or has been married.

223. As set out in Ireland's First Report (1996), for persons ordinarily resident in the Irish State, the minimum age at which one may marry is 18 years (unless a Court Exemption Order has been obtained). The legal age of consent for heterosexual and homosexual acts is 17.

224. All children born in Ireland have their births registered in the General Registrar's Office. Any person can obtain a copy of their birth certificate, which contains details of their name, place of birth, etc. The provisions for children who do not live with their biological families are set out below.

225. Foster children (under 18 years) remain legally part of their family of origin, although guardianship responsibilities are taken on by the local health board. Foster care is legislated for under the Child Care Act, 1991 and with the associated Child Care (Placement of Children in Foster Care) Regulations, 1995 and Child Care (Placement of Children with Relatives) Regulations, 1995. Foster children have access to all information regarding their identity. An important part of the service is to ensure the development of the relationship between the child and their own family, as well as with the foster family.

226. Under the Adoption Acts, a child being considered for adoption must be under 18 years. Under adoption, the birth family loses all legal rights over the child and responsibility for the welfare of the child passes to the adoptive family. An adopted person's access to information about their birth family is not provided for in current law. 'Open'-style adoptions (which allow for the communication of certain information between the adoptive and birth families) are on the increase, but there is no provision in law for such informal arrangements. The issue of access to birth information (both historic and current) is being considered under new adoption legislation currently being drawn up.

227. Section 13 of the Intoxicating Liquor Act, 2003 restates the prohibition on the purchase or delivery of intoxicating liquor to a person under the age of 18 years on licensed premises (*see Ireland's First Report, para. 78*). The Act also places a general prohibition on persons under 18 from bars of licensed premises. There is, however, a discretion to a licensee to admit a child under 15 to a bar if accompanied by a parent or guardian until 9pm. Persons aged 15 to 17 may only be allowed in a bar if accompanied by a parent or guardian after 9pm on the occasion of a

private function at which a substantial meal is served. A child under 15 may be excluded from a bar at the discretion of the licensee if the child's presence in the bar could reasonably be regarded as injurious to the child's health, safety or welfare. A licensee may set a minimum age for the sale and consumption of alcohol which is above the statutory minimum age of 18, as long as the policy is publicly displayed and implemented in a non-discriminatory manner.

228. Section 74 of the Child Care Act, 1991 makes it an offence to sell solvent-based products to children where it is known or suspected that they will be abused. Part 3, Section 45 of the Public Health (Tobacco) Act, 2002 makes it an offence to sell any tobacco product to a person under 18 years of age. This legislation updates the 1988 Tobacco (Health Promotion and Protection) Act.

229. The Education (Welfare) Act, 2000 raised the age at which children may leave the school system, from 15 to 16 years, or following the completion of 3 years of post-primary education, whichever is the later. (For details of religious teaching in schools and institutions, *see paras. 374*).

## **A2. Employment provisions (including enlistment and conscription)**

230. Ireland has addressed issues surrounding the employment of children under the Protection of Young Persons (Employment) Act, 1996. Section 31 of the Education (Welfare) Act, 2000 amended the definitions of 'child' and 'young person' in the Protection of Young Persons (Employment) Act, 1996, as follows:

- 'Child' means a person who has not reached the age of 16 years;
- 'Young person' means a person who has reached the age of 16 years, but has not reached the age of 18 years;
- The Protection of Young Persons (Employment) Act, 1996 provides that employers may not employ those aged under 16 (a child) in a regular full-time job. The Act consolidates the law on young workers and gives effect to international rules on protecting young workers drawn up by the International Labour Organisation (ILO) and the European Union (EU). The law is designed to protect the health of young workers and to ensure that work during the school years does not put a young person's education at risk. The law sets minimum age limits for employment, sets rest intervals and maximum working hours, and prohibits the employment of under-18s on late-night work. Employers must keep specified records for workers who are under 18;
- Employers may employ 14 and 15 year-olds on light work:
  - During the school holidays;
  - Part-time during the school term (over 15 years only); or
  - As part of an approved work experience or educational programme, where the work is not harmful to their safety, health or development.

231. Rules on maximum working hours, early morning and night work, and rest periods for this age group are set out in an explanatory booklet on the Act, available at [www.entemp.ie/publications/employment/1996/protectionofyoungpersons.pdf](http://www.entemp.ie/publications/employment/1996/protectionofyoungpersons.pdf).

232. Employers are obliged to assess any risk to the safety, health and welfare of a child or young person at the place of work and to take any preventive measures necessary. This is mandatory under the Safety, Health and Welfare at Work (Children and Young Persons) Regulations, 1998 (SI No. 504/1998), made under the Safety, Health and Welfare at Work Act, 1989. The purpose of these regulations is to implement the health and safety aspects of Council Directive 94/33/EC on the protection of young people at work. The other requirements of this directive have been implemented by the Protection of Young Persons (Employment) Act, 1996 (*see paras. 773-775*).

(For information on voluntary enlistment in the armed forces, conscription into the armed forces and participation in hostilities, *please refer to Ireland's First Report (1996), para. 74.*)

### **A3. Juvenile justice provisions (including criminal responsibility, deprivation of liberty, capital punishment, life imprisonment)**

233. The most important development on juvenile justice provisions comes with the enactment of the Children Act, 2001. This represents a major shift in how children in the juvenile justice and welfare systems will be treated.

234. It had been clear for some years that the juvenile justice system could no longer continue to develop within the statutory confines of the Children Act, 1908. Thus, the Children Act, 2001 introduced a wide range of innovative measures, which provide a statutory framework for the future development of the juvenile justice system in accordance with modern thinking and best international practice. The Act is a very complex and comprehensive piece of legislation and its provisions are being implemented on a phased basis.

235. In its concluding observations on Ireland's First Report (1996), the UN Committee expressed concern at the various low age limits set in the domestic legislation of the State Party. Part 5 of the Children Act, 2001 provides for the raising of the age of criminal responsibility from 7 to 12 years. This Part of the Act has not yet commenced.

236. As outlined previously, the Children Act, 2001 represents a major shift in how children in the juvenile justice and welfare systems are treated. The Act also introduces a wide range of innovative measures, such as community sanctions as an alternative to detention, restorative justice provisions and family conferences. The Act also makes provision for addressing the needs of children in need of special care and protection (i.e. non-offending children with challenging behaviour).



237. The Children Act, 2001 provides the framework for treating young offenders in a different way than adult offenders. The philosophy underpinning the Act is that there should be a suitable intervention for every child who commits an offence, no matter what the offence or the circumstances of the child who commits it. The Act re-enacts and updates provisions in the 1908 Act protecting children against abuse by persons who have the custody, charge or care of them, and it also provides for family welfare conferences and other provisions for dealing with non-offending children in need of special care or protection.

238. Part 6 of the Children Act, 2001 establishes as a general principle that a child suspected of having committed an offence must be treated in a manner appropriate to his or her age and understanding, and with respect for his or her rights and special needs. It also places duties on the Garda Síochána to inform the child's parents about his or her whereabouts and any charge made against the child, questioning the child only in the presence of a parent or other adult, and informing the child of his or her right to a solicitor. It also raises the age of application from 17 to 18 years for regulations made under the Criminal Justice Act, 1984 regarding the treatment of persons in custody. The bulk of the provisions under Part 6 of the Act have commenced.

239. Provision is also made under Part 6 of the Children Act, 2001 for the Garda Síochána to liaise with the relevant health board with respect to children in need of care or protection. However, the relevant sections of the Act have not yet been commenced.

240. The central principle that governs the Children Act, 2001 is that children should be brought up in their own communities and families. Where intervention occurs, it should aim to support and maintain children within these relationships and networks because it is clear that this is where children do best.

241. The provision of secure placements for a small number of non-offending children in need of special care or protection has been the subject of considerable public attention in recent years. A number of important judicial decisions have been given in this area. As mentioned above, a key aim of the Children Act, 2001 is to retain the distinction between offending children and non-offending children by providing separate detention facilities for both groups.

242. The Children Act, 2001 provides for placement in a secure setting for non-offending children, specifying that such placement should be exceptional, should be a measure of last resort and should be for as short a time as possible. A court order is required before a child can be placed in a secure setting; this cannot be sought by a health board until a family welfare conference has been held (as provided under Part 2 of the Act). The views of the Special Residential Services Board (established under Part 11 of the Act) are also sought. (For further details on the role of the Board, *see paras. 470-471.*)

243. The death penalty was abolished by the Criminal Justice Act, 1990. Ireland has also ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights (see Ireland's First Report, CRC/C/11/Add.12).

### III. GENERAL PRINCIPLES

#### A. Non-discrimination

##### A1. Introduction

244. As outlined in Ireland's First Report (CRC/C/11/Add.12, paras. 86-89), the Constitution of Ireland provides a general guarantee of equality before the law. Article 40.1 of the Constitution reads: 'All citizens shall, as human persons, be held equal before the law. This shall not be held to mean that the State shall not in its enactments have due regard to difference of capacity, physical and moral, and of social function.'

245. This guarantee of equality, based on human personality, is as applicable to children as to adults. The Constitution protects the dignity of citizens against discrimination by the State based on race, colour, religion, political or other opinion, national or social origin, property, birth or other status.

246. Ireland ratified the UN Convention on the Elimination of All Forms of Racial Discrimination on 29 December 2000 and it entered into force on 28 January 2001. In April 2004, Ireland submitted its first National Report under this Convention to the United Nations. It will act as a baseline for measuring progress and an opportunity to identify gaps in the anti-racist framework.

247. As cultural diversity in Ireland continues to broaden, there are specific new challenges to combating racial discrimination. Details of the Government's progress and future plans in this regard are outlined below. However, it is useful to set out the broad policy approach, described in the National Action Plan against Racism (NAPR) published in January 2005, where an 'inclusive and intercultural society' is defined as: 'Developing a more inclusive and intercultural society is about inclusion by design, not as an add-on or afterthought. It is essentially about creating the conditions for interaction, equality of opportunity, understanding and respect. In taking this approach, we embrace the concept that 'one size does not fit all', and that by planning for and accommodating cultural and ethnic diversity, everyone will benefit from the process. The intercultural framework underpinning this Plan [NAPR] includes the five objectives of Protection, Inclusion, Provision, Recognition and Participation.' (For further details on the NAPR, *see paras. 268-269 below.*)

##### A2. Legislative provisions

248. There have been considerable advances in placing a prohibition on discrimination on a statutory basis since Ireland's First Report (1996), as follows.

###### (a) Employment Equality Act, 1998

249. The Employment Equality Act, 1998 prohibits discrimination in employment, vocational training, advertising, collective agreements, the provision of goods and services, and other opportunities to which the public generally have access on 9 distinct grounds, namely:

- Gender;

- Marital status;
- Family status;
- Sexual orientation;
- Religion;
- Age;
- Disability;
- Race;
- Membership of the Traveller community.

250. All aspects of employment are covered:

- Equal pay;
- Access to employment;
- Vocational training;
- Conditions of employment;
- Work experience;
- Promotion;
- Dismissal.

251. The legislation applies to public and private sector employment; employment agencies; vocational training bodies; the publication of advertisements; trade unions and professional bodies; full-time and part-time workers; and collective agreements.

**(b) Equal Status Act, 2000**

252. Discrimination outside the workplace is covered by the Equal Status Act, 2000. This prohibits discrimination in the provision of goods and services, the disposal of property and access to education. The grounds on which discrimination is outlawed are the same as those listed above for the Employment Equality Act, 1998. However, the Equal Status Acts, 2000 and 2004 define the 'age' ground as being applicable to a person who is over 18 (except in the case of provision of motor insurance) and no upper age limit applies. All other grounds prohibiting discrimination under the Equal Status Acts, 2000 and 2004 apply to persons under 18 years of age.

253. The Act outlaws discrimination in all services that are generally available to the public, whether provided by the State or private sector. These include facilities for refreshment,

entertainment, banking, insurance, grants, credit facilities, transport and travel services. Discrimination in the disposal of premises, provision of accommodation, and admission or access to educational courses or establishments is also prohibited, subject to some exemptions.

**(c) Equality Act, 2004**

254. The Equality Act, 2004 came into effect on 28 July 2004 and amended the Employment Equality Act, 1998 and the Equal Status Act, 2000. This was necessary to implement the employment and non-employment aspects of three EU directives - Race Directive (2000/43/EC), Framework Employment Directive (2000/78/EC) and Gender Equal Treatment Directive (2002/73/EC). The Equality Act, 2004 also provides for a number of other amendments to the Employment Equality Act, 1998 and the Equal Status Act, 2000.

**A3. Supporting structures**

255. The Department of Justice, Equality and Law Reform has specific responsibility for progress towards the elimination of discrimination and the promotion of equal opportunities and the accommodation of diversity. The department's structure includes the following sections, which exist to advise on, promote and uphold the law as well as to develop policies that further advance equality provisions generally:

- Employment Equality Section;
- Equal Status Division;
- Disability Equality Section;
- Gender Equality Section;
- Childcare Directorate (with responsibility for developing childcare).

256. The Equality Authority was established on 18 October 1999 and is an independent body set up under the Employment Equality Act, 1998. It replaced the Employment Equality Agency and has a greatly expanded role and functions to combat discrimination and promote equality of opportunity in areas covered by the Employment Equality Act, 1998 and the Equal Status Act, 2000.

257. Any person who considers that they have been discriminated against can apply to the Equality Authority for assistance in bringing proceedings under the equality legislation. The Equality Authority has a broad discretion to grant assistance if it is satisfied that the case raises an important point of principle or if it is not reasonable to expect the person to adequately present the case without assistance.

258. The Equality Tribunal (formerly the Office of the Director of Equality Investigations) is the accessible and impartial forum to remedy unlawful discrimination. It is an independent statutory office, which investigates or mediates complaints of unlawful discrimination. It operates in accordance with the principles of natural justice and its core values are impartiality and professionalism, accessibility and timeliness.

259. The Equality Tribunal's principal role is the investigation and mediation of complaints of discrimination in relation to employment and in relation to access to goods and services, disposal of property and certain aspects of education. This protection against discrimination applies to all 9 grounds on which discrimination is prohibited under the new equality legislation (*see para. 252 above*). Where a complaint of discrimination is upheld, redress must be awarded.

260. A parent or guardian can make a complaint on a child's behalf. Evidence still needs to be given at the hearing about what happened, but a child will not be asked to give evidence if they are considered too young to do so.

261. Support is provided by the Irish Government for the Equality Authority and the Equality Tribunal, to enable those bodies to provide a free service to members of the public, including children, should they require advice or assistance on discrimination or should they wish to take a case before the Equality Tribunal.

#### **A4. Other measures**

262. The Public Information Centre of the Equality Authority provides information on the working of the Employment Equality Act, 1998 and the Equal Status Act, 2000. The Public Information Centre also makes information available on the Maternity Protection Act, 1994, the Adoptive Leave Act, 1995 and the Parental Leave Act, 1998.

263. One of the primary objectives of the National Children's Strategy is that 'children will be educated and supported to value social and cultural diversity so that all children including Travellers and other marginalised groups achieve their full potential'. A number of actions have been designed to achieve this objective (*see below*).

264. In 2001, the Government launched a 3-year national anti-racism awareness programme, entitled *Know Racism*, with the aim of stimulating an awareness of racism and a respect for cultural diversity. The programme's activities included national advertising campaigns, publicity events, support for local anti-racism awareness initiatives, partnership ventures and research. The programme also launched four rounds of grant schemes to assist community groups and organisations in developing and implementing local anti-racism awareness initiatives. Grants totalling €1.3m were paid to 450 projects in 26 counties during the campaign. A number of these grants were paid to education and youth development groups to support anti-racism awareness initiatives. A video was also prepared, using material from RTÉ's intercultural programme called *MONO*, and distributed to all second-level schools in the country. The *Know Racism* programme was completed in December 2004.

265. The National Action Plan against Racism (NAPR) arises from Ireland's commitment to the outcomes of the World Conference against Racism, held in Durban, South Africa, in September 2001. Following this conference, the Department of Justice, Equality and Law Reform developed a comprehensive consultative process to identify the key issues related to racism in Ireland and the priorities that should be included in the development of a national plan. The consultative process, completed in 2003, consisted of a national consultative conference, written submissions, and regional and thematic seminars. A large number of submissions were received from the NGO sector, public sector and various other interest groups, including those dealing with children, youth services and education. Two of the thematic seminars held were

based on young people and children, and education. The report on the consultative process, together with a framework structure for the NAPR, was released as *Diverse Voices* in 2003 and widely distributed. The framework for the NAPR is built around five main objectives: Protection, Inclusion, Provision, Recognition and Participation - i.e. protection from racism; inclusion in the socio-economic sense; equality of access to the provision of services; recognition and building respect of cultural diversity and promoting interaction and understanding; and participation of minorities in Ireland society and decision-making. The NAPR was launched by the Government in January 2005 and is a key element of the Special Initiative on Migration and Interculturalism contained in the social partnership agreement *Sustaining Progress*.

266. An anti-racism intercultural programme is to be implemented at every level of the education system in line with the recommendations of the National Action Plan against Racism (NAPR). The programme will build on existing initiatives and focus on curriculum, training and support issues, and literacy and language training for adult minority linguistic groups, which will be expanded as resources become available. Considerable progress has been made already and key elements of the strategy concern partnership, participation and planning, and additional supports, such as language tuition, translation services, guidance and advice for providers, raising awareness and staff training, curricula, assessment, methodologies, quality assurance and research. These apply at all levels of the education system - early childhood education, primary, post-primary, further and higher education, and in the non-formal sector.

267. The National Council for Curriculum and Assessment (NCCA) established a committee to examine all issues around interculturalism at primary and post-primary levels. Draft guidelines for primary schools were launched in May 2005.

268. The Gardaí have established the Garda Racial and Intercultural Office (GRIO) to identify and meet the specific needs of minority groups. The GRIO delivers lectures and talks to students and promotes courses on the UN Convention on the Rights of the Child in the overall context of Human Rights training, thus serving to raise awareness of the Convention within the organisation. The Gardaí have also established a national advisory panel so that members of the gay and lesbian community can have their perspective represented in Garda training and policy.

#### **A.5. Social inclusion measures for Traveller and asylum-seeking children (including data collection)**

##### **(a) Special educational measures**

269. There are a wide range of education initiatives specific to Traveller children being run by the Social Inclusion Unit of the Department of Education and Science. The department is also currently involved in preparing a Traveller Education Strategy, with a view to improving the educational achievement of Traveller children.

270. There are an increasing number of non-Irish-national pupils attending schools in Ireland. The best interests of the child in these situations is acknowledged by providing additional funding and teaching resources to these schools to assist such pupils in acquiring a knowledge of English. It is estimated that 1.4% (6,300) of primary enrolments for 2002/2003 were for immigrant pupils in receipt of English language support. Immigrant children residing in Ireland

are entitled to primary and post-primary education regardless of legal status. Attendance at school is compulsory for all children aged 6-16 living in Ireland, as provided for in the Education (Welfare) Act, 2000.

**(b) Data collection**

271. In the 2002 Census, an accurate count of the Traveller community, including Traveller children, was carried out. The Central Statistics Office produced a Report on the Irish Traveller Community (available on [www.cso.ie/census/vol8\\_index.htm](http://www.cso.ie/census/vol8_index.htm)), which provides a detailed analysis of the socio-economic position of Travellers, including Traveller children, with the data disaggregated on the basis of education, geographical location, age, religion and certain other areas. The 'Second Progress Report of the Committee to monitor and coordinate the Implementation of the Recommendations of the Task Force on the Travelling Community' will highlight the need to prepare specific policies targeting the needs of Traveller children. To assist in addressing the lack of data relating to the health of the Traveller community and ethnic groups, the Department of Justice, Equality and Law Reform co-funded a €10,000 pilot project of the Department of Health and Children in 2003, to collect data through hospital information systems. The two pilot sites for the project are Tallaght Hospital and the Rotunda Hospital.

(See also Chapter I (*para. 155*) of this report for details of the Steering Group on Social and Equality Statistics (SGSES).)

**A6. Measures taken to eliminate discrimination against girls and measures adopted as a follow-up to the Fourth World Conference on Women**

272. Policy on youth, which treats boys and girls equally, is set out in the National Youth Work Development Plan 2003-2007. Implementation of the plan is overseen by the National Youth Work Advisory Committee. The plan has four broad goals:

- To facilitate young people and adults to participate more fully in, and gain optimum benefits from, youth work programmes and services;
- To enhance the contribution of youth work to social inclusion, social cohesion and citizenship in a rapidly changing national and global context;
- To put in place an expanded and enhanced infrastructure for development, support and coordination at national and local level;
- To put in place mechanisms for enhancing professionalism and ensuring quality standards in youth work.

The National Development Plan 2000-2006 also contains a Youth Services Measure, which provides funding for a range of activities targeted at young people.

**B. Best interests of the child as a primary consideration in actions concerning children in the Irish Constitution, national legislation and regulations**

**B1. Introduction**

273. As mentioned in Chapter I, a set of six principles is identified to guide all the actions to be taken under the National Children's Strategy. These reflect the UN Convention on the Rights of the Child and derive from a more complete understanding of children.

**B2. Best interests of the child in school, family and social life**

274. For budgetary allocations and details of social expenditure for children, *see Chapter I, Section F.*

**B3. Health promotion/prevention**

**(a) General medical services**

275. In a recent case, the Supreme Court held that the health board did not have the right to insist on having a test carried out on a child without the parents' permission. This case involved the PKU or heel pin-prick test, which is usually carried out on babies shortly after birth<sup>9</sup>. In a recent unreported case, the Supreme Court ruled to make an order that was contrary to the decision of the parents regarding procedures for their children; in this case, the court took into account the best interests of the child, giving these interests greater weight than those of the parents. Nevertheless, the court held that only in exceptional circumstances would it intervene and make an order contrary to the wishes of the parents<sup>10</sup>.

**B4. Mental health services**

**(a) Child and adolescent services**

276. Under the Mental Treatment Act, 1945, a person under 16 years cannot be admitted for psychiatric care without the consent of his or her parent(s) or guardian(s) unless the child is a ward of court. Each in-patient psychiatric centre must be designated by the Minister for Health or the Health Service Executive. A system of inspection is in place to protect patients (including children) in psychiatric hospitals. The Mental Health Act, 2001 provides for the Mental Health Commission to appoint an Inspector of Mental Health Services, whose remit includes inspecting all facilities where mental health services are provided, including units where services are provided to children.

**B5. Child welfare services**

**(a) Child protection**

277. The requirement that the 'best interests of the child' be the guiding principle in all matters affecting 'child welfare' underlies the provision of child care services in Ireland. It is clearly enshrined in Section 3 of the Child Care Act, 1991, which places a statutory duty on health boards to promote the welfare of children who are not receiving adequate care and protection. In the performance of this function, Section 3 of the Act requires that a health board



shall have regard to the welfare of the child as the first and paramount consideration. Section 24 imposes a similar obligation on the courts when hearing proceedings in relation to the care and protection of a child. The following secondary legislation and policies were devised based on the principle of the 'best interests of the child':

Legislation based on 'best interests of the child':

- Child Care (Placement of Children in Residential Care) Regulations, 1995 (SI No. 259/1995);
- Child Care (Placement of Children in Foster Care) Regulations, 1995 (SI No. 260/1995);
- Child Care (Placement of Children with Relatives) Regulations, 1995 (SI No. 261/1995);
- Child Care (Standards in Children's Residential Centres) Regulations, 1996 (SI No. 397/1996);
- Child Care (Special Care) Regulations, 2004 (SI No. 550/2004);
- Children (Family Welfare Conference) Regulations, 2004 (SI No. 549/2004);
- National Standards for Foster Care (2003);
- National Standards for Special Care Units (2001).

Policies based on 'best interests of the child':

- Children First: National Guidelines for the Protection and Welfare of Children (1999);
- Report of the Working Group on Foster Care (2001);
- National Standards for Foster Care (2003);
- National Youth Homelessness Strategy (2001).

**(b) Adoption**

278. Adoption legislation also embodies the principle that the welfare of the child must be paramount in all decisions made on the placement of a child for adoption and in effecting any subsequent adoption. In intercountry adoption, now the most common form of adoption of children in Ireland, the emphasis of all recent material on training and assessment is very clearly focused on the best interests of the child.

## **B6. Family law**

### **(a) Custody disputes**

279. All court proceedings involving the custody of a child are governed by the Guardianship of Infants Act, 1964. The 'best interests' principle is the paramount consideration in deciding matters of this nature. In effect, the Act puts the reporting role of social workers and welfare officers in family law proceedings on a statutory basis.

### **(b) Asylum procedures**

280. Most applications for asylum in respect of children are made by their parents on their behalf. Parents sometimes choose to make separate applications on behalf of their children; in such cases, the child's application will be investigated independently and these children automatically enjoy the protection afforded to Irish children under the Child Care Act, 1991. Under Section 3 of the Act the health boards shall have regard to the welfare of the child as the first and paramount consideration (*see para. 282 above*). Children who appear to arrive unaccompanied in the State are referred by immigration officials of the Office of the Refugee Applications Commissioner (ORAC) to the health board. The health board decides whether or not to make an application for asylum on the child's behalf. In the event that an application is made, the health board then assists the minor throughout the asylum process, including accompanying him or her to the interview.

## **B7. Measures to ensure protection and care of children necessary for their well-being**

281. The Irish Government's policy on children and their families is based on the premise that parents are the primary carers and educators of their children. An important principle informing the Child Care Act, 1991 is that it is generally in the best interests of the child to be brought up in his or her own family. This reflects the Constitutional guarantees protecting the family and respecting the rights of parents.

## **B8. Child welfare**

### **(a) Child Care Act, 1991**

282. Section 4 of the Child Care Act, 1991 places a duty on a health board to take a child into care where it is likely that the child will not receive adequate care and protection. Part 3 of the Act allows children to be taken into care in emergency situations and Part 4 enables a District Court to make a care order placing a child in care if the grounds to do so within the Act are met.

### **(b) Children Act, 2001**

283. Parts 2, 3 and 11 of the Children Act, 2001 provide a statutory scheme for non-offending children in need of special care or protection to be placed in special care units, in appropriate circumstances as a last resort for a relatively short period of time (between 3 and 6 months - this period may be extended by the court). Provision is also made for an interim special care order

for 28 days, in circumstances where a family welfare conference has been arranged and where pressing grounds exist for the order to be made. In certain circumstances, this 28 day order may be extended.

284. Part 2 of the Children Act, 2001 establishes the family welfare conference on a statutory basis for the first time and provides that this conference be held in advance of an application for a child's placement in special care. Where a health board, on conclusion of a family welfare conference, proposes to apply for a special care order, it must seek the views of the Special Residential Services Board, established under Part 11 of the Act.

**(c) Youth homelessness**

285. The National Youth Homelessness Strategy was published on 31 October 2001. It provides a strategic framework for youth homelessness to be tackled on a national basis. The goal of the strategy is 'to reduce and if possible eliminate youth homelessness through preventative strategies and where a child becomes homeless to ensure that he/she benefits from a comprehensive range of services aimed at re-integrating him/her into his/her community as quickly as possible'. Implementation of the strategy focuses on preventative measures, development of responsive services, and planning and administrative supports.

286. A number of measures have been taken in the State to ensure that the best interests of the homeless child is at the heart of the provision of accommodation. Offers of accommodation made to an applicant by local authorities will take into consideration the location of a child's school if required.

**(d) Planning and development policy**

287. When planning housing schemes, local authorities must consider ways to facilitate and encourage the provision of services, such as shops, schools, churches, parks, playing fields and community meeting places, either within or adjacent to the site of proposed schemes.

**(e) Provision of accommodation**

288. There has been an improvement in both the quality and range of services for homeless people since the launch in 2000 of the Government's *Homelessness: An Integrated Strategy*. The most recent assessment of housing needs, which included a count of homeless people, was carried out by local authorities at the end of March 2002. The next assessment is due in 2005. Current data indicates that for the Dublin local authority areas, there are approximately 354 units of family-type accommodation, with 1,070 beds in the private emergency accommodation area. There are about 360 children in private emergency accommodation at present. While the use of bed-and-breakfast accommodation is seen at present as essential for the provision of emergency accommodation, it is recognised that it is not suitable as a long-term solution to homelessness accommodation and that its use should be phased out, particularly for families.

289. Dublin city is a major user of bed-and-breakfast accommodation and Dublin City Council is conducting an ongoing review of this type of accommodation. This has led to increased monitoring, improved coordination and better management practice within the Dublin area.

**(f) Traveller accommodation**

290. The Housing (Traveller Accommodation) Act, 1998 provides the framework for the provision of accommodation by local authorities for families from the Traveller community, including children. The Act also requires each local authority to prepare, adopt and take any reasonable steps necessary to implement 5-year accommodation programmes. The first accommodation programme covers the period 2000-2004; in the first four years of this period (2000-2003), 1,369 additional Traveller families were accommodated by the local authorities. The second accommodation programme, covering the period 2005-2008, are currently being prepared by local authorities.

**(g) Asylum-seeker reception systems - accommodation**

291. In the Irish asylum-seeker reception system, families with children are always accommodated together. Accommodation services are tailored to meet the reasonable requirements of families.

**B9. Recruitment of staff working with children in areas of health and personal social services**

292. Garda clearance is required by candidates seeking employment in the health services, where they would have substantial access to children and vulnerable individuals. All employers are also required to maintain good practice during recruitment and employment. This good employment practice applies to volunteers as well as to employees.

**(a) Standards for pre-school services**

293. The health, safety and welfare (including development needs) of children aged 0-6 in pre-school settings are provided for under the Child Care (Pre-School Services) Regulations, 1996. Providers of such services are required to notify the health board within six months and are inspected by authorised officers of the board. Strengthening of these requirements is proposed as part of a review of these regulations, which is well advanced.

**(b) Standards for primary and secondary schools**

294. The Department of Education and Science Inspectorate carries out annual programmes of inspection and evaluation involving:

- School inspections;
- Subject inspections and evaluations of programmes at second level;
- Inspection of the work of individual teachers, including probationary teachers;
- Focused evaluations of particular aspects of the system.

295. The Inspectorate is currently developing a common model of external evaluation of schools at both primary and secondary levels.

(i) *Primary schools*

296. Primary schools are inspected on a cyclical basis in line with annual inspection targets. A school report (Tuairisc Scoile) is furnished on a primary school on average every 6 years following a detailed school inspection. This evaluation of the school examines all aspects of teaching, learning and assessment, as well as school planning, the work of the board of management and the school's accommodation and resources. The work of individual teachers is inspected in accordance with the Rules for National Schools. Much of this work relates to the evaluation and support of probationary teachers. Inspectors also become familiar with the ongoing work of schools and teachers through frequent incidental inspection visits to schools.

(ii) *Second-level schools*

297. Subject inspections in second-level schools are undertaken by specialist inspectors. Inspectors may also visit schools in a number of other contexts. The inspection of schools and individual teachers under Vocational Education Committees (VECs) is specifically governed by Circular Letter 43/85.

(c) **Standards for residential units for children in care - role of the Social Services Inspectorate**

298. The Social Services Inspectorate (SSI) promotes and ensures the development of quality standards by advising the Department of Health and Children on the formulation of standards, by providing advice and guidelines generally on best practice in residential child care, social work and social services, and by carrying out an inspection function in relation to children's residential services. (For further details on the SSI, *see paras. 468-469.*)

299. A number of guidelines and standards for public and private institutions, services and facilities responsible for the care and protection of children have been issued in recent years. These include:

- *Our Duty to care: The principles of good practice for the protection of children and young people* (2002), published by the Department of Health and Children, offers guidance on the promotion of child welfare and the development of safe practices in work with children;
- Child Care (Placement of Children in Residential Care) Regulations, 1995 (SI No. 259/1995), which cover children in residential care;
- Child Care (Placement of Children in Foster Care) Regulations, 1995 (SI No. 260/1995), which cover children in foster care.

300. These regulations provide that children's physical, emotional, spiritual, psychological and social development needs are identified and addressed, and that they are prepared for leaving care. As of December 2004, all statutory and non-statutory centres had been inspected by the

Social Services Inspectorate (SSI) at least once against the National Standards and all reports are published and available on the SSI website ([www.issi.ie](http://www.issi.ie)). In June 2004, a children's version of the National Standards was published and distributed to all children in care or their carers for distribution.

301. The Child Care (Special Care) Regulations, 2004 (SI No. 550/2004) set out various requirements to be complied with by health boards in relation to the placing of children in special care units; the conduct of special care units provided by health boards or a voluntary body or any other person; the care, supervision, visiting and review of children placed in special care units; and the discharge of children from such units (in accordance with the relevant provisions of the Child Care Act, 1991, as amended by the Children Act, 2001). The National Standards for Special Care Units provide the basis against which inspectors will form judgements about the quality of care provided by the health boards in these units. It is worth noting that the provisions of these National Standards also make explicit reference to ensuring the rights accorded to all children under the Constitution in relation to freedom of expression; freedom of thought, conscience and religion (taking account of views of parents); freedom of association and peaceful assembly; and the protection of privacy.

302. Care planning for the individual child is the primary tool used to assess, plan for and respond to a child's needs. The Annual Report of the Social Services Inspectorate 2003 indicates that 70% of children and young people in the centres inspected had care plans, compared with 76% in 2002. Over a 5-year inspection period, the rate is lower and the standards of care plan somewhat disappointing. Difficulties encountered included shortage of social work staff (recruitment and retention problems); the need to distinguish between statutory reviews and other meetings held to advance the care of the child; and the level of participation by young people and parents in the review. A care planning pilot project in one Health Board area has developed care planning guidance notes and templates. Wider dissemination of this material is being examined.

**(d) Asylum procedures**

303. Guidelines have been put in place on determining applications from unaccompanied minors, which take account of past experience, guidelines and advice of the UN High Commissioner for Refugees (UNHCR), as well as the EU's Children First Programme. Detailed procedures have also been drawn up for the processing of appeals made by unaccompanied minors against decisions not to grant refugee status. These procedures are subject to ongoing review. Appeals from child applicants are, where possible, given priority over other appeals. When hearing such an appeal, cognisance is taken of factors, apart from age, that may affect the best interests of the child, such as gender, cultural background, mental development, ability to recall, level of education and past experiences. Oral hearings are conducted as informally as is practicable, consistent with fairness and transparency. The form of questioning used is transparent and open-ended.

## **B10. Remaining problems with regard to best interests**

### **(a) Training and education of staff**

#### *(i) Children First: National Guidelines for the Protection and Welfare of Children*

304. New guidelines were introduced in 1999, entitled Children First: National Guidelines for the Protection and Welfare of Children. The objectives of these guidelines are to improve the identification, reporting, assessment, treatment and management of child abuse; clarify the responsibilities of various professionals and individuals within organisations; and enhance communication and coordination of information between disciplines and organisations. The guidelines recognise that protecting and supporting children frequently involves the collaboration of personnel across professions and sectors. The guidelines aim to offer a comprehensive framework to assist professionals and other persons who have contact with children and wish to deal with any concerns they may have about their safety and well-being. The guidelines embody the principles contained in the UN Convention on the Rights of the Child. (It should be noted that the Child Care Act, 1991 provides the legislative basis for dealing with children in need of care and protection.)

305. The Social Services Inspectorate (SSI) was charged with monitoring the implementation of the Children First: National Guidelines. The monitoring exercise took place over a 2-year period and an interim report was issued in October 2001. The SSI agreed that the national strategy adopted to support the implementation of the guidelines was a success overall. However, the SSI outlined that some health boards had made greater progress in implementing the guidelines than others; indeed, the record of some boards in relation to child protection training and information and advice given to voluntary and community groups was impressive. However, the SSI's report also stated that progress in certain key areas (such as Garda/health board cooperation, child protection committees and planning for family support services) has been slow and there was a need for more work at health board and national level in order to implement these aspects of the guidelines. The SSI emphasised in its recommendations the need for national mechanisms to be put in place to further the implementation process and ensure a national response to outstanding issues.

306. Following the SSI's report, the chief executive officers of the health boards agreed that responsibility for addressing outstanding issues related to the Children First: National Guidelines would be undertaken by the Conjoint Programme of Action for Children under the Health Boards Executive (HeBE).

#### *(ii) Training of probation and welfare staff*

307. The Probation and Welfare Service offers training to probation officers nationwide through its staff development sections. A number of full-day training courses have been developed, which are run several times a year, in the following areas:

- Children Act, 2001;
- Working with young people who offend;

- Working with families of young people who offend;
- Drawing up probation reports for young offenders.

308. In addition, the Probation and Welfare Service employs probation officers who are trained social workers or who have a social science background. Social work training involves child and adolescent development. Staff of the Probation and Welfare Service have participated in Children First training run by the health boards and it is proposed that all staff in the Youth Justice Service will also avail of this training.

(iii) *Specialised training in relation to asylum-seeking children*

309. A group of experienced interviewers working in the asylum-seeking area have received additional specialised training to assist them in working on cases involving unaccompanied minors. This training includes issues such as psychological needs, child-specific aspects of the refugee process, the role of the social worker and other issues particular to refugee determination for unaccompanied minors. At second stage, where an application has been refused and appealed, people who are the decision-makers on appeals (solicitors or barristers of no less than 5 years' professional standing) undergo specialised training from UNHCR on the refugee status determination of separated and pre-adolescent children.

310. Additional interagency training is organised with UNHCR for officials who are involved in interviewing very young children and determining their status.

### **C. The Right to Life, Survival and Development**

#### **C1. Right to life**

311. Article 40.3.2 of the Irish Constitution recognises the right to life of every citizen and the need to protect this right. Ireland's First Report (1996) deals with this Article in a comprehensive manner (CRC/C/11/Add.12, paras. 104-116).

#### **C2. General survival and development**

##### **(a) Public health/Maternity and Infant Care Scheme**

312. Pre-natal, or antenatal, care for expectant mothers and post-natal care for mothers and infants for up to 6 weeks after the birth is provided, free of charge, under the Maternity and Infant Care Scheme. The scheme is operated through general medical practitioners who have agreements with health boards to provide the services. Mothers are free to choose their own doctors and to make at least 6 visits before the birth and 2 visits afterwards.

#### **C3. Maternity protection and other measures to support the development of children within the family**

##### **Maternity protection provisions**

313. Since Ireland's First Report (1996), significant improvements have been implemented in the area of maternity protection. In March 2001, paid maternity leave was increased



from 14 to 18 weeks, and unpaid maternity leave from 4 to 8 weeks. Further measures are proposed in the Maternity Protection (Amendment) Act, 2004, including allowing fathers a right to paid time-off to attend 2 pre-natal classes, splitting the period of maternity leave in the event of hospitalisation of the child and an adjustment of working hours or allowing breaks for breastfeeding mothers for 6 months after the birth (*for latter, see also para. 556-557*).

**(a) Adoptive leave**

314. The prime objective of the Adoptive Leave Act, 1995 was to give adoptive mothers the same entitlements to leave as natural mothers. In 2003, the Government approved the drafting of a Bill to amend the existing legislation. In line with the Maternity Working Group, identical increases were simultaneously applied to maternity and adoptive leave entitlement in March 2001, thus enhancing the time parents have to devote and bond with the child. As well as facilitating parents to meet the administrative requirements of adopting a child without loss of earnings, other provisions allow parents to provide enhanced care at this crucial time for the child, such as the provision to allow for the splitting of the period of the adoptive leave period in the event of the hospitalisation of the child.

**(b) Parental leave**

315. The Parental Leave Act, 1998 implemented the EU Parental Leave Directive (96/34/EC). The Act provides for an individual and non-transferable entitlement by both parents to 14 weeks unpaid leave from work to take care of children up to 5 years of age. Following a Working Group Review of the Act in 2001, work is now at an advanced stage on the Heads of a Bill to implement the Group's agreed recommendations, including raising the age of the eligible child to 8 years.

**(c) Family support**

316. The Family Support Agency was established in 2003 on a statutory basis to provide and administer a range of family support services, including family mediation. (For further details on the Agency, *see paras. 417-421*.)

**(d) Mental health services**

317. The treatment of mental health problems in children and adolescents takes place mainly on an out-patient basis, but a small number may require admission to a residential setting for assessment and/or treatment.

318. In relation to the involuntary detention of a child in a mental health unit, under the provisions of the Mental Health Act, 2001, a health board may apply to the District Court for the involuntary admission of a child who is suffering a mental disorder. The court will order a psychiatric examination and may then make an order that the child be admitted to an approved centre for a maximum of 21 days, which may be extended.

#### **C4. Social development/preparation for individual life in a free society**

##### **(a) Educational provisions**

319. A number of initiatives have been undertaken in the school system to educate children and young people on the importance of social, political and civic development and respect for human life and dignity.

##### *(i) Primary school: Social, Personal and Health Education (SPHE)*

320. Social, Personal and Health Education (SPHE) is included in the recently revised primary school curriculum. It is designed to be delivered in three ways: through the attitudes, values and practices conveyed in a positive school climate and atmosphere; through integration with other subject areas in a cross-curricular approach; and through dedicated curricular time. It is recommended that a minimum of half-an-hour a week be dedicated to teaching SPHE. Among the aims of the SPHE programme are: (1) to promote the personal development and well-being of the child; and (2) to enable the child to make informed decisions and choices about the social, personal and health dimensions of life both now and in the future. Pupils are taught to be aware of and to respect cultural, religious, ethnic or other groups that exist in their communities. They are also taught self-protection and safety skills. They are encouraged to be assertive, to know when to seek help and to confide in people whom they consider to be trustworthy, such as their parents and teachers.

##### *(ii) Post-primary school: Civic, Social and Political Education (CSPE)*

321. At secondary level, Civic, Social and Political Education (CSPE) prepares students for active participatory citizenship. The syllabus is based on a number of central concepts, which collectively inform and clarify the concept of citizenship. CSPE seeks to make pupils aware of the civic, social and political dimensions of their lives and the importance of active participative citizens to the life of the State and all people. The course is based on 7 key concepts:

- Democracy;
- Rights and responsibilities;
- Human dignity;
- Interdependence;
- Development;
- Law;
- Stewardship.

## **C5. Registration of deaths, suicide prevention (including relevant data)**

322. The Registration of Births and Deaths Acts, 1863 to 1996 provide that all deaths occurring in Ireland should be registered, in the Registrar's district in which it occurred, as soon as possible, but no later than 5 days after the death, except where the death has been referred to the Coroner.

### **(a) Suicide prevention**

323. The final report of the National Task Force on Suicide was published in January 1998, after a comprehensive consultative process. The report outlines measures to address the high incidence of suicide in Ireland, particularly among recognised risk groups, such as young males between 15-24 years of age. Since publication of the report, in excess of €17m has been invested in suicide prevention and research. Resource officers have been appointed in all the health boards and funding has been allocated to the National Suicide Research Foundation for the development of a National Parasuicide Register. Funding has also been made available to further develop child and adolescent psychiatry in order to assist in the early identification of suicidal behaviour and provide support and treatment to individuals at risk. Work has commenced on the preparation of a National Action-oriented Strategy for Suicide Prevention. Initiatives include awareness and case training, multidisciplinary team work, support services, access to information, working in partnership with clients and voluntary groups, media awareness campaigns and research. The National Health Strategy, *Quality and Fairness: A Health System For You*, includes a commitment to intensify the existing suicide prevention programmes over the coming years.

324. The Criminal Law (Suicide) Act, 1993 abolished the offence of suicide, but it continues to be an offence to be an accomplice to suicide.

## **D. Respect for the views of the child**

### **D1. National policy provisions**

#### **(a) Goal 1 of the National Children's Strategy**

325. Goal 1 of the National Children's Strategy echoes Article 12 of the UN Convention, which states that '*Children will have a voice in matters which affect them and their views will be given due weight in accordance with their age and maturity*'. Thus, the meaningful participation of children is the central principle of the strategy, which sets out what giving children a voice really means.

326. The role of the National Children's Office (NCO) is to encourage coordination of policy and service delivery for children at national and local level. It has particular responsibility for supporting the Minister for Children in overseeing the implementation of the National Children's Strategy and coordinating government policy on children. It has lead responsibility for Goals 1 and 2 of the strategy and for certain priority issues identified by the Cabinet Committee on Children under Goal 3.

327. The NCO is involved with and monitors the work of government departments and agencies dealing with children and has staff drawn from those departments most closely connected with the implementation of the National Children's Strategy. These are the Departments of Education and Science; Justice, Equality and Law Reform; Social and Family Affairs; and Health and Children. The NCO works with a wide range of government departments, State agencies and voluntary organisations providing services for children and has a strong focus on solving problems and finding solutions where better coordination is required.

## **D2. Opportunities provided for the child to be heard in judicial and administrative proceedings affecting him/her**

328. Provisions for the child's wishes to be heard in judicial and administrative proceedings are covered in the following legislation:

- Child Care Act, 1991 Ireland's First Report (1996 para. 117-123);
- Guardianship of Infants Act, 1964 Ireland's First Report (1996 para. 178);
- Children Act, 2001, which provides for the voice of the child to be heard in matters affecting the him/her:
  - (i) The family conferencing provisions of the Act under Parts 2, 4 and 8 provide an opportunity for the child to actively participate in decisions about her/his own future. All of these elements of the Act have been commenced;
  - (ii) The Act outlines the principle that 'Children have rights and freedom before the law equal to those enjoyed by adults and in particular a right to be heard and to participate in any proceedings of the court that affect them';
  - (iii) Under Part 9 of the Act, the court has a responsibility to ensure that it uses language appropriate to the child in imposing a community sanction;
  - (iv) Probation reports seek to ascertain the child's attitude to offending and any suggested course of action to reduce the likelihood of further offending. Probation and Welfare Service supervision involves working with the child towards the best outcome possible.

## **D3. Guardian ad Litem services in Ireland**

### **(a) Status and utilisation**

329. A Guardian ad Litem (GAL) is an independent person appointed by the court to represent the child's personal and legal interests. The introduction of the GAL system in Ireland, under the Child Care Act, 1991, reflected the increasing emphasis, internationally and nationally, on the rights of the child.

330. Provision is made in private law proceedings for the appointment by the court of a GAL to act on behalf of a child. Private law proceedings are governed by the Guardianship of Infants Act, 1964 and the Children Act, 1997. These provisions have yet to be commenced.

331. By entering into several international agreements aimed at increasing the role of the child in family law proceedings, Ireland has committed itself to making family courts more child-friendly.

**(b) Current operation**

332. There is little hard information on the use of Guardians ad Litem (GALs) by the courts. In general, a GAL is appointed by a judge who deems it to be in the best interests of the child. Occasionally, this will happen on foot of a request from the solicitor for the child. Some judges appoint GALs more frequently than others. In view of this situation, the National Children's Strategy includes a commitment to review the GAL service. A recent review incorporated consultations with a range of interested parties from the statutory and voluntary sectors, including service providers, the Social Services Inspectorate, the judiciary, the Courts Service and the Law Society. It also involved an international literature review, consultations with interested parties and questionnaires to the judiciary, court personnel and health boards. This report (prepared by external consultants) is currently under consideration.

**D4. Voice of the child in residential care settings**

**(a) Legislative provisions**

333. The Child Care (Placement of Children in Residential Care) Regulations, 1995 (SI No. 259/1995) require health boards to give due consideration to the wishes of a child, having regard to his/her age and understanding, in any matter relating to the placement of a child in residential care, the review of such a placement or the removal of a child from residential care. The Child Care (Standards in Children's Residential Centres) Regulations, 1996 (SI No. 397/1996) and Guide to Good Practice in Children's Residential Care also focus on the child as an individual and emphasise the need for due consideration to be given to the wishes of the child in any arrangements for his/her care. The unique worth and individuality of each child is recognised in the Guidelines and they acknowledge the important contribution to be made by the child in relation to his/her care. They also recommend that children's views and opinions are actively sought and are used to help inform care practices and care planning.

**(b) National standards**

334. The National Standards for Children's Residential Centres, published by the Department of Health and Children in 2001, are based on existing legislation, regulation and good practice. It is against these standards that the Social Services Inspectorate (SSI) and the Registration and Inspection Units form judgements about the quality of care in children's residential centres. The Department of Health and Children published a book in June 2004 especially for children and young people living in such centres; based on the National Standards, the book is made up to two parts - the first for those under 12 years of age and the second for those over 12. Booklets explaining the inspection process to children and young people, parents and staff are reviewed and amended regularly. These booklets are sent to the children and parents when an inspection is about to begin, inviting them to meet the inspectors. Standard 6 provides that children be cared for in a manner that respects and takes account of their wishes, preferences and individuality. Their emotional life is given particular attention. Young people are encouraged to make personal choices about their personal appearance and clothing, with support and advice

from carers. The National Standards require that children's views are sought, that children are consulted and their views valued, and that there is a complaints procedure in place. Children are consulted by the SSI as part of the inspection process on all aspects of their lives in care. They are also given feedback in booklet form about the inspection report.

**(c) Association of Young People in Care**

335. The Department of Health and Children provides funding for the Irish Association of Young People in Care (IAYPIC). Its mission statement is 'To advocate for and promote the rights and needs of young people with care experience through their participation at all levels throughout the care system'. IAYPIC's work includes initiatives at local level to facilitate young people's direct participation in decision-making about matters affecting them, in partnership with local health board personnel.

**(d) Voice of the child in foster care**

336. The National Standards for Foster Care (2003) set down standards to ensure that children and young people are heard and involved in decisions relating to their care.

**(e) Voice of the child in mental health-care settings**

337. The Mental Health Act, 2001 (not fully commenced) empowers the court to appoint a Guardian ad Litem for a child in care proceedings, where the court is satisfied that this is necessary in the best interests of the child.

**(f) Voice of the child in asylum-seeking processes**

338. For information on procedures to protect the best interests of the child (including an opportunity to be heard) in cases where unaccompanied minors are seeking asylum. Please refer to para. 309 (*above*).

**D5. Participation of children in decision-making  
(schools/local government)**

**(a) Voice of children in national and local government**

340. The NCO is advancing Goal 1 of the National Children's Strategy, that 'children will have a voice in matters which affect their lives', through the annual national Dáil na nÓg (youth parliament) and a Comhairle na nÓg (youth council) in every county. Dáil na nÓg is the national youth parliament for young people, aged 12-18 years, and is overseen and funded by the NCO. It meets once a year and provides young people with an opportunity to feed their concerns into public policy. Young people are elected to Dáil na nÓg through their local Comhairle na nÓg. The City or County Development Boards (CDBs) are responsible for implementing the National Children's Strategy at local level and establishing local Comhairle na nÓg to give children and young people a voice at local level and an opportunity to influence local policy and planning. Some CDBs have established regular sessions of Comhairle na nÓg, which link with the adult county council. The NCO provides a small annual grant to CDBs to support the Comhairle and works closely with staff in the CDBs on children and young people's participation.

341. The NCO contracted the organisation of Dáil na nÓg 2003 to the National Youth Council of Ireland (NYCI). Both organisations worked effectively together to plan and manage the parliament. NYCI is a social partner as part of the Community and Voluntary Pillar, thus giving it direct access to negotiating rights in national agreements. Young delegates from Dáil na nÓg 2003 worked with the NCO and NYCI on feeding the outcomes from Dáil na nÓg to Government through the social partnership process. The NYCI, Foróige and the National Youth Federation (all NGOs) won the contract to work with the NCO in organising Dáil na nÓg 2005, which took place on 19 March. The themes selected by the young participants are drug and alcohol misuse, and facilities for young people.

342. Dáil na bPáistí is the children's parliament for those aged 8-12 years. It is elected through local Comhairle na nÓg (youth councils). Dáil na bPáistí is organised in smaller regional sessions. Four meetings took place in 2004 (in Dublin, Cork, Galway and Sligo) and were organised by the Irish Society for the Prevention of Cruelty to Children (ISPCC), in partnership with the NCO.

343. The National Children's Strategy acknowledges children as citizens, with a contribution to make to social and political life. The Government recognises its duty to care for children, but also its duty to empower children and young people to participate in issues that affect their lives. At an international conference in Washington, DC, in 2004 and at WHO/European Environmental Health Committee Meetings in Budapest and Paris in 2004 and 2005, Ireland emerged as a leading country in approaching child and youth participation as a right and an essential component in devising and delivering effective and relevant services and policies for children. However, the NCO recognises that participation by children and young people in decision-making is just beginning and that there is much to learn - especially from children and young people.

**(b) Voice of children in schools**

344. The NCO is also working on giving children and young people a voice in schools. The Student Council Working Group was set up in June 2003 and is chaired by the NCO, with the support of the Department of Education and Science, to promote democratic student councils in second-level schools. Under Section 27 of the Education Act, 1998, students in a post-primary school may establish a student council, the role of which is to promote the involvement of students in the affairs of the school in cooperation with the board of management, parents and teachers. A recently completed survey of all post-primary schools on this issue indicates that student councils have been established in 558 of the 743 second-level schools surveyed.

345. Eleven second-level students, aged 13-17, are members of the Student Council Working Group, working equally with teachers' unions, school management bodies, government departments and parents organisations. This is the first time in the history of the State that second-level students are equal participants in a government working group. An evaluator was appointed to the Working Group to ensure that the young people were effectively included in its work. The evaluator gives regular feedback and advice on ensuring inclusiveness. It is hoped that his final report will act as a model of good practice for involving young people in government working groups.

346. The Student Council Working Group launched a leaflet, poster and website in March 2004. Research, commissioned by the NCO on behalf of the Working Group, on the enablers and barriers to student councils was launched in April 2005. The Working Group will submit a final report to the Minister for Children in July 2005, with wide-ranging recommendations for strengthening student councils. A student council resource pack will be published and disseminated to all schools by the end of 2005.

#### **D6. Public awareness of importance of views of the child**

##### **(a) Role of the National Children's Office**

347. The NCO appointed a Head of Communications in January 2003 to take the lead role in managing delivery of Goal 1 of the National Children's Strategy (children's participation). The NCO Communications Team is involved in ensuring the development and improvement of structures to enable participation by children and young people, such as Dáil na nÓg and Comhairle na nÓg (*see paras. 345-348 above*). It also undertakes specific participation projects in partnership with other statutory bodies, government departments and NGOs. In partnership with a coalition of NGOs, the NCO is currently developing a set of national guidelines on participation by children and young people, entitled *Young Voices: Guidelines on how to involve children and young people in your work*. The aim of these guidelines is to encourage people in positions of influence and responsibility in government departments, as well as statutory and non-statutory organisations, to commit to extending opportunities for participation by children and young people. The guidelines were launched in June 2005.

348. The NCO has managed the following projects and initiatives during 2003-2004:

- Involving children and young people in the recruitment and selection process for the appointment of Ireland's first Ombudsman for Children;
- Involving children and young people in the development of a children's Code of Advertising with the Broadcasting Commission of Ireland;
- Providing seed funding for RTÉ News2Day, a daily news programme for children;
- Involving children and young people in the mid-term review of the National Drugs Strategy (with the Department of Community, Rural and Gaeltacht Affairs);
- Involving children and young people in a national consultative process on the Irish education system, being conducted by the Department of Education and Science;
- Involving children and young people in tender evaluations, design of publications, steering committees and other NCO work.

##### **(b) Children and Young People's Forum**

349. In November 2004, the NCO set up its Children and Young People's Forum (CYPF) to provide advice to the NCO on its work programme in the context of the National Children's Strategy. Members of the CYPF are aged 8-17 and are from all parts of the country, nominated



through local Comhairle na nÓg. The NCO considers it essential to have the expertise and views of children and young people on important aspects of its work. The first CYPF project is working with NCO staff on creating child and youth-friendly areas on the NCO's website ([www.nco.ie](http://www.nco.ie)).

**(c) Role of the Ombudsman for Children**

350. The Office of the Ombudsman for Children, enacted by law in 2002, has a range of statutory functions concerned with promoting the welfare and rights of children, and examining and investigating complaints for or on behalf of children against public bodies, schools and voluntary hospitals. (For further details on the role of the Ombudsman, *see paras. 133-136*).

**IV. CIVIL RIGHTS AND FREEDOMS**

**A. Name and nationality**

**A1. Name, identity and birth registration**

**(a) Legislation**

351. The Civil Registration Act, 2004 provides for the rationalisation of the procedures for registering births, stillbirths and deaths. The Act also makes provision to streamline the existing procedures governing the registration of adoptions and enables the establishment of new Registers of Divorce and Civil Nullity. Parts 1-3, 5 and 8 of the Civil Registration Act, 2004 are due to be commenced shortly.

352. The Civil Registration Act, 2004 provides for the registration of a birth by the parents of the child within 3 months of the birth. The Act also provides for greater flexibility to facilitate the parents to register a birth; in future, a birth may be registered at any convenient Registrar's office. Section 22 of the Act provides for the registration of the details of a child's father where the parents are not married to each other. The emphasis in the Section is to facilitate the registration of the father's details in the Register of Births through the cooperation of both parents. However, the Section also provides for an application to name the father in the register from either the mother or the father of the child acting alone, but such applications must be supported by a court order. Part 3 makes provision for the registration of births and stillbirths.

353. The Act also provides that where a birth has been registered without paternity details being recorded; it may be re-registered to include the father's details on the application of the parents or on the application by one of the parents supported by a court order.

**A2. Right to know and be cared for by parents**

**(a) Children in protective settings (away from their birth family) and children of adoption**

354. All children are born with the right to know and to be cared for by their parents. The only point at which a child can be removed from his or her parents is:

- In child protection cases (under the provisions of the Child Care Act, 1991);

- Where a parent gives up the right to parent the child and consents to making the child available for adoption. These provisions are guided by the ‘best interests’ principle, where the interests of the child are paramount. (For the specific provisions regarding the rights of such children to information regarding their biological family, *see Chapter V, Section H.*)

### **A3. Nationality - General measures**

#### **(a) Existing Constitutional provisions**

355. The Constitutional right of every person born in the island of Ireland to be a citizen of Ireland is contained in Article 2 of the Constitution. This article became part of the Constitution in 1998 and came into operation in 1999. The wording of Article 2 was agreed as part of the Belfast Agreement (also called the Good Friday Agreement).

#### **(b) Current legislation on citizenship**

356. The Irish Nationality and Citizenship Act, 1956 has been amended by:

- The Irish Nationality and Citizenship Act, 1986;
- The Irish Nationality and Citizenship Act, 1994;
- The Irish Nationality and Citizenship Act, 2001;
- The Irish Nationality and Citizenship Act, 2004.

#### **(c) Constitutional referendum, 2004**

357. A referendum to amend the Constitution was held on 11 June 2004 on the Constitutional right (under Article 2) of people born in the island of Ireland to Irish citizenship.

358. The 27th Amendment of the Constitution Act inserted a new provision into the Constitution at Article 9, which provides as follows: *‘Notwithstanding any other provision of this Constitution, a person born in the island of Ireland, which includes its islands and seas, who does not have, at the time of his or her birth, at least one parent who is an Irish citizen or entitled to be an Irish citizen is not entitled to Irish citizenship or nationality, unless otherwise provided in law.’*

359. The change to the Constitution means that children born in Ireland to non-national parents (since the Constitutional amendment) have no automatic entitlement to Irish citizenship. Under the new legislation (Irish Nationality and Citizenship Act, 2004), it will no longer be possible for non-national parents to bestow Irish citizenship on their child solely on the basis of his or her birth in the island of Ireland. From now on, only children of non-national parents who have a genuine prior link to Ireland, evidenced by being resident here legally for 3 out of the previous 4 years, will be entitled to Irish citizenship. This will bring Irish citizenship law into line with the majority of the world’s countries.

360. The Minister for Justice, Equality and Law Reform has recently announced new arrangements for processing claims for permission to remain in the State from parents of Irish-born children. In view of the changes introduced in the recently enacted Irish Nationality and Citizenship Act, 2004, the Government has decided on revised arrangements from January 2005. These arrangements will operate for a limited period of time only.

361. As part of the application process, applicants will be required to provide details of their identity, their circumstances and their relationship to the Irish-born child concerned. They will also be required to provide details and proof of their residence in Ireland since the birth of the child. It will be the responsibility of each applicant to provide all information requested in the application process by the end of March 2005.

**(d) Adoption proceedings**

362. Inter-country adoption is a growing phenomenon in Ireland. Before an adoption can take place or be registered as a legal adoption, the Adoption Board requires proof that the adoption was legal in the jurisdiction in which it was affected. Once an adoption is recognised, and assuming the adoptive parents are citizens of Ireland, the child gains an automatic right to Irish citizenship under the Adoption Act, 1952 and the Irish Nationality and Citizenship Act, 2004.

**(e) Asylum-seeking and refugee children - situations where a child would otherwise be Stateless**

363. With regard to a child's right to acquire a nationality, in particular where the child would otherwise be Stateless (UNCRC, Article 7, para. 2), the Minister for Justice, Equality and Law Reform has the power to dispense with the conditions of naturalisation in certain cases, including those where the child would otherwise be Stateless. In such cases, where the applicant is a person who is a refugee within the meaning of the UN Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees or is a Stateless person within the meaning of the UN Convention relating to the Status of Stateless Persons, the Minister, in his absolute discretion, may grant an application for naturalisation.

**B. Preservation of identity**

**B1. General provisions**

364. A child may only be deprived of Irish citizenship in certain very limited circumstances. He or she cannot be deprived of Irish citizenship acquired by birth or adoption. The process in many cases is overseen by a Committee of Inquiry appointed by the Minister for Justice under the terms of the Irish Nationality and Citizenship Acts, 1956 and 1986. However, it should be emphasised that deprivation of citizenship is a very rare occurrence.

**C. Freedom of expression**

365. Article 40.6.1 of the Irish Constitution guarantees the rights of citizens to express freely their convictions and opinions.

## **D. Freedom of thought, conscience and religion**

### **D1. General provisions**

366. Article 44 of the Irish Constitution provides that 'Freedom of conscience and the free profession and practice of religion are, subject to public order and morality, guaranteed to every citizen'. Article 42 of the Constitution grants parents the liberty to ensure that the religious and moral education of their children is fully protected.

367. Ireland incorporated the European Convention on Human Rights into domestic law through the European Convention on Human Rights Act, 2003, which came into force at the beginning of 2004. Protocol 12 of the European Convention on Human Rights has been signed by Ireland, but not yet ratified.

(For information on the provisions of the Equal Status Act, 2000.)

### **D2. Religious education in schools**

368. Under the Constitution, the State guarantees not to endow any religion. Pupils and parents enjoy a number of legal rights regarding their choice of school for primary education. At primary school level, the State recognises the rights of the different church authorities to design curricula in religious education and to supervise their teaching and implementation. This right is enshrined in the Education Act, 1998. Consequently, although religious education is part of the curriculum for primary schools and schools are obliged to allocate 30 minutes per day to religious instruction, the content of the religion programme is determined by the Patron of the school. The Revised Curriculum for Primary Schools espouses the importance of tolerance towards the practice, culture and lifestyle of a range of religious convictions and states explicitly that the beliefs and sensibilities of every child are to be respected.

369. Under Section 30 of the Education Act, 1998, no student can be required to attend instruction in any subject that is contrary to the conscience of the parent of the student. The Act also requires that, in prescribing curricula for recognised schools, the Minister and boards of management of schools must take due account of the characteristic spirit and ethos of a school or type of school.

## **E. Freedom of association and peaceful assembly**

370. The Irish Constitution guarantees the right to freedom of association. In Article 40.6.1, liberty for the exercise, subject to public order and morality, of, inter alia, 'the right of citizens to form associations and unions' is guaranteed. The same Article also guarantees the right of citizens to assemble peaceably and without arms. These rights apply equally to adults and to children.

## **F. Protection of privacy**

### **F1. Data protection measures**

371. There are legal safeguards on the retention of personal information on computer or manual files by third parties. The office of the Data Protection Commissioner was established under the Data Protection Act, 1988. The Data Protection (Amendment) Act, 2003 updated the legislation, implementing the provisions of EU Directive on data protection (95/46/EC).

## **G. Access to appropriate information**

### **G1. Provision of services**

#### **(a) Public library services**

372. Local authorities in Ireland provide library services. Libraries are encouraged to devote a substantial proportion of their resources to children. In addition, they undertake many activities and events especially for children. Where charges are in place, they are modified so as to encourage the full participation of children. Funding for new libraries is conditional on the provision of sufficient and suitable space and services for children in accordance with standards and guidelines set by An Chomhairle Leabharlanna (The Library Council). The *Branching Out Report: Towards a Better Public Library Service*, published in 1998, charts the way forward for the development of the public library service in Ireland. The implementation of the report's recommendations is well advanced and includes the provision of free library access for primary school children and the provision of computers with Internet access in public libraries (made possible by a better resourced capital expenditure programme for libraries).

#### **(b) Radio and television broadcasting services**

373. Radio and television broadcasting services are provided by the State-funded body of Radio Telefís Éireann (RTÉ), as well as by independent TV and radio stations operating under the Independent Radio and Television Commission (IRTC). RTÉ is the national public service broadcaster, established under the Broadcasting Authority Acts, 1960 to 1993. Under the legislation, RTÉ programming must be responsive to the needs of the whole community and have special regard for the varied elements of the culture of Ireland and in particular the Irish language. As part of its public service remit, RTÉ transmits a daily news programme for children, called *News2Day*. It provides news coverage on national and international issues in child-friendly language and regularly seeks the views and opinions of children. It enjoys a wide audience among children up to the age of 13 or 14. The programme receives seed funding from the National Children's Office (NCO) as a measure under Goal 1 of the National Children's Strategy, which gives children a voice on matters which affect their lives.

374. In relation to the needs of children, RTÉ provides a range of information and entertainment programming, including Irish language content, mainly on weekday afternoons. At other times, much of the programming is educational and entertaining for younger viewers.

## **G2. Protection of children from inappropriate material**

### **(a) Publications**

375. Censorship of publications in Ireland is governed by the Censorship of Publications Acts, 1929 to 1967 (as amended by the Health (Family Planning) Act, 1979) and by the Censorship of Publications Regulations, 1980.

### **(b) Radio and television broadcasting**

376. RTÉ is aware of the possibility that certain types of broadcast material might not be suitable for children and operates a watershed of 9pm in this regard. RTÉ also has guidelines on the participation of children in general programmes, news and current affairs, and in studio audiences. The portrayal of children in programmes is also covered by these guidelines.

377. The provisions of Article 22 of EU Directive 89/552/EEC, on programming that might seriously impair the physical, mental and moral development of children, have been given legal force in Irish law by way of statutory instrument.

### **(c) Advertising**

378. The Advertising Standards Authority of Ireland (ASAI) is a self-regulatory body that regulates the advertising industry. The ASAI deals with complaints about advertising through a complaints committee, which includes 4 nominees of the Director of Consumer Affairs. Two of these nominees have expertise in the area of children. The Code of Standards of the ASAI, which applies to all advertising, has specific reference to children.

379. The Broadcasting Commission of Ireland (BCI) has a statutory function to develop codes for advertising on broadcast media. In 2003-2004, it conducted a wide-ranging consultation with industry, the media and the public on the development of a code of advertising for children. Part of this consultation consisted of a forum with children and young people, organised by the NCO. The BCI has established structures to ensure that children's views continue to be taken into account. The outcome of the consultation process was a new Code for Children's Advertising on Broadcast Media.

380. This new code imposes specific restrictions on advertising near or during breaks in children's programming. Under the code, advertisers are required to exert the utmost care and discretion in the transmission and presentation of such advertising. Advertisers may not exploit children's inexperience or credulity. They may not encourage minors to persuade their parents or others to purchase or make inquiries about goods or services being advertised. The Broadcasting Complaints Commission may investigate and decide on complaints of alleged breaches of the code by broadcasters.

### **(d) Films**

381. The Censorship of Films Acts, 1923 to 1992 provide that the Official Censor shall certify a film as fit for exhibition in public unless the Censor is of the opinion that it is unfit by reason of being indecent, obscene or blasphemous, or because the exhibition would tend to inculcate principles contrary to public morality or would be otherwise subversive of public morality.

However, the Censor may indicate that only part only of a film is unfit for exhibition and may grant a certificate on removal of that part. The Censor may also grant a limited certificate, restricting viewing to certain classes of people, generally by specifying that such people must be above a certain age.

**(e) Video recordings**

382. The Video Recordings Act, 1989 provides for the censorship of video works. The Official Censor may be of the opinion that a video work is unfit for exhibition in public if the viewing of it:

- Would be likely to cause persons to commit crimes;
- Would be likely to stir up hatred against a group of persons on account of their race, colour, nationality, religion, ethnic or national origins, membership of the Traveller community or sexual orientation;
- Would tend to deprave or corrupt persons who might view it;
- It depicts acts of gross violence or cruelty (including mutilation and torture) towards humans or animals;
- A video recording may not be sold or rented unless the Official Censor has granted a supply certificate, indicating to which of the following classes the video belongs:
  - Fit for viewing by persons generally;
  - Fit for viewing by persons generally but, in the case of a child under the age of 12 years, only in the company of a responsible adult;
  - Fit for viewing by persons aged 15 years or more;
  - Fit for viewing by persons aged 18 years or more.

**(f) Access to Internet**

383. The Government report, *Illegal and Harmful Use of the Internet*, published in 1998, examined issues surrounding the illegal and harmful use of the Internet and recommended a system of self-regulation by service providers. Another of the report's recommendations was the establishment of an Internet Advisory Board to ensure that self-regulation worked in practice and to actively monitor developments in this complex and fast-changing area. The Internet Advisory Board makes annual progress reports to Government and industry.

384. The work of the Internet Advisory Board includes:

- Promoting awareness of potential dangers for children;
- Reviewing the work of the public hotline for reporting child pornography.

385. In 2002 and 2003, the Internet Advisory Board ran a campaign, with support from the Information Society Fund, to raise awareness of Internet safety, aimed at increasing parents' awareness of the risks to young people in accessing the Internet.

386. In 2004, the Internet Advisory Board ran a one-day conference, entitled *Child Safety and New Media Content*, on protecting children from the downside of new media technologies. The Board also provides on-line safety tips for parents on children's Internet usage; its website is [www.iab.ie](http://www.iab.ie).

## **H. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (Article 37 (a))**

### **H1. Constitutional provisions**

387. Torture and cruel, inhuman or degrading treatment are contrary to the personal rights guaranteed to persons by Article 40.3 of the Irish Constitution.

### **H2. Legislative provisions**

#### **(a) General provisions**

388. Section 12 of the Criminal Law Act, 1997 abolished the power of a court to impose a sentence of corporal punishment. Common assault and battery is an offence, which can be committed, *inter alia*, against children, including by their parents or guardians.

389. It is an offence of cruelty under Section 246 of the Children Act, 2001 for a person who has the custody, charge or care of a child to wilfully assault, ill-treat, neglect, abandon or expose the child or to cause or procure or allow the child to be assaulted, ill-treated, neglected, abandoned or exposed, in a manner likely to cause unnecessary suffering or injury to the child's health or seriously to affect his or her well-being.

#### **(b) School and other services settings, statutorily provided or regulated**

390. In the school setting, Section 24 of the Non-Fatal Offences against the Person Act, 1997 abolished the common law rule under which teachers had immunity from criminal liability for physically punishing pupils.

391. Article 8 of the Child Care (Pre-School Services) Regulations, 1996 provides that 'a person carrying on a pre-school service shall ensure that no corporal punishment is inflicted on a pre-school child attending the service'. Guidance contained in *Our Duty to care: The principles of good practice for the protection of children and young people*, published by the Department of Health and Children in 2002, states that workers should 'never use physical punishment with children'.



### **H3. Parents and corporal punishment**

#### **(a) Common law rule**

392. The common law recognises the right of a parent to inflict moderate and reasonable physical chastisement on a child. While Section 37 of the Children Act, 1908 was repealed under the Children Act, 2001 on 1 May 2002, the common law rule survives. Where a parent physically chastises a child, the motive for, and the duration and force of, the punishment must be objectively reasonable, not just reasonable in the parent's opinion. Punishment cannot be administered 'for the gratification of passion or rage or with an instrument unsuited for the purpose'. The question of whether the parent's conduct has gone beyond reasonable physical chastisement is a matter for a jury.

#### **(b) Parenting programmes**

393. There are a range of parenting programmes being provided throughout the State, either directly through family support initiatives of the Family Support Agency or by the health boards. These are also augmented by the funding of courses provided by the NGO sector. The Family Support Agency was formally established in May 2003. Its main aims are to support families, promote continuity and stability in family life, prevent marital breakdown and foster a supportive community environment for families at local level.

#### **(c) Treatment of child suspects**

394. Part 6 of the Children Act, 2001 (Treatment of Child Suspects in Garda Stations (Sections 55-70) which came in to force on 1 May, 2002, placed the Treatment of Suspects in Garda Stations Regulations on a full statutory basis insofar as they relate to children. Part 6 of the Act details the principles and procedures to be followed by the Garda Síochána when a child (i.e. any person under 18 years of age) is brought to a station suspected of having committed an offence. When dealing with such children, the Garda Síochána must act with due respect for the rights of the child and take into account the child's vulnerability due to his or her age and level of maturity.

395. Where practicable, children must be kept apart from any adults in custody and must not be kept in a cell. The child must be informed in language which he or she understands of the offence of which he or she is suspected, of his or her right to consult a solicitor and how this can be achieved, and that his or her parents have been requested to come to the station without delay.

396. The child's parents or guardian must also be given this information and be requested to attend the station without delay. When the Garda is unable to contact the child's parents or guardian or they are unwilling to come to the station, the child may nominate an alternative adult to attend the station. The Garda must contact a solicitor if the child, or his or her parents or guardian, requests one, offering an alternative if the solicitor chosen is not available. The child's solicitor, parents or guardian must also be informed of the child's transfer to another Garda station where this occurs. A child may be released on bail to appear before the next sitting of the Children's Court.

## V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

### A. Parental guidance

#### A1. Family structures

##### (a) Data from 1996 and 2002 Census of Population

397. The 2002 Census of Population report indicates that the number of families in the State increased by over 30% since 1981. However, the fastest growing category has been couples without children. Falling fertility has had a major impact on family size and has seen the average number of children per family decline from 2.2 in 1986 to 1.6 in 2002.

398. Between 1996 and 2002 the number of private households increased by 164,700 or 14.7 per cent. Households comprising childless couples represented the fastest growing category - up to 38.7 per cent in six years - while the number of households consisting solely of couples with children increased by 11.1 per cent in the same period. Households consisting of lone parents with children increased by 25,800 (24.5%) between 1996 and 2002 while the rate of growth of one-person households just exceeded the overall average increase for this period. Multi-family households continued to decline in number during the recent intercensal period.

399. The 1996 Census revealed that there were close to 130,000 lone-parent families at that time, with more than 4 in 5 of them headed by women. By 2002, this figure had increased by 20%, to over 150,000 such households.

400. The 2002 Census revealed that the number of divorced persons more than trebled, from 9,800 to 35,100, between 1996 and 2002, reflecting to a large extent the legalisation of divorce in the State in 1997. The number of separated (including divorced) persons increased from 87,800 in 1996 to 133,800 in 2002.

#### A2. Rights and duties of parents and guardians under the Constitution

401. The family founded on marriage in Ireland possesses a number of Constitutional rights. These include the right of parents to be the main and natural educators of their children. The State must respect the right of parents to provide for the religious, moral, intellectual, physical and social education of their children. For information on family counselling services, parental education programmes, etc. with regard to the rights of the child within family life, *see Chapter III.*

### B. Parental responsibilities

#### B1. Legislative provisions for guardianship and custody

402. The Guardianship of Infants Act, 1964 (as amended by the Status of Children Act, 1987) rules that all matters concerning guardianship and custody of children should be decided on the basis of the welfare of the child as the first and paramount consideration. A 'child' under the Act means a person under the age of 18 years.

403. The guardian of a child has a duty to maintain and properly care for the child and has the right to make decisions about the child's religious and secular education, health requirements and general welfare. Only guardians have the right to custody and access of that child. Married parents of a child are 'joint guardians' and have equal rights and responsibilities in relation to the child. Neither separation nor divorce changes this. It is possible for unmarried partners who do not live with their children to apply for custody and access.

404. The rights of parents to guardianship are set down in Section 6 of the Guardianship of Infants Act, 1964. For children born outside of marriage in Ireland, only the mother has automatic rights to guardianship. (Even though a father's name may be registered on the child's birth certificate, this does not give him any guardianship rights in respect of his child.) However, if the mother agrees, the father can become a joint guardian if both parents sign a statutory declaration. This must be signed in the presence of a Peace Commissioner or a Commissioner for Oaths. A father may also seek guardianship rights through the courts.

405. A parent who is a guardian has the power to appoint a guardian to act in the event of his or death. The person so appointed acts jointly with the surviving parent. The courts have power to appoint a guardian in the interests of the child's welfare if a parent dies or if the appointed guardian refuses to act. A child ceases to be subject to guardianship when he or she reaches the age of 18 years.

406. In recognition of the importance of providing a range of care options for children, the Minister for Children will shortly submit draft legislative proposals to Government which include new provisions for guardianship for children where guardianship is not currently an option. These include guardianship for step-parents and for foster parents where a child has been part of the foster family for more than 5 years.

**(a) Children Act, 2001**

407. The Children Act, 2001 provides that the courts may order a parent or guardian to pay compensation where they are satisfied that a wilful failure of the parent or guardian to take care of or to control the child contributed to the child's criminal behaviour or to order the parent or guardian of a child offender to enter into a recognisance to exercise proper and adequate control over the child.

**B2. Measures to render assistance to parents and legal guardians  
in the performance of their child-rearing responsibilities**

408. In general, the care and education of children is considered to be primarily a matter for parents as the guardians of their children. The State does not move to intervene in this relationship unless the child is considered to be at risk of not receiving adequate care, so that his or her welfare is endangered. These interventions, based on national law, are outlined in detail below.

409. In recent years, government policy has been re-oriented to move towards more preventive and supportive services, which aim to ensure that children and their families who might be classified as 'at risk' with regard to the best interests of the child are supported to avoid harm to the child or preventable family crises. Universal parenting support and education programmes are provided by a number of government departments and agencies.

**(a) Department of Social and Family Affairs**

*(i) Family Affairs Unit*

410. The Family Affairs Unit of the Department of Social and Family Affairs has responsibility for coordinating policies to support families in a changing society. This includes monitoring progress on developing policy pursuant to the findings of the Commission on the Family, which reported in 1998. Coordination involves working closely with other government departments and agencies that share responsibility for the Government's programme in relation to policy development for families and children. Following an extensive nationwide consultation process, together with conferences and seminars to mark the 10th Anniversary of the UN International Year of the Family (2004), the Family Affairs Unit is drawing up a strategy on supports for families and family life in a changing society, which is scheduled to be published by mid-2005.

*(ii) Family Support Agency*

411. The main aims of the Family Support Agency, established in 2003, are to support families, promote continuity and stability in family life, prevent marital breakdown and foster a supportive community environment for families at local level. Its functions include the provision of a family mediation service to support, promote and develop the provision of marriage and relationship counselling and other family supports, and to support, promote and develop the Family and Community Services Resource Centre Programme (*see also para. 422-424*).

412. Other responsibilities of the Family Support Agency include undertaking research, providing and disseminating information about parenting and family issues, and providing advice to the Minister for Social and Family Affairs.

413. The Family Mediation Service is a professional confidential service, which enables couples who have decided to separate or divorce to negotiate their own separation agreement, without resorting to adjudication through the courts. The service is free and is available to married and non-married couples.

414. In 2004, funding of €7.61m was made available to some 520 voluntary and community groups nationwide, involved in marriage counselling, marriage preparation, child counselling in relation to parental separation, and bereavement counselling and support.

415. The Family and Community Services Resource Centre Programme helps combat disadvantage by improving the function of the family unit. Emphasis in the projects is on the involvement of local communities in developing approaches to tackle the problems they face and on creating successful partnerships between the voluntary and statutory agencies in the area

concerned. Family Resource Centres involve people from the most vulnerable and marginalised groups and areas of disadvantage. They also provide parenting programmes and parenting support and education programmes through schools and projects funded by Vocational Education Committees. There are currently 79 Family Resource Centres throughout the country. The Government has committed to having 100 Centres in place by 2006 under the National Development Plan.

(iii) *Family Services Project*

416. In the National Development Plan, €15,236,858 has been provided over the period 2000-2006 for the progressive expansion of the successful elements of the Family Services Project (FSP). The objective of the FSP is for State agencies to provide a high-quality information service on the range of supports available to families, the community and voluntary sector, with a particular emphasis on the agencies and services available locally.

417. An enhanced programme of support is now available to a small group of customers with complex needs, including very young lone parents, other parents rearing children without the support of a partner and dependent spouses on social welfare payments. Examples of activities funded to date include parenting projects for lone parents; family support for Travellers; and support programmes for carers and families of people with disabilities. The support programme has also made funding available for the production of local information directories, the organisation of information seminars and conducting research.

418. Nexus published an independent evaluation of the Family Services Project (FSP) in October 2000. It recommended that the FSP be continued in the 3 original areas (Cork, Waterford and Finglas) and should be rolled out in at least another 6 locations nationwide without delay. Since the publication of that report, the FSP has been established in all 10 of the Department's regions.

(iv) *Health board services*

419. Under the Child Care Act, 1991, the health boards are empowered to provide family support services so that children can grow up in their own families, even in adverse circumstances. In 1998, the Cabinet Committee on Social Inclusion approved spending of £7.2m over a 3-year period from the Young Persons Services and Facilities Fund on a number of pilot projects for children at risk, working intensively with children, mainly in the 7-12 age group, who are at risk of going into care or getting into trouble with their family. These initiatives were named the Springboard Family Support Projects and were funded and established through the health boards. To date, 22 such projects have been established, with 700 children and 400 parents benefiting from these services. All the projects have been mainstreamed by the health boards.

420. The results of the final evaluation report, *Springboard: Promoting family well-being through family support services*, were published in December 2001. The findings indicated:

- Improvements in well-being were not attributable to changes in the socio-economic situation of families, which was quite stable in this period;

- Springboard had a direct impact on improving parenting capacity;
- Parents and children attributed their improved well-being to the intervention of Springboard;
- Health boards believe that Springboard has halved the number of children who are at risk of abuse or going into care;
- Professionals in the different communities believe that Springboard is a cost-effective intervention;
- It was considered that family dysfunction will continue its intergenerational movement unless there is outside intervention;
- The improvements in parental well-being will have benefits for children for years to come.

(v) *Teen Parents Support projects*

421. The Department of Health and Children implemented a pilot initiative on supporting teenage parents as part of the National Child Care Investment Strategy, announced in December 1998. The Teen Parents Support Initiative identified and developed models of good practice in the development of service planning for young parents, particularly those deemed to be at risk.

422. The objectives of the Teen Parents Support Initiative are:

- To identify the needs of targeted young parents, the services available to them and any gaps in those services;
- To collect, collate and disseminate information on the parenting process and experience of the targeted young parents;
- To provide services to support and enhance the well-being of young parents and children to ensure equality of equal opportunity in social, education, health and personal development;
- To encourage existing services to work collaboratively to enhance the capacity of the community, network and agencies to respond to needs of this client group (projects are widely disseminated so that learning is shared, which helps to stimulate any necessary systematic change at policy level).

423. Outcomes of the Teen Parents Support Initiative include:

- Increased access to services;
- Increased support services to teen parents;

- Improved safety and well-being of children;
- Improved family functioning.

424. The Teen Parents Support Initiative established 3 pilot projects in different parts of the country (Dublin, Galway and Limerick), encompassing an urban and rural mix, in order to identify the needs of young parents in different environments. The projects work with young parents for a period of up to 2 years after the birth of the child. These projects were evaluated and are now mainstreamed. A further 2 projects under the Teen Parents Support Initiative were established in 2004 by the Department of Health and Children, with funding from the Crisis Pregnancy Agency.

(vi) *Review of family support services*

425. A specialised infrastructure was put in place from the early 1990s to support the development of child protection services focusing on children at risk. The Department of Health and Children considered that a comprehensive review of family support services was necessary to inform the planning process for the period of 2004-2007 and ensure a balanced development of services. The review was initiated in 2003 and will develop a clear strategic statement to guide the development and operation of appropriate family support services by the health boards.

(vii) *Best health for children*

426. A review of child health services was carried out by the chief executive officers of the health boards and resulted in the report *Best Health for Children*, published in late 1999. This report provides for a new core surveillance programme for children in the 0-12 age group, covering both pre-school developmental examinations and the school health service. Underpinning its recommendations is a model which embraces a more holistic child health promotion approach and which emphasises the role of parents in achieving best health for their children.

### **B3. Government programme targeting disadvantaged groups**

427. The National Anti-Poverty Strategy of 1997, and reviewed in 2001, aimed at ending consistent child poverty and set a target of reducing it to 2%, if not eliminating it, by 2007. 'Ending child poverty' is a special initiative under *Sustaining Progress*, the 6th in a series of national agreements between Government and the social partners. The Office for Social Inclusion of the Department of Social and Family Affairs has a coordinating role and works closely with relevant departments, agencies and the social partners in this regard. *Sustaining Progress* sets out a policy approach targeting services as well as income to ensure a better start for every child. This includes:

- Health: Better medical and health services within the community for young children and their parents;
- Pre-school age: Priority to early education and childcare facilities for disadvantaged families in the context of a joint approach between the Departments of Education and Science, and Justice, Equality and Law Reform;

- Primary school: Ensuring every child obtains a threshold of numeracy and literacy;
- Amenities: Accelerated provision of play environments for local communities;
- Parenting: Wider availability of parenting support services for families at risk;
- Income: Importance of Child Income support arrangements, including examining the effectiveness of, for example, merging the Child Dependant Allowance (CDA) with the Family Income Supplement (FIS).

428. Specific measures under each of these headings will be undertaken over the period of the *Sustaining Progress* Agreement and there will be a strong focus on evaluating the effectiveness of strategies adopted.

### **C. Separation from parents**

#### **C1. Measures to ensure that a child is not separated from his or her parents except when such separation is necessary for the best interests of the child**

429. This area was dealt with comprehensively in Ireland's First Report (CRC/C/11/Add.12, paras. 183-199).

430. New legislative proposals introducing a wider range of guardianship options are to be submitted to Government shortly (*see para. 412 above*). At present, where a single mother marries someone who is not the father of her child, the only option available for the spouse to gain parental rights and responsibilities is through adoption. This has the effect of legally severing the child's links with the birth father and his family. The introduction of guardianship for step-parents will have the effect of allowing a step-parent to have the required rights and responsibilities without breaking the child's link with the wider family. It is anticipated that the number of step-parent adoptions will reduce significantly when this legislation is enacted.

#### **C2. Access**

431. Parents may agree informally between themselves the arrangements for access to the child, otherwise the matter is dealt with through the courts as outlined above. In any application for custody or access, the welfare of the child is the factor that the court will consider. It is a child's right to see both parents and access by the non-custodial parent will only be denied if the court believes that it is not in the best interests of the child. The court can set out the time, place and duration of access visits and can order supervised access, where another adult is present during visits, if it considers it appropriate.

#### **C3. Opportunity to participate in any proceedings and to make their views known**

432. Section 26 of the Child Care Act, 1991 allows the court to appoint a Guardian ad Litem for a child involved in care proceedings. Any such appointment will lapse if the child is made party to the case and the health board is required to bear the costs concerned. (For further details on Guardian ad Litem provisions under Irish law, *see paras. 335-337.*)



## **D. Family reunification**

### **D1. Measures to ensure that applications by a child or his or her parents to enter or leave a country for the purpose of family reunification are dealt with by the State in a positive, humane and expeditious manner and that the submission of such a request entails no adverse consequences for the applicants and the members of their family**

433. The procedures for the family reunification of refugees are covered in the Refugee Act, 1996 (as amended). For migrants not covered under the Act, there are administrative procedures in place. The overall objective is to facilitate family reunification where appropriate.

434. Under the Refugee Act, the Office of the Refugee Applications Commissioner (ORAC) is responsible for the investigation and preparation of reports to the Minister for Justice, Equality and Law Reform on applications from persons granted refugee status who subsequently seek permission for certain family members to enter and reside in the State. The Act includes the definition of ‘family member’ for this purpose as follows:

- Where the refugee is married, the spouse of the refugee (providing that the marriage is subsisting on the date of the application for family reunification); in certain circumstances or cases, this may include minors;
- Where the refugee is, on the date of the application for family reunification, under 18 years of age and is not married, his or her parents (for a child or minor, this means that they can apply to be reunified with their parents in Ireland);
- The child of a refugee who, on the date of the application for family reunification, is under 18 years of age and is not married (this means that parents can apply for their children to be reunified with them in Ireland).

435. The Refugee Act also specifies that the Minister may, at his or her discretion, grant permission to a dependent member of the family of a refugee to enter and reside in the State. A ‘dependent member of the family’ is defined as ‘any grandparent, parent, brother, sister, child, grandchild, ward or guardian of the refugee who is dependent on the refugee or who is suffering from a mental or physical disability to such extent that it is not reasonable to maintain himself or herself fully’.

436. Any refugee may apply to the Minister for permission for a family member to enter and reside in the State. All applications are subsequently referred to the ORAC for investigation and a report is compiled in each case, essentially setting out the relationship between the refugee and the family member, and if applicable, the domestic circumstances of the family member. The report is then sent to the Minister to consider and make a decision on the application.

437. Section 18 of the Refugee Act, 1996 provides that children may be reunited with their parents (or other relatives, depending on the dependency of the relationship) irrespective of whether the child or a parent is the person in respect of which a declaration as a refugee has

issued. This includes unaccompanied minors who, if granted refugee status, may apply for their parents to enter and reside in Ireland.

438. Subject to appropriate documentation and verification of details, visas can be issued to enable parents who reside in a different countries to maintain contact with their child.

439. Since the start of 2005, the number of family reunification cases under investigation by the ORAC is significantly down. The time frame for processing these applications has dramatically improved and now takes approximately 2 months per case (in the past, the average process period was 6 months per case).

440. Statistics on the numbers of minors making application for asylum are collected by the Department of Justice, Equality and Law Reform (*see Tables 8, 9 and 10*).

**Table 8**

**Unaccompanied minors, asylum applications 2003 (by age and gender)**

Age groups	Female	Male
0-13 years	4	5
14-15 years	18	16
16-17 years	127	107
Total	149	128

**Table 9**

**Unaccompanied minors, asylum applications 1998-2003 (by category)**

Year	1998	1999	2000	2001	2002	2003
Unaccompanied minors		1	8	26	94	209
Over 18 <sup>1</sup>	2	36	284	458	177	66
Family located <sup>2</sup>			10	116	17	2
Total	2	37	302	600	288	277

*Note:* The above statistics are calculated by date of application and as a result the numbers in the different categories may change as the applicant turns 18 or is reunited with his/her family.

<sup>1</sup> 'Over 18' refers to applicants who were under 18 when they applied for asylum but have since turned 18.

<sup>2</sup> 'Family located' refers to applicants who were unaccompanied by a parent/guardian when they applied for asylum but have since been reunited with parent/guardian.

**Table 10**

**Accompanied minors, asylum applications 2003 (by age and gender)**

Age	Female	Male	Total
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0-13 years	626	720	1 346
14-15 years	42	43	85
16-17 years	86	102	188
Total	754	865	1 619

### **E. Illicit transfer and non-return (article 11)**

441. The Child Abduction and Enforcement of Custody Orders Act, 1991 deals with problems that arise when a person abducts a child (under the age of 16) across international frontiers in defiance of a court order or against the wishes of a parent or guardian with custody rights. The Act deals primarily with child abduction by one parent against the wishes of another.

442. The Act gives the force of law in Ireland to two international conventions - the Hague Convention on the Civil Aspects of International Child Abduction and the Luxembourg Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children.

443. Both the Hague and Luxembourg Conventions require the establishment of a 'central authority' in contracting States. The Minister for Justice, Equality and Law Reform is designated as the Central Authority in Ireland. The Conventions have proved to be of substantial benefit. In 1994, the Irish Central Authority dealt with 112 child abduction cases, 55 involving children who had been abducted into the State and 57 involving children who had been abducted from the State.

444. When a foreign application for the return of a child is received in Ireland, it is generally referred by the Irish Central Authority to the Legal Aid Board for relevant proceedings to be taken before the High Court. Foreign applicants under both the Hague and Luxembourg Conventions are entitled to free legal aid in Ireland, irrespective of means, and the Central Authority itself imposes no charge for its services.

445. Section 37 of the Child Abduction and Enforcement of Custody Orders Act, 1991 gives the Gardaí power to detain a child whom they reasonably suspect is being removed from the State in breach of any custody order (including orders made under either the Hague or Luxembourg Convention) or while proceedings in relation to custody orders are pending or about to be made.

### **F. Recovery of maintenance for the child (article 27, para. 4)**

446. For information on the recovery of maintenance for the child, *please refer to Ireland's First Report (1996), paras. 199-213.*

### **G. Children deprived of their family environment (article 20)**

#### **G1. Child Care Act, 1991**

447. While the emphasis of child welfare and protection services is increasingly on early intervention, family support services and intensive community-based services (with the aim of preventing the need for children to be taken into care), where children are taken into care by the

Health Service Executive (HSE) this is done either on a voluntary basis (i.e. with the consent of the child's parents) or under a court order. In such cases, a social worker, sometimes in an emergency situation, will on behalf of the HSE apply for a care order or a supervision order in respect of a child (*see below*).

448. Over 80% of the almost 5,000 children in care in Ireland are in foster care. Numbers in residential care amount to approximately 450 (including up to 100 in specialised residential care, i.e. high support and special care).

449. Residential centres for children in care are provided either by the HSE or by non-statutory agencies. All centres are inspected either by the Social Services Inspectorate (SSI) or the Registration and Inspection Units of the HSE. Where the inspection report identifies issues that need to be addressed relating to the child's placement, the HSE must ensure that this is followed up and addressed.

450. An inspection process for foster care was piloted in 2004.

## **G2. Children Act, 2001**

### **(a) 'Special care' procedures**

451. The Children Act, 2001 amends the Child Care Act, 1991 by the insertion of Parts IVA (Children in Need of Special Care or Protection) and IVB (Private Foster Care). Part IVA provides for the detention in special care units of non-offending children with challenging behaviour.

452. The provisions relating to children in need of special care or protection are found mainly in Parts 2, 3 and 11 of the Children Act, 2001, which provide for the making of special care orders, via the family welfare conference, and the placement of children in special care units. Part 11 establishes the Special Residential Services Board, which has an advisory role in ensuring the effective, efficient and coordinated delivery of services to children in special care units and children detention schools. The Board also has a role in informing the courts in relation to these matters. Part 11 of the Act was commenced in November 2003 and almost all of Parts 2 and 3 were commenced in September 2004 (*see also paras. 752-754*).

453. A special care order provides for the referral to a special care unit of a non-offending child, whose behaviour poses a real danger to his or her welfare. This order, designed to provide such children with special care or protection, may last for between 3 and 6 months. Since a special care order is an exceptional measure (which must be imposed only where there is no other means of providing the child with the care or protection required), Part 2 of the Children Act, 2001 requires the health board to first seek the views of the Special Residential Services Board before applying for the order and then, if appropriate, to convene a family welfare conference. The latter is a multi-agency forum, convened by the health board and attended by the child, his or her parents and anyone who would make a positive contribution, to consider the most appropriate level of care or protection for the child. Its objective is to provide private family time for planning for the child's care or protection, and it empowers families to arrive at their own solutions to their child's problems, in cooperation with professionals. In this regard,

the family welfare conference may recommend that the health board apply for a special care order or some other alternative means of providing the child with care or protection.

454. A family welfare conference may be convened in two situations. The first is when it appears to the health board that a child requires special care or protection, which he or she will not otherwise receive unless a special care order is made. In this event, the health board must convene a family welfare conference before applying to the court for the order. This section of the Children Act, 2001 has commenced. Steps to allow for the full implementation of the Special Care Provisions at District Court level (including the required amendment of the regulations as a consequence of the Health Act, 2004) are expected to be completed in 2005.

455. The second situation for convening a family welfare conference is where the Children's Court, in dealing with a child charged with an offence, may adjourn the proceedings and direct the health board to convene a family welfare conference when it may be appropriate to make a care or a supervision order under the Child Care Act, 1991 in respect of the child. In this case, the health board reports back to the Children's Court on the outcome of the family welfare conference and, where appropriate, applies to the court for the relevant order. This section of the Children Act, 2001 has not yet commenced.

456. A Special Care Unit is a secure therapeutic facility in which children are placed under an interim or a full special care order. It is reserved exclusively for non-offending children, for whom it provides highly specialist services. The health board is responsible for providing and maintaining such units or arranging with others to do so on its behalf. There are currently 30 Special Care Units around the country.

**(b) Private and non-relative foster care**

457. In addition, Part 3 of the Children Act, 2001 (which inserts Part IVB into the Child Care Act, 1991) establishes a procedure whereby those providing or arranging private or non-relative foster care must notify the health board, which has a duty to supervise such arrangements.

**H. Adoption**

458. Adoption in Ireland is currently regulated by the Adoption Board, which is an independent quasi-judicial statutory body appointed by Government. Adoptions in Ireland commenced on 1 January 1953 with the enactment of the Adoption Act, 1952. This Act has been amended six times since 1952 - in 1964, 1974, 1976, 1988, 1991 and 1998.

459. Adoption in Ireland has undergone major change in the last few decades. Fewer Irish children are being given up for adoption than ever before. In 1999, over 30% of births in Ireland were to unmarried women; however, only 94 Irish children were given up for adoption. This has resulted in an increase in foreign adoptions. The latest statistics on adoption indicate that 273 Irish adoption orders were made in 2004, with 461 Foreign Adoption Declarations in the same year.

460. A consultation process with people affected by adoption and working in that field was undertaken in the second half of 2003 at the request of the Minister for Children. The report on the consultation findings was published in January 2005 (*copy provided*). It contains a comprehensive overview of the policy and legislative issues relating to adoption in Ireland, together with legislative proposals on a number of issues including:

- The ratification of the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption, which will allow for adoptions from countries:
  - That have ratified the Hague Convention;
  - That operate within the spirit of the Hague Convention and with which Ireland has signed a bilateral agreement;
  - From which a person has already adopted a child and the Adoption Authority has made special provision for such an adoption.
- The establishment of the Adoption Authority as the central authority required under the Hague Convention and the abolition of the Adoption Board;
- Provisions allowing special guardianship in respect of a child up to the age of 18 for long-term foster carers and step-parents;
- A number of supports provided by the Adoption Authority regarding information and tracing, including:
  - The creation of a national voluntary Contact Preference Register, allowing adopted people and natural relatives, aged over 18, to register their wish to either make contact with each other or not to make contact. This was effective from May 2005;
  - The creation of a National Records Index, holding information on all records held in the State relating to adoption;
  - The provision of a Tracing Service, to help establish the current location of a person being traced.

461. Legislation is currently being drafted on foot of these proposals and is expected in Autumn 2005.

## I. Periodic review of placement

### II. Child protection

#### (a) Legislative provisions for review

462. In accordance with Article 25 of the UN Convention on the Rights of the Child, Section 42 of the Child Care Act, 1991 makes provision for the Minister for Health to make regulations for the review, on a regular basis, of children placed in residential care by the health boards. In particular, health boards will be required to consider whether it would be in the best interests of the child to be given into the custody of his or her parents. Under the Irish Constitution, a person may request that an inquiry be carried out by the High Court if they believe that their detention is unlawful.

463. The competent authorities responsible for placing children in care, and for reviewing the placement of children in care, include the 10 health boards, the Social Services Inspectorate and a Guardian ad Litem where appropriate. All children placed in care are provided with a care plan, specific to their needs. This plan is implemented with the support of an interdisciplinary team, led by a 'key worker' for the child. Implementation and regular review of the plan provides the opportunity for any aspects of the child's programme of care, including the plan itself, to be actively reviewed.

#### (b) Role of the Social Services Inspectorate

464. The Social Services Inspectorate (SSI) monitors personal social services operated by the health boards, the area of child care and, in particular, the inspection of residential child care facilities operated by the health boards. Non-statutory child care residential centres are registered and inspected by the Registration and Inspection Units of the health boards, as provided for in the Child Care Act, 1991. All centres are inspected against the National Standards for Children's Residential Centres (*see para. 339*), which are based on the legislation, regulations, UN Convention on the Rights of the Child, and good practice. The National Standards also apply to foster care. The Child Care (Special Care) Regulations, 2004 (SI No. 550/2004) and the National Standards for Special Care Units (2001) have also been referred to earlier (*see para. 306 and also Chapter VIII, Section B*).

465. All reports of the Social Services Inspectorate (SSI) are published on its website ([www.issi.ie](http://www.issi.ie)). In addition, the SSI issues an annual report of findings highlighting issues that need particular attention. Monitoring officers are employed by health boards to ensure that standards are met on an ongoing basis.

#### (c) Role of the Special Residential Services Board

466. The Special Residential Services Board is an independent statutory body, set up under Part 11 of the Children Act, 2001.

467. The Board advises Ministers on policy relating to the remand and detention of children and ensures the efficient, effective and coordinated delivery of services to children in respect of whom child detention orders or special care orders are made. The Board has a range of functions, including the coordination of the delivery of residential accommodation and support services to

children detained in children detention schools and special care units. It also gives its views on any proposal of a health board to apply for a special care order under Part IVA of the Child Care Act, 1991 (pursuant to Section 23A(2)(b), inserted by Section 16 of the 1991 Act).

**(d) Mental health**

468. Under the Mental Treatment Act, 1945, any relative or friend of a person detained may apply to the Minister for Health and Children for an order for the examination by two medical practitioners of a detained patient. On consideration of the medical reports, the Minister may, if he thinks fit, direct the discharge of the patient by the Inspector of Mental Hospitals. Children under the age of 16 are not covered by this Act.

469. The provisions of the Mental Health Act, 2001, when fully implemented, will apply to all children. Section 25 of this Act pertains specifically to children and sets out that a health board may apply to the District Court for the involuntary admission of a child who is suffering from a mental disorder.

470. The Mental Health Act, 2001 is not fully commenced.

**J. Abuse and neglect, including physical and psychological recovery and social reintegration**

**J1. General measures**

471. Ireland's First Report (1996) outlined in some considerable detail the recognition of child abuse as a significant social problem in Ireland, the inquiries that brought this issue to light and the policy and legislative responses put in place to tackle the issue. As is clear from this report, there have been considerable improvements in both the law and the policy responses to ensure the safety and quality of services being provided by the State, having regard to the rights of the child and the child's best interests.

472. This section (J) will only cover those items not already covered in other sections of this report.

**J2. Monitoring systems on extent of forms of violence, injury or abuse, neglect, maltreatment or exploitation, disaggregated data**

473. The Department of Health and Children collects statistics on children in its care. From its Census of Children in the Care of the Health Boards, dated 31 December 2001, the total number of children in care at that time was 5,517, with 2,993 of these being male and 2,524 being female. (These figures are taken from the interim minimum data set, 2001.)



**J3. Measures for the identification, reporting, referral, investigation, treatment and follow-up of instances of maltreatment, including existence of system of mandatory reporting for professionals**

474. As outlined in the Introduction to this report, following detailed consideration the Government decided not to introduce mandatory reporting of child abuse. National guidelines were issued in 1999 (entitled Children First: National Guidelines for the Protection and Welfare of Children) and legislation was enacted in the form of the Protections for Persons reporting Child Abuse Act, 1998.

475. Special units for the investigation and management of alleged child sexual abuse are in operation in the major centres of population around the country. Each health board has services in place for the treatment and support of victims of child abuse, some of which are hospital-based while others are provided at community level. A review of hospital-based services in the Eastern Region took place in 2003 and its recommendations are currently under consideration. Health board funding is also provided for a national help line, operated by the voluntary organisation Children at Risk in Ireland (CARI).

476. In September 2004, the Minister for Children announced the extension of Garda vetting services to all persons working with children and vulnerable adults. This involves a doubling of staff in the Garda Central Vetting Unit.

## **VI. BASIC HEALTH AND WELFARE**

### **A. Children with disabilities**

#### **A1. General comment**

477. The principles of equity and equality of opportunity with specific reference to children with disabilities are incorporated in the National Children's Strategy. This section deals with intellectual, physical and sensory disabilities. Issues relating to mental health are dealt with in Section B below.

#### **A2. Legislation provisions**

478. The Equal Status Act, 2000 is the principal legislation on discrimination against people with disabilities. The Act defines 'disability' as follows:

- The total or partial absence of a person's bodily or mental functions, including the absence of a part of a person's body;
- The presence in the body of organisms causing, or likely to cause, chronic disease or illness;
- The malfunction, malformation or disfigurement of a part of a person's body;
- A condition or malfunction which results in a person learning differently from a person without the condition or malfunction; or

- A condition, disease or illness which affects a person's thought process, perception of reality, emotions or judgement, or which results in disturbed behaviour.

479. Besides the Equal Status Act, 2000, the other key legislative advances relevant to the lives of children with disabilities are:

- Education Act, 1998;
- Mental Health Act, 1999 and Mental Health (Amendment) Act, 2001;
- Education for Persons with Special Educational Needs Act, 2004;
- Establishment of the National Disability Authority.

### **A3. Access to education training, healthcare, rehabilitation preparation for employment and recreation opportunities**

480. The enactment of disability legislation is a key part of the National Disability Strategy being put in place by Government to ensure equal participation by people with disabilities. The disability legislation is intended:

- To enable provision to be made for the assessment of health and education needs of people with disabilities;
- To enable Government Ministers to make provision (consistent with the resources available to them and their obligations in relation to their allocation) for services to meet those needs;
- To provide for the preparation of plans by the appropriate Government Ministers in relation to the provision of those services;
- To provide for appeals by people in relation to the non-provision of those services;
- To make further and better provision in respect of the use by those people of public buildings and their employment in the public service, and thereby to facilitate generally access by such people to certain such services and employment;
- To promote equality and social inclusion, and to provide for related matters.

#### **(a) Education**

481. The Education Act, 1998 sets out the responsibility of the Minister for Education and Science to ensure 'that there is made available to each person resident in the State, including a person with a disability or who has other special educational needs, support services and a level and quality of education appropriate to meeting the needs and abilities of that person'. At

present, special educational provision for students with disabilities ranges from additional support in mainstream schools to specialist support in special schools. Essentially, there are three models of provision in which the student with a disability may enrol:

- A mainstream class with additional support;
- A special class in a mainstream school;
- A special school that caters for the student's category of disability.

482. The purpose of the Education for Persons with Special Educational Needs Act, 2004 is to make detailed provision through which the education of children with special educational needs because of disabilities can be guaranteed as a right, enforceable by law. The Act is complementary to the provisions of the Constitution, which already provides that each child is entitled to free primary school education and that the State has a duty to provide for and ensure that each child receives at least a minimum education. In order to provide a structure within which the Act's provisions can be effectively implemented, the Act establishes the National Council for Special Education.

**(b) Healthcare**

483. A range of support services are available to children with a disability. These include speech therapy, physiotherapy, occupational therapy, technical aids, audiology, respite, home support and residential care services.

484. Children with an intellectual disability have access to development and assessment services, and are facilitated in attending pre-school services. In recent years, there has been considerable expansion of respite care and home support services to families caring for children with an intellectual disability.

485. The health services fund a range of child education and development centres, which are attended by children with a more severe level of intellectual and physical disabilities.

**(c) Welfare**

486. It is Government policy to provide supports for children with a disability to enable them to live with their families. Where this is not possible, children are cared for in residential settings by health boards and non-statutory organisations. The majority of children in residential care have severe or profound intellectual disability or multiple disabilities. A large proportion of the services for people with a disability, and in particular those with an intellectual disability, are provided by non-statutory organisations, both lay and religious. Funding for these is provided through the health boards by the Department of Health and Children.

487. It is acknowledged that there are currently waiting lists for a number of these disability support services and also training of adequate professionals to meet demand has been the subject of a Government-commissioned report.

488. The National Standards for Foster Care (2003) and the National Standards for Children's Residential Centres (2001) set out criteria relating to the needs of disabled children in care.

489. Children with a disability who are accommodated in residential care are encouraged, as far as possible, to integrate into the social life of the local community. They are also helped to achieve their full potential in social and educational skills.

**(d) Transport initiatives**

490. The Department of Transport is working towards improving transport facilities for people with mobility and sensory impairments. Such improvements go beyond the needs of those who are disabled and include children and parents travelling with children and buggies. They also involve the transport needs of the wider population who, at some point in their lives, may have a physical or other impairment which makes travelling difficult, if not impossible, on what might be called traditional-type vehicles. This position accords with the 'Transport for All' concept, which is now generally accepted within the EU and the European Conference of Ministers of Transport (ECMT).

491. Since 2000, all major refurbishment projects at bus and rail stations, together with the construction of new stations and the purchase of trains and buses by the State-owned public transport operators, are designed as part of a fully accessible system. In particular, all new buses purchased for the urban services of the State-owned public transport operators are low-floor and wheelchair-accessible. Similarly in the rail sector, all new rail carriages are specified to full accessibility standards and all appropriate staff in the State-owned bus and rail companies now undergo accessibility awareness training.

492. In conjunction with the publication of the Disability Bill, 2004 on 21 September 2004, the Department of Transport published its Outline Sectoral Plan for Accessible Public Transport as a draft consultation document. The following initiatives have been undertaken by the department to improve transportation:

- Rural Transport Initiative (RTI), 2001;
- Traffic Management Guidelines;
- Safer Routes to School Pilot Programme, Dublin Transportation Office (DTO), 2002: This initiative is focused on reducing the barriers to walking, cycling or taking the bus to school and hence reducing the number of car-based journeys to and from school. It is intended that the programme will result in more pupil-centred traffic management close to schools, with resulting safety and health benefits for children. A further round of Safer Routes to Schools projects is being funded in the period to 2006, based on a DTO review of the pilot programme. National guidelines on the programme will be published following the conclusion of the pilot phase;
- National Road Speed Review, to consider special speed limits in the vicinity of schools;
- Environmental Traffic Cells, to reduce 'through traffic' in residential or retail areas, the benefits of which will be highly relevant for children living within such 'traffic cells'.

#### A4. Assistance provided for children with disabilities

493. A number of schemes are available that provide financial assistance or tax reliefs for people with disabilities, including children (*see below*). They are administered by the Health Service Executive (HSE), Department of Social and Family Affairs, local authorities, FÁS and the Revenue Commissioners.
494. A **Domiciliary Care Allowance** (administered by the HSE) is paid monthly in respect of children under the age of 16 with a severe disability, who live at home and who require care and attention that is considerably in excess of that normally required by a child of the same age group.
495. An annual **Respite Care Grant** (administered by the HSE and Department of Social and Family Affairs) is paid each June in respect of children for whom a Carer's Allowance is paid by the Department of Social and Family Affairs, or a Domiciliary Care Allowance is paid by the HSE.
496. A means-tested **Mobility Allowance** (administered by the HSE) is paid monthly to people with severe disabilities between the ages of 16 and 66, who are unable to walk.
497. A means-tested **Motorised Transport Grant** (administered by the HSE) is available to people with severe disabilities between the ages of 17 and 66 for the purchase or adaptation of a car. The person's disability must impede them from using public transport, the car must require adaptations and the car must be essential to them obtaining or retaining employment. A person who avails of this grant will not be eligible to receive the Mobility Allowance for 3 years from the date of receipt of the grant.
498. A **Rehabilitative Training Bonus** (administered by the HSE) is paid weekly to trainees with disabilities attending rehabilitative training.
499. A **Vocational Training Bonus** (administered by FÁS) is paid weekly to trainees with disabilities attending vocational training.
500. A **Disability Allowance** (administered by the Department of Social and Family Affairs) is paid weekly, subject to a medical and means test, to people with a disability over 16 years and under 66 years, who are unable to work due to their disability.
501. A **long-term illness scheme** (administered by the HSE) provides drugs and medicines free of charge for children with specified disabilities, including cystic fibrosis, spina bifida, hydrocephalus and multiple sclerosis.
502. Under the **Disabled Persons Grant Scheme** (administered by the local authorities), grants are available towards the adaptation of existing houses to meet the needs of people with disabilities, including children.

**(a) Inclusion of children in mainstream services**

503. In June 2000, a mainstreaming approach to service delivery for people with disabilities was introduced, in conjunction with the establishment of the National Disability Authority and Comhairle. These two organisations replaced the National Rehabilitation Board. Legislation is currently being prepared to remove barriers to equal participation for all people with disabilities, including children.

**A5. Right to special care - assistance appropriate to child's condition**

504. See the provisions in Section B (*below*) to ensure the improved evaluation of special care needs and the provisions for meeting those needs.

**B. Effective evaluation of situation of disabled children, including system of identification and tracking of disabled children, establishment of monitoring mechanisms, assessment of progress**

505. A significant advance has been the development of two databases to provide information on the number of people in Ireland who have a disability, as well as establishing the diversity of their needs. These two databases (*see below*) will be extremely important in informing policy in relation to service provision in this area.

**B1. Intellectual Disability Database**

506. The National Intellectual Disability Database was established in 1995 and came into operation in 1996. It is a flagship project aimed at ensuring that accurate information is available about the needs of people, including children, with intellectual disabilities. The database contains information on people who are receiving intellectual disability services or who are in need of these services. (The Data Protection Act, 1988 applies in the normal way to information in this database.) The Database Committee is managed by the Health Research Board on behalf of the Department of Health and Children. Services are planned and coordinated on the basis of the information contained in the database. The statistical information is used:

- To monitor current service provision;
- To predict future service requirements;
- For research.

507. Since 1997, the programme of investment in services for disabled people (including children) has been based on the needs identified in the National Intellectual Disability Database.

**B2. Physical and Sensory Disability Database**

508. The National Physical and Sensory Disability Database is currently being implemented throughout the country. This follows a detailed pilot implementation within 4 health boards during 2001. The database outlines the specialised health services currently used or needed by people, including children, with physical or sensory disabilities. Access to information is restricted to a small number of specific people in relevant organisations and the information is

protected under the Data Protection Act, 1988. Information in the database is anonymous and contains no identifying information (such as names, addresses or telephone numbers). Statistical information is available to:

- The Department of Health and Children;
- The Health Research Board;
- Approved researchers.

509. The National Physical and Sensory Disability Database will be used:

- To monitor current services;
- To assess future service needs;
- To prioritise service needs;
- To support the planning of services;
- To assist research.

### **B3. Adequate training for those responsible for care of children with disabilities**

510. Staff working in the State-provided health and social care area have specific training to work with children in the disability sector.

### **C. Measures to promote exchange of information of preventive healthcare and of medical psychological and function treatment of children with disabilities, including information concerning methods and services**

#### **C1. Research and promotion of methods/treatments**

##### **(a) National Disability Authority**

511. The National Disability Authority (NDA) is an independent statutory agency established under the aegis of the Department of Justice, Equality and Law Reform by the National Disability Authority Act, 1999.

512. The NDA has the following functions:

- To act as a national body to assist in the coordination and development of disability policy;
- To undertake research and develop statistical information for the planning, delivery and monitoring of programmes and services for people with disabilities;

- To advise the Minister on standards for programmes and services, and prepare codes of practice;
- To monitor the implementation of standards and codes of practice;
- To take the lead in both encouraging and recognising the promotion of equality of people with disabilities.

513. Members of the NDA are drawn from all backgrounds and include people with disabilities, parents and carers of people with disabilities and people working in the disability field.

514. The NDA Research Database is Ireland's most comprehensive collection of information dedicated to disability-related issues. Its pool of over 400 resources covers research papers, reports, theses, government publications and journals in the field of disability. The NDA has also created a register of researchers with experience in disability research, which aims to provide a picture of Irish-based practitioners in the area of disability research. The NDA also seeks to promote research on disability and related issues of benefit to people with disabilities in Ireland; to this end, the NDA provides two schemes to fund research in the disability field. The NDA also directly commissions specific research.

## **C2. Raising awareness**

515. The Department of Justice, Equality and Law Reform has supported a range of disability awareness projects, including since 1977 an annual National Information Day on Disability.

516. During 2003, the Department of Justice, Equality and Law Reform supported the work of the National Coordinating Committee for the European Year of People with Disabilities (EYPD), chaired by the National Disability Authority. Funding provided for this work was €1.5m (€0.2m of which was EU funding). From the latter part of 2002 onwards, the department provided additional funding of over €1m for the EYPD to sponsor a number of specific initiatives, including exhibitions, conferences, construction of a 'national sensory garden', a series of television programmes drawing on the lives of people with disabilities, a Youth Disability Conference, a series of Youth and Disability Seminars, and work on upgrading the accessibility of the website of People with Disabilities in Ireland (PwDI).

517. In November 2003, research commissioned by the National Disability Authority, entitled *Public Play Provision for Children with Disabilities*, was launched.

518. In September 2004, the Department of Justice, Equality and Law Reform invited primary school students from all over the country to join in Ireland's National Information Day on Disability 2004 by writing a short story entitled *Someone like me*. This initiative, with a prize fund of over €60,000, was designed to promote awareness of disability among primary school children. The department hopes that the essay-writing competition will build on the highly successful European Year of People with Disabilities and the inspirational Special Olympics World Summer Games held in Ireland during 2003.



### **C3. Medical genetics**

#### **(a) Role of National Centre for Medical Genetics**

519. The National Centre for Medical Genetics provides a comprehensive service for all patients and families affected by, or at risk of, a genetic disorder. Genetic disorders are a major cause of illness in every community. For example, 35% of childhood hospital admissions are due to a genetic disorder, 3% of all adults have a genetic condition and 65% of adult illnesses (such as diabetes, dementia and coronary heart disease) have a genetic component.

520. Based in Our Lady's Hospital for Sick Children, Crumlin, the National Centre for Medical Genetics provides a service to children and adults from all parts of Ireland. Having a strong research element and being the base for University College Dublin's Department of Medical Genetics, the Centre remains up-to-date with developments elsewhere, as well as contributing to new understandings and breakthroughs in genetic research. Centre staff also liaise closely with the National Newborn Screening Unit at Temple Street Hospital.

521. Registers of individuals and families with specific conditions are maintained by the Centre's clinical services, which are also available to families with rare conditions by way of support. In addition, the Centre's Cytogenetics laboratory analyses samples from individuals with suspected constitutional chromosome abnormalities.

522. The Centre's Molecular Genetics Service provides a molecular diagnostic service for a wide range of inherited disorders. The major work of the laboratory is the diagnosis of single gene disorders in patients with a probable genetic disorder, including some people with learning or intellectual disabilities. However, many adult onset conditions are also covered by the laboratory, including neurological disorders and inherited forms of cancer. A bank of DNA, representing every sample received by the laboratory, is maintained and cross-indexed to the patient registers described above. Furthermore, the Molecular Genetics Service participates in the UK-NEQAS and European quality assurance schemes for molecular genetics and provides reports by qualified clinical molecular geneticists.

### **D. Data of children with disabilities**

#### **D1. Intellectual disability**

523. Statistical data on intellectual disabilities is published by the Health Research Board on behalf of the Department of Health and Children. Its latest report (*copy provided*) details data from 2004 on numbers of people by age, type of disability, health board area, type and quantum of services being received, residential status, with an assessment of unmet needs and future needs based on this data. The report states that the number of children with an intellectual disability under 19 years of age in 2004 was 8,680. The report also maps prevalence rates by level of disability, region and age.

## **D2. Physical and sensory disability**

524. The National Physical and Sensory Disability Database is not fully operational yet and statistical data is not available at present. As soon as the database is implemented throughout the country, this information will be made available to the UN Committee. (*For further details, see above.*)

## **E. Health and health services**

### **E1. Measures to recognise and ensure the right of the child to enjoyment of highest attainable standard of health and to facilities for treatment and rehabilitation**

525. Ireland's First Report (1996) outlines in some detail the provision for maternity leave, adoptive leave, public health nursing service, eligibility for services, and dental, aural and ophthalmic services, as well as health promotion and education initiatives. The measures undertaken and investment made since 1996 have built on these initiatives and policy objectives. The following text outlines specific areas of improvement and new initiatives that have been taken to ensure the highest attainable standard of health for children in Ireland.

526. In addition to the need to expand existing services and initiatives, there is a growing awareness of the need to tackle lifestyle behaviours in children and young people, particularly those related to smoking, alcohol abuse and obesity (*see paras. 559-577 below*).

### **E2. Child-specific measures**

#### **(a) Policy context**

527. There have been considerable improvements in the health status of children in Ireland in recent years. Infant mortality has been declining steadily over the last 25 years, as has perinatal mortality. Nevertheless, it is acknowledged that many of the causes of mortality in children are preventable, for example, injuries and poisonings, infectious diseases and certain congenital anomalies, such as neural tube defects.

528. The key legislative and policy provisions that guide the development and provision of services are:

- *Best Health for Children*, Report by health boards, 1999;
- National Children's Strategy, *Our Children - Their Lives*, 2000;
- National Health Promotion Strategy 2000-2005;
- *Health of Our Children*, Annual Report of the Chief Medical Officer, 2000;
- Adolescent Health Strategy, 2001;

- Reports (First and Second) of the Working Group on Child and Adolescent Psychiatric Services, 2001;
- National Health Strategy, *Quality and Fairness: A Health System For You*, (2001).

**(b) Annual Report of the Chief Medical Officer, 2000**

529. The 2000 Annual Report of the Chief Medical Officer (CMO), entitled *Health of Our Children*, focused on the health of children. As well as remarking on the wider determinants of health status, the CMO specifically commented on the successes achieved in relation to specific causes of morbidity and mortality (such as infectious diseases and Sudden Infant Death Syndrome/SIDS). Also commented upon was the importance of prevention and health promotion, further underlined by new data in relation to the health behaviours of children (*copy provided*). The report drew attention to the issue of health inequalities and the link between income and health status. It also referred to income and the availability of medical cards for children in this context. This issue was taken into account in the Government's policy on medical cards contained in the National Health Strategy of 2001.

**E3. Core Surveillance Programme**

**(a) Maternity and Infant Care Scheme**

530. The Maternity and Infant Care Scheme is free of charge and provides pre-natal and post-natal care for women and their babies up to 6 weeks of age. It is delivered through a system of combined care, where the mother is under the care of both her general practitioner and hospital obstetrician. Information leaflets on the scheme, designed for mothers and general practitioners, have been developed and supplied to the health boards for distribution, with a view to maximising uptake of the scheme.

**(b) Developmental checks**

531. In the case of babies, three checks are provided automatically, free of charge - an examination at birth, a visit by the Public Health Nurse within 48 hours of discharge from hospital, and a developmental check at 6 weeks. The new core surveillance programme provides for the following examinations, again free of charge:

- A developmental check at 3 months, conducted by the Public Health Nurse;
- A developmental check at 7-9 months, conducted by a doctor (usually an area medical officer and the Public Health Nurse);
- A developmental check at 18-24 months, conducted by the Public Health Nurse.

**(c) School health service**

532. School health screenings are conducted by public health nurses and area medical officers, who are employed by the health boards and area health boards. These screenings are carried out on the school premises and parents are entitled to be present. Children's hearing and vision are examined and where requested by the parent or deemed necessary, a physical examination may

be carried out. Problems identified at these screenings are treated free of charge if the child attends as a public patient at an out-patient hospital department. Any subsequent treatment (whether out-patient or in-patient) arising from this initial referral is free of charge as a public patient.

(i) *Best Health for Children*

533. A review of child health services was carried out by the chief executive officers of the health boards and resulted in the publication of the report *Best Health for Children* in late 1999. This report sets out a core surveillance programme for children in the 0-12 age group, covering both pre-school developmental examinations and the school health service. Underpinning the recommendations in the report is a model embracing a more holistic child health promotion approach, with an emphasis on the role of parents in achieving best health for their children.

534. One of the key recommendations in the *Best Health for Children* report is the need to provide appropriate training for professionals involved in delivering the child health surveillance programme. Additional funding, which was allocated to health boards in 2003 for this purpose, has been used to appoint relevant training personnel and to develop, in conjunction with Trinity College Dublin, a training programme for professionals involved in the delivery of the core surveillance programme. The training programme was launched on 13 January 2004. It is intended that all those involved in child health surveillance will have received the necessary training by the end of 2005.

(d) **Immunisation programme**

535. The Primary Childhood Immunisation Programme is a key element of the health services in Ireland today. The aim of the programme is to achieve 95% uptake and to eliminate, as far as possible, such conditions as diphtheria, tetanus, pertussis, polio, HIB disease, measles, mumps, rubella and Group C Meningococcal disease in the child population. The schedule of immunisation is in accordance with the recommendations of the National Immunisation Advisory Committee of the Royal College of Physicians of Ireland.

536. Immunisation against Meningitis C is now an integral part of the Primary Childhood Immunisation Programme. This particular vaccine has played an important role in dramatically reducing both the number of cases of Meningitis C and also fatalities as a result of contracting this condition. Uptake statistics in relation to immunisation are retained and updated by the National Disease Surveillance Centre. The data indicates that immunisation uptake is improving generally and is at its best maximum at 24 months for all DTPa/HIB/Polio, MMR and Meningococcal vaccines. This remains short of the 95% target uptake rate in the childhood population (*see para. 538 above*), but continues to improve towards that target. Publicity campaigns about the immunisation programme are undertaken on a regular basis.

## **E5. Mental health services**

(a) **Current provision of services**

537. The child and adolescent psychiatric service currently provides treatment for children up to 16 years of age. The implementation of the Mental Health Act, 2001 raises the age of a child

from 16 to 18 years and brings the legislation into conformity with the provisions of the Child Care Act, 1991. Although this in itself will not require any changes to the current service provision, there will be new legal procedures for detaining persons aged 16-18. The legislative change has accelerated the debate on the service needs of 16-18 year-olds and how they can best be met.

**(b) Review of child and adolescent psychiatric services**

538. The Minister for Health and Children established a Working Group on Child and Adolescent Psychiatry in June 2000, with the following terms of reference:

- To examine the current state of child and adolescent psychiatric services in the country;
- To carry out a needs analysis of the population aged 0-18 years for such services and to identify shortcomings in meeting such needs;
- To make recommendations on how child and adolescent psychiatric services should be developed in the short, medium and long term to meet identified needs.

*(i) First Report of Working Group on Child and Adolescent Psychiatric Services (March 2001)*

539. The first report of the Working Group on Child and Adolescent Psychiatric Services, published in March 2001, recommended the enhancement and expansion of the overall child and adolescent psychiatric services as the most effective means of providing the required services. The Working Group found that internationally acknowledged best practice for the provision of child and adolescent psychiatric services is through a multidisciplinary team and are largely provided in out-patient settings (except where assessment and treatment is required in a child and adolescent psychiatric in-patient unit).

540. The Working Group made recommendations on two areas in need of immediate attention:

- Organisation of services for the treatment and management of Attention Deficit Hyperactivity Disorder/Hyperkinetic Disorder (ADHD/HKD);
- Provision of child and adolescent psychiatric in-patient units.

541. Specifically, the Working Group recommended that a total of 7 child and adolescent psychiatric in-patient units for children aged 6-16 years should be developed throughout the country. At present, in-patient services for children and adolescents under 16 are provided in Dublin and Galway. Project teams were established for 4 units in Cork, Limerick, Galway and Dublin. Approval has been given for the Cork, Limerick and Galway units. The National Health Strategy of 2001 includes a commitment to the implementation of the Working Group's recommendations.

(ii) *Second Report of Working Group on Child and Adolescent Psychiatric Services (May 2001)*

542. The Working Group reconvened in May 2001 and identified the service needs of 16-18 year-olds as a priority. The Group's second report, published in May 2001, recommended that:

- Priority should be given to the recruitment of a consultant child and adolescent psychiatrist in each Health Service region, with a special interest in the psychiatric disorders of late adolescence;
- Arrangements should be made with the relevant adult psychiatric services for the admission to acute psychiatric units of people aged 16-18, under the care of the consultant child and adolescent psychiatrist where such a consultant is available;
- The current arrangements, whereby the adult services provide a service to the population of their catchment area (including 16-18 year-olds), should continue on an interim basis.

(c) **Progress to date**

543. The Mental Health Commission was set up in April 2002. Its primary functions are to promote and foster high standards and good practices in the delivery of mental health services and to ensure that the interests of detained persons are protected. The Commission has indicated that one of its priorities over the next few years will be to put in place the structures required for the operation of the Mental Health Tribunals. These will conduct an independent review of each decision to detain a patient on an involuntary basis or to extend the duration of such detention. A priority for the Inspectorate within the Mental Health Commission for 2004 is to carry out an audit of mental health services for children and adolescents, as well as for those with an intellectual disability.

544. Mental health services for children and adolescents have continued to expand (from a low base), with significant additional funding in recent years in the appointment of additional consultants to develop child and adolescent psychiatric services, to assist in the early identification of suicidal behaviour and to provide necessary supports to the individuals at risk. Since 1998, 19 additional child and adolescent consultant psychiatric posts have been approved.

545. The Expert Group on Mental Health, established in August 2003, has commenced work on preparing a new national policy framework for the future development of mental health services. This will include consideration of an appropriate framework for the development of child and adolescent psychiatric services.

546. In response to the growing concern at the rise in suicides, the Report of the National Task Force on Suicide, published in January 1998, outlined a comprehensive strategy to reduce the incidence of suicide and attempted suicide in Ireland. Arising from this strategy, a National Suicide Review Group (NSRG) has been established. Its annual report meets the requirement of

the Health (Miscellaneous Provisions) Act, 2001 - i.e. that the Minister for Health and Children will report annually on the measures taken by health boards to prevent suicides in the previous year.

547. The Health Boards Executive (HeBE), in partnership with the National Suicide Review Group and supported by the Department of Health and Children, has commenced work on the preparation of a new Strategic Action Plan for Suicide Reduction. This plan will be action-based from the outset and it will build on existing policy, as outlined in the 1998 Report of the National Task Force on Suicide (*see para. 549 above*). All measures aimed at reducing the number of deaths by suicide will be considered in the context of the preparation of this action plan, which will be completed in 2005.

548. Since the publication of the 1998 Report of the National Task Force on Suicide, a cumulative total of more than €17.5m has been provided towards suicide prevention programmes and research. Significant additional funding has also been made available in recent years to further develop services for liaison psychiatry, child and adolescent psychiatry, adult psychiatry and old-age psychiatry, in order to assist in the early identification of suicidal behaviour and to provide the necessary support and treatment to individuals at risk.

**(d) Suicide prevention**

549. The Department of Health and Children allocates funding, through the National Suicide Review Group, for voluntary and statutory groups engaged in suicide prevention initiatives, many of which are aimed at improving the mental health of younger age groups. These projects include courses in life skills for high-risk youth, school-based personal development modules and mental health promotional campaigns. Work has commenced on the preparation of a new Strategic Action Plan for Suicide Reduction, due to be completed in 2005.

**E6. General measures**

**(a) National Health Strategy**

550. Ireland's National Health Strategy, *Quality and Fairness: A Health System for You*, published in 2001, recognises the social, economic and environmental conditions which impact on child health and well-being. The strategy fully endorses and incorporates the principles and approach to children's health and well-being set out in the National Children's Strategy. In terms of child health, it focuses on the need for the following actions:

- An integrated programme of child health;
- National minimum standards and targets for surveillance and screening;
- Measures to promote and support breastfeeding;
- Initiatives to promote healthy lifestyles for children;
- The need for a National Injury Prevention Strategy.

551. In terms of child welfare and protection, the National Health Strategy concentrates on the expansion and refocusing of services towards family support and other early intervention initiatives, and the issue of youth homelessness. These developments have been discussed in other sections of this report.

**(b) Breastfeeding**

552. The National Committee on Breastfeeding was set up in March 2002. It evaluated the impact of the 1994 National Breastfeeding Policy and issued a public call for submissions, seeking proposals for future actions to promote, support and protect breastfeeding. An Interim Report was published in May 2003 and a Strategic Action Plan on Breastfeeding is to be finalised in 2005. Ireland, along with 28 other countries, is participating in an EU-funded project to draw up a Blueprint for Action on Breastfeeding in Europe.

553. There are some encouraging signs that breastfeeding initiation rates are increasing, but this is mainly among the higher socio-economic indigenous population and the newly arrived refugee and asylum-seeking communities. The rate of breastfeeding in 2002 was just over 38%, according to the Report on Perinatal Statistics published jointly in 2004 by the Economic and Social Research Institute (ESRI) and the Department of Health and Children. Generally, the breastfeeding picture in Ireland remains one of low initiation and short duration. Key initiatives since 1996 include:

- Transposition into Irish law of the EU Infant Formulae and Follow-on Formulae Regulations, 1998-2000;
- Development of the structures necessary to give effect to the joint WHO/UNICEF Baby Friendly Hospital Initiative (BFHI);
- Appointment of a National Breastfeeding Coordinator in 2001 and a National Committee on Breastfeeding in 2002;
- Adoption of the WHO/UNICEF recommendation, contained in their *Global Strategy on Infant and Young Child Feeding* (2002), as Irish Government policy in August 2003. This recommendation states: 'As a global public health recommendation, infants should be exclusively breastfed for the first six months of life to achieve optimal growth, development and health. Thereafter, to meet their evolving nutritional requirements, infants should receive nutritionally adequate and safe complementary foods while breastfeeding continues for up to two years of age or beyond.';
- Issuing in 2004 of the new Maternity Protection (Protection of Mothers who are breastfeeding) Regulations (SI No. 654/2004) by the Department of Justice, Equality and Law Reform. These provide for a reduction in working hours or allowing breaks during working hours, without loss of pay, for breastfeeding or breast milk expression (where facilities for this are not provided) in order to facilitate the continuation of breastfeeding until an infant is 6 months old.



**(c) Key improvements**

554. At present, 20 of the 21 maternity hospitals/units in Ireland are participating in the joint WHO/UNICEF Baby Friendly Hospital Initiative (BFHI). Its introduction to Ireland in 1998 was supported by the Department of Health and Children. Rigorous assessment of set standards is involved in the achievement of the 'Baby Friendly' award. So far, three Irish hospitals have achieved these standards and received a national 'Baby Friendly' designation, with Portiuncula Hospital in Balinasloe, County Galway being the first to gain the award. The percentage of 'Baby Friendly' hospitals in other countries has been strongly associated with increases in breastfeeding rates in those countries.

555. Since 1996, there has been an improvement in the national breastfeeding initiation rates, up to approximately 45% (based on an aggregate of figures supplied by the maternity units) from about 34% in 1996.<sup>11</sup>

**E7. Health Promotion Strategy**

**(a) Overview**

556. An interim review of the National Health Promotion Strategy 2000-2005 is currently underway to determine the progress that has been made in meeting its aims and objectives, and also to identify the gaps where action should be focused. Several health-promoting initiatives are underway throughout the country in a variety of settings, including schools and colleges, youth sector, community, workplace and health services. Significant findings in the 2002 National Health and Lifestyle Survey report include:

- A fall in reported rates of cigarette-smoking in virtually every demographic category since the first survey in 1998 (i.e. a fall of 4% of the adult population reported as being regular or occasional smokers);
- The numbers drinking more than 6 drinks in an average session had increased by approximately 6% in the case of men and 5% in the case of women;
- Reported rates of overweight and obesity had increased in both adult men and women;
- Overall, just half of all adults reported some form of activity or exercise, which was similar to the position in 1998.

**(b) Alcohol**

557. A Strategic Task Force on Alcohol (STFA) was established in January 2002 to recommend evidence-based measures to Government aimed at reducing alcohol-related harm. The recommendations were published in an Interim Report in May 2002. An Inter-Departmental Group (IDG) was established to advance the recommendations and it presented its report to Cabinet in February 2004, outlining the progress to date. The STFA published a second report in September 2004, containing further recommendations. The work of the STFA and IDG will contribute to a review of the National Alcohol Policy and a consultation process will be implemented as part of the development of a new Alcohol Action Plan in 2005.

558. The work of the STFA and the progression of legislation on advertising, sponsorship and marketing practices are central to the Special Initiative on Alcohol and Drug Misuse contained in the most recent social partnership agreement, *Sustaining Progress* (2003).

559. The Heads of a Bill for legislation on alcohol advertising, sponsorship and marketing practices have been approved by Cabinet. The purpose of the Bill is to reduce the exposure of young people to alcohol advertising, marketing and sales promotions.

560. The Health Promotion Unit of the Department of Health and Children is in ongoing discussions with representatives from the drinks, advertising and broadcasting industries to develop voluntary codes of practice on alcohol advertising, sponsorship, and sales promotion/marketing practices. Agreement has been reached on an Advertising Code of Practice and discussions will continue on the remaining aspects of the Code.

**(c) Nutrition and obesity**

561. Since 1999, the focus of the National Healthy Eating Campaign has been on reducing fat intake and increasing the consumption of fruit and vegetables. Two national healthy eating weeks took place in 2003, focused on encouraging people to eat more fruit and vegetables.

562. In 2002, 17 additional community dieticians were recruited by the health boards and a further one in 2003. They have formed partnerships with community groups to provide nutrition education, cookery programmes and healthy eating projects.

563. Under the Social, Personal and Health Education (SPHE) programme, food and nutrition guidelines for primary schools and school food/lunch policies are under development and will be published in February 2005.

564. Food and nutrition guidelines for acute hospitals are being developed by the Department of Health and Children.

565. Two baseline surveys of health-related behaviours among adults and school-going young people were carried out across Ireland in 1998 and 2002 - on Health Behaviour of School-Aged Children (HBSC) and National Health and Lifestyle Survey (SLÁN). The aim of these surveys was to produce reliable data to inform department policy and programme planning, and to maintain a survey protocol that will enable lifestyle factors to be re-measured so that trends can be identified.

566. In response to the increasing levels of obesity in Ireland, a National Task Force on Obesity was established by the Minister for Health and Children in March 2004. The terms of reference of the Task Force are to develop a strategy to halt the rise of obesity and to reverse its prevalence. Information to be collected includes:

- Current rates and trends on obesity in Ireland;
- Determinants of obesity in Irish society;
- Current and future impact on the health services and society as a whole from the growing trend in obesity;

- Identify best practice guidelines in prevention, detection and treatment of obesity;
- Investigate how best to create the social and physical environments that make it easier for adults and children to eat in a more healthy way and be more active on a regular basis.

567. Children will be a particular focus of the deliberations of the National Task Force on Obesity, in recognition of the serious health implications, both immediate and long term, for those who are overweight or obese. The report of the Task Force was presented in 2005 to the Minister for Health and Children.

**(d) Exercise**

568. During 2003, the campaign *Let it Go just for 30 minutes* was launched. It focused on the message that even minor increases in the level of activity can lead to positive health benefits. Health boards have appointed 12 physical activity coordinators and structures have also been put in place to provide advice and support in a number of settings, including schools, workplaces and communities, targeting in particular the young and older people.

**(e) Smoking**

569. Legislation banning smoking in almost all places of work, including licensed premises, was introduced on 29 March 2004. A Smoking Cessation Action Plan Steering Group was established in order to develop a public awareness campaign and to ensure that there was an effective and consistent national response to smokers wishing to quit. To complement this, the National Smokers Quitline was launched in 2003, offering information and counselling services from 8am to 10pm daily. Over 9,000 people called the line in 2003. Regional services were enhanced in order to ensure a national coordinated response to smokers who wished to quit.

570. An advertising campaign, entitled *Every cigarette is doing you damage*, was also launched in 2003. When asked, 65% of people thought that the advertisements would prompt them to quit smoking.

**(f) Crisis and teenage pregnancy**

571. The National Health Promotion Strategy sets out, as a strategic aim, the promotion of sexual health and safer sexual practices among the population. Strategic plans for this area include the ongoing development of health-promoting schools and the school-based Social, Personal and Health Education (SPHE) programme in schools designed to develop personal skills (*see para. 325*).

572. A new statutory agency called the Crisis Pregnancy Agency (CPA) was established in October 2001. It is a planning and coordinating body, tasked with formulating and implementing a strategy to address the issue of crisis pregnancy in Ireland through:

- The provision of education, advice and contraceptive services in order to reduce the number of crisis pregnancies;

- The provision of services and supports that make other options more attractive to women with crisis pregnancies who might otherwise opt for abortion;
- The provision of counselling and medical services after crisis pregnancy.

573. The CPA published its first *Strategy to address the Issue of Crisis Pregnancy* in November 2003. The Agency continues to work on an ongoing basis with statutory and non-statutory bodies to ensure the successful implementation of the strategy.

574. The CPA is in the process of developing an audio-visual resource for parents on the challenge of communicating with their children about sexuality. The resource will be aimed at parents of teenagers in Junior Cycle and will complement the Relationships and Sexual Education Programme currently being taught in schools. In addition, the CPA is developing a nationwide survey on the knowledge, attitudes and behaviours of young people in Ireland in relation to sexual and reproductive health. The survey is being put out for public tender shortly. This CPA project is being progressed with the cooperation of the Directors of Public Health and health promotion managers within the health boards.

#### **F. Right of access to healthcare services**

575. At present, children are eligible to receive healthcare services free of charge, but system capacity means that there are delays in both assessment for and delivery of some of these services. The system of eligibility for services within the health system is complex. The Health Act, 1970 explicitly provides for eligibility for a service; it does not provide that a person is entitled to receive a service. This means that there is no statutory framework underpinning access to services within a stated timeframe. The Government is committed in the National Health Strategy (2001) to both extending the scope of eligibility and working to ensure equitable access for all categories of patients in the health system. The new Disability Bill, 2004 aims at ensuring a more transparent system of assessment and referral for disability-related services.

576. In addition, the Department of Health and Children has been actively supporting improved access for children to hospital and other services through funding initiatives. Since the launch of the National Health Strategy in 2001, waiting times for hospital services for children have been significantly reduced. The National Treatment Purchase Fund (NTPF) was established in 2002.

577. The Minister for Health and Children has assigned a significant lead role to the National Treatment Purchase Fund (NTPF) in relation to the targeting of waiting times. In 2003, the NTPF started taking referrals for treatment for any adult waiting over 6 months and any child waiting over 3 months. All health boards outside the Eastern Region are reporting that, in general, those adults currently reported to be waiting more than 12 months and those children reported to be waiting more than 6 months have either been offered treatment under the NTPF or have conditions that are complicated and need to be treated locally.

578. The Government has acknowledged the need to rapidly improve the reliability of waiting list data and the development of a new National Waiting Time Database was announced by the Minister for Health and Children in 2005.

## **F.1 Respect for views of children and right to life**

### **(a) Respect for views of children**

579. Chapter I refers to the government-wide policy under the National Children's Strategy on the participation of children in issues which affect their lives (*see Chapter I, Section B*). The issue of consent to medical and personal social services is dealt with elsewhere in the report (*see paras. 224-231*). The National Health Strategy endorses the view that the future health system is one that 'encourages you to have your say, listens to you and ensures your views are taken into account'. This involves greater options for shared decision-making and, where possible, the accommodation of patient preferences. This approach will be applied to children where this is appropriate to their age and understanding.

### **(b) Right to life**

580. Under the Irish Constitution, termination of pregnancy is illegal in Ireland unless it meets the conditions laid down by the Supreme Court in the 'X case' (1992). The Chief Justice stated in his judgment of that case: 'The proper test to be applied is that if it is established as a matter of probability that there is a real and substantial risk to life, as distinct from the health, of the mother, which can only be avoided by the termination of her pregnancy, such termination is permissible, having regard to the true interpretation of Article 40, s. 3, sub-s. 3 of the Constitution.'

## **F2. Measures to combat disease and malnutrition/proportion of children with low birth weight/nature and context of most common diseases**

581. See Ireland's First Report (1996). Data on low birth rate by socio-economic group is collected through the National Perinatal Reporting Scheme, managed on behalf of the Department of Health and Children by the Economic and Social Research Institute (ESRI). Some difficulties have been experienced with the socio-economic disaggregation (e.g. due to a large number of unknowns and issues related to whether the mother's or father's socio-economic position should be used). These issues are being examined and an analysis on the Perinatal Statistics for 2001 was published in 2005.

582. On foot of a commission from the Department of Health and Children, the Institute of Public Health (IPH), in collaboration with the National Perinatal Reporting Scheme, has been working to identify trends in low birth weight across socio-economic groups to establish a baseline for monitoring progress.

583. For 1999 (the latest year for which national data is available), the IPH analysis of the Perinatal data shows that the percentage of low birth weight in the highest socio-economic group was 2.89% compared to 6.0% in the lowest socio-economic group.

584. While national data is not yet available to report on progress in more recent years, more up-to-date figures are available for the Eastern Region Health Authority (ERHA) area. Taking the average for the 3-year period 1999-2002, the standardised low birth weight ratio in the ERHA area was 198.6 in the lowest socio-economic group compared to 100 in the highest socio-economic group (reference group).

585. The Department of Health and Children also commissioned the IPH to do a literature review of the effectiveness of public health interventions in relation to low birth weight. The outcome of this research, to be completed in 2005, will inform future work in this area.

586. The target in the National Anti-Poverty Strategy (NAPS) is to reduce the gap in the low birth weight rates between children from the lowest and highest socio-economic groups by 10% from the current level by 2007. (For more information on the NAPS, *see paras. 623-630 below*).

### **F3. HIV/AIDS programmes and strategies**

587. The report of the National AIDS Strategy Committee, *AIDS Strategy 2000*, was published in 2000 and contains recommendations for action in relation to surveillance, education, prevention and care management. The public health services continue to work in close collaboration with the voluntary sector, under the aegis of the National AIDS Strategy Committee, to ensure the recommendations in the strategy are implemented. Specific actions include improving the uptake of routine antenatal, or pre-natal, testing of HIV to reach 90% or more. Implementation of this measure is ongoing. The National Disease Surveillance Centre is responsible for the monitoring of antenatal testing programmes; it reports a 94.8% uptake rate for routine linked antenatal testing. In view of this uptake rate, anonymous unlinked testing was discontinued from 2004.

### **G. Measures to combat traditional practices**

#### **(a) Female genital mutilation**

588. It is the view of the Irish Government that female genital mutilation is a harmful traditional practice which constitutes an assault causing serious harm to girls and women. It is an offence under the Non-Fatal Offences against the Person Act, 1997. Section 13(1) of the Act states: 'A person shall be guilty of an offence under this who intentionally or recklessly engages in conduct which creates a substantial risk of death or serious harm to another.'

589. The penalties for persons guilty of an offence under this Section of the Act are (on summary conviction) a fine or imprisonment for up to 12 months, or both. It is therefore a matter for the Garda Síochána to prosecute any person who performs female genital mutilation in Ireland. A legal framework to prohibit this practice has also been proposed.

590. The Department of Health and Children wrote to the chief executive officers of the health boards in May 2001 to draw their attention to this issue and to request that personnel working with immigrant populations take opportunities to educate them about the dangers and unacceptability of female genital mutilation (FGM).

591. The Department of Health and Children has also written to the Department of Justice, Equality and Law Reform, asking it to arrange through the Reception and Integration Agency (formerly the Directorate for Asylum Support Services) that asylum-seekers are made aware of the situation.

592. The Reception and Integration Agency (RIA) has, in turn, written to the chief executive officers of the health boards and managers of the Reception and Accommodation Centres to inform them of the situation. Notices in relation to female genital mutilation (FGM) are

displayed in these centres. Any case of FGM that the RIA becomes aware of will be brought to the attention of the Garda Síochána.

**(b) Male circumcision**

593. While male circumcision has not heretofore been considered a traditional practice that requires combating, following an incident related to circumcision of a young child outside of a hospital setting, the Minister for Health and Children set up a committee with the following terms of reference:

- To establish the cultural needs for male circumcision;
- To address ethical considerations, with particular respect to the welfare of children;
- To make recommendations on timing and procedures to be followed in the event of male circumcision being considered appropriate;
- To recommend procedures to be followed by healthcare personnel after the detection of male circumcision procedures performed in a non-healthcare setting.

594. The deliberations of the committee are well advanced.

**H. Social security and childcare services and facilities**

**H1. Right to social security**

**(a) Definition of ‘child’ for social welfare purposes**

595. For social welfare purposes, a qualified child dependant refers in all cases to a person under the age of 16 years who is ordinarily resident in the State, normally residing with the beneficiary and not detained in a reformatory, industrial school or in legal custody.

**(b) Definition of ‘child’ for purposes of illness or disability**

596. The Working Group on the Review of Illness and Disability Payments Schemes noted some ambiguity in the treatment of 16-18 year-olds, in that people of this age can be treated as a child for some purposes (i.e. as qualified children for weekly social welfare purposes) but as an adult for the purposes of payment of employment-related social insurance. Young people are compulsorily insured as employed or self-employed contributors, as appropriate, from the age of 16; this age ties in with the minimum age for regular full-time employment. In the case of

employed contributors (employees), pre-entry credits are awarded for the two preceding years before their entry into insurance to secure their entitlement to benefit once 39 insurance contributions are paid.

597. Children with an illness or disability become eligible for different social welfare payments at different ages, as Table 11 shows.

**Table 11**

**Eligibility of children for social welfare payments (by age)**

Age	Eligibility
14 years	Minimum age for part-time or light work and minimum age at which Occupation Injury Benefits can be paid (at reduced rate)
15 years	Minimum age at which FÁS Training Allowance is payable
16 years	Age at which Domiciliary Care Allowance ceases Age at which Disability Allowance, Mobility Allowance and Blind Welfare Allowance become payable Minimum age for PRSI liability Minimum age for regular full-time employment Minimum school-leaving age
16 years or 18 years if school-going 16 years and 9 months	Age at which Child Benefit ceases
16 years or 18 years if school-going 16 years and 9 months	Minimum age at which some short-term social insurance benefits first become payable (e.g. Maternity Benefit)
17 years	Minimum age at which some short-term social insurance benefits first become payable (e.g. Disability Benefit, Unemployment Benefit) Minimum legal age for driving
18 years	Age at which Motorised Transport Grant becomes payable Age at which Unemployment Assistance and Blind Person's Pension become payable Age of majority
18 years generally 18 years or 22 years if school-going	Age at which Foster Care Allowance ceases to be payable Age at which increase for qualified child and Orphan's Pension cease to be payable
No minimum age	Minimum age for payment of One-Parent Family Payment

*Source: Review of Illness and Disability Payments Schemes, Department of Social and Family Affairs (forthcoming).*

**(c) Manner in which benefits are granted**

598. Social welfare payments in respect of children are generally paid as an increase on basic social welfare contingency payments being paid to adults, most often a parent. There are a few notable exceptions to this as follows.



599. The overall number of recipients of social welfare schemes in September 2003 was 954,632. The number of recipients aged under 18 at September 2003 was 2,369 (approximately 0.25%), broken down as follows: Disability Allowance, 1,369; Disability Benefit, 8; Injury Benefit, 5; Unemployment Benefit, 3; One-Parent Family Payment, 350; and Supplementary Welfare Allowance, 634.

600. From the 2003 figures above, it can be seen that the greatest number of young people on social welfare payments were in receipt of Disability Allowance (1,369) and Supplementary Welfare Allowance (634). Disability Allowance (previously called Disabled Persons Maintenance Allowance) is a weekly allowance, subject to a medical and means test, to disabled persons over 16 years of age and under 66 years who are unable to work due to a disability. The scheme was transferred to the Department of Social and Family Affairs from the Department of Health/Health Boards in 1996. Supplementary Welfare Allowance is paid on the basis of need, with no minimum age limit applied. The young people in receipt of this payment would include unaccompanied minors and homeless young people.

601. Where a child under the age of 18 is left an orphan (or under the age of 22 and in full-time education), an Orphan's Pension may be payable. It is paid to the guardian or person with the responsibility of care for the orphan.

**(d) Foster Care Allowance**

602. The Foster Care Allowance has been substantially increased in recent years in order to recruit and retain foster carers. This policy is to ensure that, insofar as possible, when a child is taken into care he or she is kept in a family environment (over 80% of children in care are in foster care). Since 1 January 2005, rates are €297 per week for each child under the age of 12 and €324 per week for each child over the age of 12.

**H2. Access of the child of working parents to childcare services**

603. As opportunities for employment and social changes in family and community take place, there are new challenges to be faced by parents and children. The Government recognises that it is especially important in times of such changes that every effort should be made to enhance children's status and improve their quality of life. The issues of cost, availability and quality of early childhood education and care in Ireland have emerged as key issues in the context of this major social and economic change.

604. The State's focus in recent years has been on providing supports to parents in their role and in their choice to work, while at the same time supporting children so that they have the best start in life through early education and childcare provision. Notwithstanding a range of positive developments, childcare provision in Ireland is a continuous source of concern. The primary difficulties are articulated in the OECD Report on Early Childhood Education and Care, which refers to the fragmented nature of policy development in Ireland and the lack of coordination of service delivery.

605. The Government encourages the provision of childcare facilities through cooperative action by employers and employees, to enable parents to fulfil their family and work responsibilities and to facilitate the integration of women into the workforce. However, there is

no State provision of childcare in Ireland and it is currently delivered by a mix of private and community-based childcare providers. The State, with the assistance of the EU, is currently offering support for the further development of both the community-based and private childcare sectors.

606. Following from a recommendation in the National Childcare Strategy (1999), the Department of Justice, Equality and Law Reform was designated as the lead department in the development of childcare to meet the needs of parents in employment, education and training. The department chairs the National Childcare Coordinating Committee (NCCC), the remit of which is to oversee the development of an integrated childcare infrastructure throughout the country, to address specific policy issues and, through its various sub-groups, to develop and inform national strategic actions in the sector, such as training and certification, diversity and multiculturalism. The NCCC also oversees the delivery of the €499.3m Equal Opportunities Childcare Programme (EOCP) 2000-2006, which aims to maintain and increase the number of childcare facilities and places, improve the quality of childcare services and introduce a coordinated approach to the delivery of childcare services.

607. Over €252.2m has been allocated under the EOCP in the period up to 31 January 2004. Of this, €209.5m has been allocated in capital funding for community-based/not for profit and private childcare facilities and staffing. The remaining €42.7m has been allocated to quality improvement measures. It is estimated that the grants awarded to date, when fully drawn down, to childcare providers and community groups will create some 36,000 new childcare places and will also support over 56,800 existing places. It is expected that the original target of 28,300 new places (an increase of 50% in centre-based places since 2000) has therefore been exceeded. Much of the 'unallocated' funding is already earmarked for second phases of existing projects.

608. The Government recognises the importance of this childcare issue, but also the complexity of getting the right mix of initiatives in order to get the right results for the money invested. It was with that in mind that the Cabinet Committee on Children agreed to the establishment of a High Level Group in 2003 to recommend an integrated National Policy on Childcare and Early Education, which will result in improved coordination at national and local level and incorporate a child-centred approach to service delivery. The unique aspect of this review is that it brings together all of the government departments with a role in this area. Through the involvement of the National Children's Office, the review safeguards the child-centred approach required and is specifically focused on dealing with the problem of integration of policy development and implementation. The High Level Group will submit a progress report to the Cabinet Committee in 2005.

## **I. Standard of living**

### **II. National Anti-Poverty Strategy**

#### **(a) Strategic focus**

609. A review of the National Anti-Poverty Strategy (NAPS) was undertaken in 2001 under government commitments given in the 5th social partnership agreement of *Programme for Prosperity and Fairness 2000-2002*. The outcome of the review and consultation process was

“Building an Inclusive Society”. In addition, the EU Commission asked each Member State to prepare a National Action Plan against Poverty and Social Exclusion (NAPIncl) for the period 2001-2003. The Irish Government submitted its plan in June 2001. The NAPIncl has focused on a number of themes that are relevant to the NAPS. These two processes will now merge and future plans submitted to the EU will be consistent with the revised NAPS. As part of the revised Framework Document which followed the Review and was published in June 2003, the Government reiterated its commitment to eliminate child poverty and to move to a situation of greater equality for all children in terms of access to appropriate education, health and housing, thus breaking the cycle of disadvantage and exclusion experienced by certain children in society.

610. The targets set in the revised NAPS aim:

- To reduce the numbers of children who are ‘consistently poor’ below 2% and, if possible, to eliminate consistent poverty altogether under the current definition of consistent poverty by 2007;
- To reduce the gap in low birth weight rates between children from the lowest and highest socio-economic groups by 10% from the current level by 2007.

**(b) Measuring poverty**

611. The measure of poverty used in the National Anti-Poverty Strategy (NAPS) and, more recently, in the National Action Plan against Poverty and Social Exclusion (NAPIncl), is that of ‘consistent poverty’. This measures a combination of low income and enforced deprivation, i.e. below 50%-60% of average disposable income and lacking at least one of a set of 8 basic deprivation indicators identified by the Economic and Social Research Institute (ESRI), such as a substantial meal a day, two pairs of shoes or a warm waterproof coat.

612. The consistent poverty measure was adopted in the NAPS because the inclusion of deprivation as well as income gives a better guide than income alone to changes in the extent and nature of exclusion arising from inadequate resources.

613. One of the more significant achievements of recent years in Ireland has been the reduction in the level of consistent poverty among children - from 24.8% in 1987 to some 6.5% in 2001. Between 1994 and 2000 alone, consistent poverty has fallen from 15% to 5.2%. This is due to major increases in employment participation and better jobs; significant real increases in social welfare payments, particularly in child income support; and improvements in education and other services.

**(c) ‘Risk of Poverty’ indicator**

614. The indicator used at EU level for comparison purposes is defined by reference to an income threshold set at 60% of median income adjusted for family size and composition, using equivalence scales. This is known as the ‘at risk of poverty’ indicator. Analysis undertaken by the Economic and Social Research Institute (ESRI) indicates that in 2001, some 21.9% of people in Ireland had incomes that fell below that threshold. The figure for children was 23.4%, which equates to some 280,000 children.

615. As the 'at risk of poverty' indicator is based on relative incomes, it is affected by increases in general incomes on which the level of the income threshold (set at 60% of median income) is based. Households generally in Ireland in recent years have benefited from a rapid rise in income due to the rapid economic growth experienced, which has resulted in more and better jobs, high earnings growth, a significant increase in female participation in the workforce with more two-income households, and tax reform leading to increased take-home pay in return for moderating wage demands. However, for those people on lower incomes and their children, such improvements in income and living standards have lagged well behind the rapid increases in households generally.

616. The educational and employment needs of those most at risk of poverty - lone parents, large families, people with disabilities and the unemployed - will be addressed in the forthcoming strategy on Supports for Families in a Changing Society and in the next National Action Plan on Inclusion due in 2006, for which preparations have already begun.

## **12. Housing policy**

617. The overarching aim of the State's housing policy is for every household to live in an affordable dwelling of good quality, suited to its needs, in a good environment and, as far as possible, at the tenure of its choice. Those unable to meet their housing needs from their own resources are entitled to apply for social housing from local authorities or voluntary bodies. Furthermore, the Housing (Traveller Accommodation) Act, 1998 provides the framework for the provision of high-quality accommodation by local authorities for families (including children) from the Traveller community.

618. Tenants in local authority dwellings have their rents assessed under the Differential Rent Scheme. Under this scheme, local authorities are required to ensure, inter alia, that the rent payable should be related to income and a smaller proportion of income should be required from low-income households. In addition, local authorities must make allowances for dependent children in determining the amount of rent to be paid.

619. The total housing provision, Exchequer and non-Exchequer, in 2004 of €1.8804 billion represents an increase of 5.5% on the 2003 provision. Of this, €98m was for the main Housing Construction Programme and it enabled the social and affordable housing needs of over 13,000 households to be met in 2004 (compared to just under 8,500 in 1998). Data on the number of children in these households is not currently collected.

## **VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES**

### **A. Education, including vocational training and guidance**

#### **A1. Measures adopted to ensure the right of the child to education**

##### **(a) General**

620. The Irish State has ensured that the provisions of the UN Convention on the Rights of the Child (UNCRC) are given full effect in Irish legislation, with particular efforts being made in the realm of education. The aims and objective of Articles 28 and 29 of the UNCRC are given full effect in the State and are complementary to the provisions of the Irish Constitution, Article 42

of which provides that it is the duty of the State to require that 'children receive a certain minimum education, moral, intellectual and social'. Also, both UNCRC Articles are given further statutory support by the Education Act, 1998 and the Education (Welfare) Act, 2000. Additional legislation has been enacted, or is in the process of being enacted, that further defines the rights and responsibilities of participants in the educational system.

**(b) Education Act, 1998**

621. The purpose of the Education Act, 1998 was to put on a statutory basis existing arrangements governing the running of schools at primary and post-primary level. While it provides generally for primary, post-primary, adult, continuing education, and vocational education and training, it focuses on the education of every person in the State, including those who have a disability or who have other special educational needs.

**(c) Education (Welfare) Act, 2000**

622. The Education (Welfare) Act, 2000 was fully commenced on 5 July 2002. It established the National Educational Welfare Board (NEWB) on a statutory basis as the single national body with responsibility for school attendance. The Act provides a comprehensive framework promoting regular school attendance and tackling the problems of absenteeism and early school-leaving through working with children and their families. The main provisions of the Act include:

- The minimum school-leaving age is raised from 15 to 16 years, or the completion of 3 years of post-primary education, whichever is the later;
- The National Educational Welfare Board (NEWB) has been established to develop, coordinate and implement school attendance policy, so as to ensure that every child in the State attends a recognised school or otherwise receives an appropriate education;
- The NEWB has appointed education welfare officers to work in close cooperation with schools, teachers, parents and community/voluntary bodies with a view to encouraging regular school attendance and developing strategies to reduce absenteeism and early school-leaving;
- The NEWB will maintain a register of children receiving education outside the recognised school structure and will assess the adequacy of such education on an ongoing basis;
- School registers, attendance records, codes of behaviour and attendance strategies will be used by school authorities to promote regular attendance and foster an appreciation of learning among the student population;
- Parents are required to ensure that their children attend a recognised school or otherwise receive an appropriate minimum education;
- Specific provision is made for the continuing education and training of young people aged 16 and 17 who leave school early to take up employment.

**(d) Equal Status Act, 2000**

623. The Equal Status Act, 2000 aims to promote equality, to prohibit discrimination, harassment and related behaviour, and to set up a means to investigate and remedy discrimination. It applies to non-employment areas such as education. Section 7 of the Act deals with the question of discrimination and educational establishments. A school, whether private or public, is prohibited from discriminating in relation to:

- The admission, or the terms or conditions of admission, of a person as a student to the establishment;
- The access of a student to any course, facility or benefit provided by the establishment;
- Any other term or condition of participation in the establishment by a student; or
- The expulsion of a student from the establishment or any other sanction against the student.

**(e) Education for Persons with Special Educational Needs Act, 2004**

624. The provisions of this Act are referred to in para. 485 of this report with regard to the needs of disabled children.

**A2. Respect for the General Principles**

625. The thrust of recent legislation, as well administrative and curricular change within the education system in Ireland, affirms and underpins Article 28 of the UN Convention. Central to recent developments has been a concern for the rights of the child in the fullest sense, as well as a desire to ensure that these rights are protected and provided for in law, specifically through the legislation described above. In addition, there have been considerable changes to the school curricula (*see below*) and an increased awareness of the conditions of all children in provision of their education.

**A3. Access to education services**

**(a) Primary education**

626. Under the Irish Constitution, primary education is provided free to all children, with educational initiatives at this level being given utmost support. In addition, attendance at school is compulsory for all children aged 6-16 years living in Ireland under the Education (Welfare) Act, 2000. However, if a child is 4 years of age on 1st September of an academic year, he or she is entitled to start primary education. Latest statistics show that approximately 50% of this cohort currently attends school and almost all 5 year-olds are attending primary education.

**(b) Second-level education**

627. The second-level education sector in Ireland comprises secondary, vocational, community and comprehensive schools. There are 59 fee-charging second-level schools in the

country, one of which is Jewish, 21 Protestant, 2 inter-denominational and the balance Catholic. Second-level education is free of charge in all schools financially maintained by the State (i.e. vocational schools/community schools and comprehensive schools) and also in the majority of (independent) secondary schools provided by the voluntary sector which participate in the scheme of free education established in 1967.

628. In order to register in a second-level school, pupils must be aged 12 years on 1st January of their first year in second-level schooling. The first 3 years of second-level education are called junior cycle; senior cycle describes the 2 or 3 years in school after the junior cycle.

**(c) Third-level education**

629. Successive governments in Ireland have striven to make third-level education available to all and substantial progress has been achieved in this area over the last number of years. Under the terms of the Free Fees Initiative, the Department of Education and Science meets the tuition fees of eligible students (i.e. first-time undergraduates who hold EU nationality or official refugee status and who have been ordinarily resident in an EU Member State for at least 3 of the 5 years preceding their entry to an approved third-level course). The National Development Plan 2000–2006 provided €120.63m for the development of access initiatives to promote participation in third-level education. Of the €1,401m spent by the Exchequer in 2002 on the provision of higher education, €382m was spent on student supports (tuition fees/charges and maintenance grants), representing 27% of the total public expenditure on third-level education.

630. From 2002/03, a ‘top-up’ on maintenance grants was made available to eligible students from disadvantaged backgrounds and the annual income threshold for these special rates was increased by 32%. During 2003, a further €42m package was announced, which has funded an increase of 15% in the maintenance grant benefiting about 56,000 students. Student numbers have grown from 20,000 in 1965 to almost 125,000 in 2002. The estimated rate of transfer from second- to third-level education in Ireland has risen from approximately 11% in 1965 to approximately 56% in 1999.

**A4. To make educational and vocational information and guidance available and accessible to all**

631. ‘Guidance’ describes the full range of activities undertaken or supported by a school to assist pupils in making choices and transitions in the personal/social, educational and career areas. This service is provided by guidance counsellors, who, in addition to being recognised teachers, have post-graduate specialist training in the area of guidance and counselling.

632. The National Centre for Guidance in Education (NCGE) supports and develops guidance practice in all areas of education and informs the policy of the Department of Education and Science in the field of guidance. The NCGE carries out the following functions:

- Development and evaluation of guidance materials;
- Provision of technical advice and information on guidance practice;
- Promotion, development and dissemination of good practice in guidance;

- Support for innovative guidance projects;
- Provision of information to practitioners of developments in guidance;
- Support for research into guidance practice and needs;
- Organisation of in-career development training;
- Informing the policy of the Department of Education and Science in matters pertaining to guidance.

#### **A5. Non-discrimination in access to education**

##### **(a) National Educational Psychology Service**

633. National legislation - in the form of the Education Act, 1998; Education (Welfare) Act, 2000; Education for Persons with Special Educational Needs Act, 2004; and the Equal Status Act, 2000 - copperfastens the rights of all children in the State to an education (*see paras 634-637 above*). Further provision to support children experiencing educational difficulties is made through the National Educational Psychological Service (NEPS), established in 1999. It provides an educational psychological service to all students in primary and post-primary schools and in certain other centres supported by the Department of Education and Science.

##### **(b) Provision for asylum-seeking children**

634. All asylum-seeking children, whether unaccompanied minors or in the care of a responsible adult, have access to the Irish education system under the same conditions as nationals.

##### **(c) Family and cost of education**

635. It is recognised that education has a crucial role to play in tackling social exclusion by providing full access to life chances and avoiding and breaking the cycle of disadvantage. The National Anti-Poverty Strategy (NAPS), the National Action Plan against Poverty and Social Exclusion (NAPincl) 2003-2005 and the most recent *Sustaining Progress: Social Partnership Agreement 2003-2005* - all contain special initiatives on tackling educational disadvantage. The objective of these strategies is to ensure that all young people leave the education system with a high-quality education and related qualifications to support their full participation in society and the economy. A related objective is to ensure that all those who have already left school have an opportunity to address any lack of educational and related qualifications that militate against their ability to participate fully in society, the economy and employment. This approach is based on a continuum of provision, from early childhood through adulthood, with the focus on preventive strategies, targeted and integrated community responses. In 2003, €460m was provided for measures designed to counter educational disadvantage, encompassing pre-school initiatives, programmes for disadvantaged students at primary and post-primary level, disadvantaged youth schemes and further education measures.



**(d) Staffing resources**

636. The pupil/teacher ratios at both primary and second level have improved significantly in recent years. At primary level, the ratio has fallen from 22.2:1 in 1996/97 to 18.0:1 in 2002/03, while at second level the ratio has fallen from 16.0:1 to 13.6:1 in the same period. The projected ratio at primary level for the current school year is 17.35:1 and at post-primary level the projected ratio is 13.48:1. In line with government policy, the Department of Education and Science will continue to provide further reductions in the pupil/teacher ratios within available resources and subject to spending priorities. Priority will be given to pupils with special needs and those from disadvantaged areas.

**A6. Provision of services outside core primary and second level**

**(a) Educational disadvantage**

637. Tackling educational disadvantage at all levels is set in the context of the Government's National Action Plan against Poverty and Social Exclusion (NAPincl) 2003-2005 and in the social partnership agreement, *Sustaining Progress*. The latter contains a Special Initiative on Tackling Educational Disadvantage: Literacy, Numeracy and Early School Leavers.

638. In 2003, €460m was provided for measures designed to counter educational disadvantage by targeting resources at pupils from disadvantaged backgrounds. In May 2003, an additional €42m package of measures was implemented, to further address and ameliorate the problems facing students from low to moderate income households in accessing third-level education. This package combines substantial improvements in the level and coverage of maintenance grants for those on low to moderate incomes, with increases in the level of 'top-up' grants for those who are most disadvantaged.

639. The Educational Disadvantage Committee (EDC) was set up as a statutory body under the Education Act, 1998, to advise the Department of Education and Science on the policies and strategies to be adopted to identify and correct educational disadvantage. The EDC brings together experts from across the community of education interests and is a very important resource for the Minister in ensuring that real progress is made. A key concern is to improve the level of integration between the different educational disadvantage programmes operated by the department. At the request of the Minister, the EDC undertook a 'root and branch' review of all the programmes in place to tackle educational disadvantage. On foot of this review, the EDC made a submission to the Minister in December 2003, entitled *A more integrated and effective delivery of school-based educational inclusion measures*.

**(b) State initiatives to provide early education services**

640. The Department of Education and Science operates a number of pre-school programmes aimed at exposing young children to an educational programme that will enhance their development and counter the effects of social disadvantage. These programmes include the Early Start Project, which caters for pupils aged 3-4 who are most at risk in areas of social disadvantage. Each Early Start pre-school class attracts special capitation funding, a qualified primary teacher and a childcare assistant, a start-up grant for materials and equipment, and an additional grant to foster parental involvement. In total, the Early Start Project

encompasses 56 teachers and 56 childcare workers, employed in 16 full units and 24 half units, catering for a total of 1,680 places.

641. The White Paper on Early Childhood Education, *Ready to Learn*, published in December 1999, sets out a comprehensive strategy for the development of early childhood education for all children aged up to 6 years. The enhancement of early childhood services, in accordance with the White Paper's recommendations, is being undertaken on a collaborative phased basis and will draw together and build upon the many examples of best practice in early childhood education that have emerged over recent years. In order to help combat disadvantage and promote equality, special emphasis is being placed on the provision of appropriate pre-school education in areas of social deprivation and for those with special needs.

642. Recent developments in this area of early education services include:

- The Centre for Early Childhood Development and Education (CECDE) was established in September 2001. One of its agreed key functions is to coordinate and enhance early education provision, including parental involvement, with particular focus on disadvantaged and special needs groups. Over its 3-year lifespan, the CECDE will also prepare the groundwork for the establishment of an Early Childhood Education Agency, as per the White Paper's recommendations (*see para. 655 above*). The CECDE has commenced work on the development of a conceptual framework of early childhood learning and development, to be completed in 2005;
- An audit of research into the area of early childhood was conducted by the CECDE and launched in September 2003. The research, which will be made available in an online database, will be of great benefit as a resource to policy-makers, professionals and researchers working in this area;
- An audit of provision for disadvantaged children and children with special needs has also been completed by the CECDE and was published in 2004;
- The CECDE hosted a major international conference, entitled 'Questions of Quality', in 2004, bringing together national and international experts on early childhood education;
- The National Council for Curriculum and Assessment (NCCA) is currently preparing for publication and consultation a discussion paper called *Towards a Framework for Early Childhood Learning*, which aims to support learning in the first 6 years of life in all settings (home, crèche and pre-school).

643. Ireland participated in a recent OECD Review with the aim of assessing quality, access and coordination in early childhood provision. A detailed background report was commissioned and prepared (in consultation with relevant government departments, State-sponsored bodies, community and voluntary groups, and service provider representatives) on developments in policy and practice in early childhood provision in Ireland. The report was presented to the OECD Review team, which visited Ireland in November 2002 and met with all parties concerned. The OECD Review will help inform national policy and programme development in the sector.

### **A7. Systems of non-formal education**

644. The Youth Affairs Section of the Department of Education and Science deals with youth issues outside the formal education sector. Its task is to make informal educational services available to young people. For the purposes of the Youth Work Act, 2001, a 'young person' is considered to be anyone under the age of 25. Particular regard is given to young people between the ages of 10 and 21.

645. The aim of the Youth Affairs Section is to assist all young people to become active participants in a democratic society. This participation, essential to the full development of young people, extends to involvement in institutions of social, political, cultural and economic life.

646. The Youth Affairs Section operates a grant scheme for projects to assist disadvantaged youth with out-of-school projects. It also provides resources for the development of a network of youth information centres and for the operation of Gaisce (Deed of Valour), the President's Award Scheme. Finance is also made available for a variety of youth exchange programmes.

647. The National Youth Work Development Plan 2003-2007 was published on 5 August 2003, following an extensive consultation process. It is intended that the plan will be implemented on a phased and prioritised basis as resources become available.

648. Youth work has been placed on a statutory basis with the enactment of the Youth Work Act, 2001 in December 2001. The Act was developed following a widespread consultation process and provides a legal framework for the provision of youth work programmes and services by the Minister for Education and Science, by the Vocational Education Committees and by national and regional youth organisations.

649. Under the Youth Work Act, 2001, provision is made for the establishment of both Youth Work Committees and Voluntary Youth Councils, one of each to operate in each Vocational Education Committee (VEC) area. The responsibilities of a Youth Work Committee include making recommendations to the VEC on the performance of its functions under this Act and advising it on any matter on which it requests advice. A VEC will be obliged under the Act to prepare a Youth Work Development Plan for its area. The Voluntary Youth Council is expected to advise the VEC on the preparation or implementation of any matter specified in such a plan. In addition, the Council will also be a forum for the voluntary youth work organisations operating in the VEC area to discuss the provision of youth work programmes and youth work services.

650. Sections 17 and 18 and other relevant sections of the Youth Work Act, 2001, concerning the appointment of a National Youth Work Advisory Committee (NYWAC), were commenced on 24 April 2002. A new NYWAC was subsequently appointed and currently comprises a Chairperson and 32 members, drawn from the voluntary and statutory sectors with an interest in youth work programmes and services. Its main role is to advise the Minister for Education and Science on matters relating to youth work and policy issues.

## **A8. Educational provision for other special groups**

### **(a) Consideration of lingual diversity in education**

651. All primary and post-primary pupils are required to study Irish, unless they are specifically exempted from doing so by the Department of Education and Science. In response to local demand, schools may be established in which pupils are educated through the medium of Irish. In recent decades, the number of such schools outside Gaeltacht (Irish-speaking) areas has increased. In addition, each teacher receives a special annual allowance for teaching through Irish.

652. A daily grant per student is paid to Irish-speaking households providing accommodation for students attending Irish language courses in Gaeltacht (Irish-speaking) areas. Annual grants are also paid in the Gaeltacht areas to Irish-speaking households with school-going children. In addition, Section 6 (1) of the Education Act, 1998 makes specific provision for the extension of bi-lingualism in Irish society and in particular the achievement of a greater use of the Irish language at school and in the community. Furthermore, it requires the maintenance of Irish as the primary community language in Gaeltacht areas. This position is reflected in the Report of the Gaeltacht Commission 2002, which provides the basis for future policy on the Irish language and the Gaeltacht.

### **(b) Children Act, 2001**

653. The Children Act, 2001 introduces a wide range of innovative measures that will provide a statutory framework for the future development of the juvenile justice system in accordance with modern thinking and best international practice. The Department of Education and Science has sole responsibility for the provision of residential services (including care, education and rehabilitation) for children up to the age of 16 who have been convicted or placed on remand by a court. There are five schools providing such services for young offenders under the aegis of the department. The schools are governed by the terms of the Children Acts, 1908 to 1989, which will be replaced by the Children Act, 2001 when the provisions of the latter are commenced.

## **A9. School attendance**

### **(a) Measures to encourage regular attendance at school and reduce drop-out rates**

654. The most recently published analysis by the Department of Education and Science of retention rates at senior cycle (based on the 1994 cohort) indicates that approximately 18.2% of pupils leave school annually without completing senior cycle, while 5.7% leave school without any educational qualification. The Education (Welfare) Act, 2000 was fully commenced on 5 July 2002. It established the National Educational Welfare Board (NEWB) on a statutory basis as the single national body with responsibility for school attendance.

655. The Education (Welfare) Act, 2000 and the establishment of the NEWB provide a comprehensive framework for promoting regular school attendance and tackling the problems of absenteeism and early school-leaving. The Act requires schools to draw up school attendance strategies, focusing on arrangements for the identification of children who are at risk of dropping

out of school at an early stage so that appropriate interventions may be put in place. To discharge its responsibilities, the NEWB is developing a nationwide service that is accessible to schools, parents/guardians and others who are concerned with the welfare of young people.

656. The NEWB also has responsibility for the continued education of young people aged 16 and 17 who leave school to take up employment. This service is currently being developed.

657. In addition, as part of the National Action Plan against Poverty and Social Exclusion (NAPincl) 2003-2005 and the social partnership agreement, *Sustaining Progress* (which contains a Special Initiative on Tackling Educational Disadvantage), the Government is committed to achieving a 90% retention rate to completion of senior cycle or equivalent by 2006.

658. The Department of Education and Science has introduced a number of measures to tackle the complex issue of early school-leaving, involving legislative and curricular reforms and preventative interventions (*see below*).

659. With regard to curricular reforms, the Department of Education and Science has developed programmes that are intended to meet the needs of students who may not be adequately catered for by the existing Junior or Leaving Certificate programmes. These programmes include the Junior Certificate School Programme (JCSP), Leaving Certificate Vocational Programme (LCVP) and Leaving Certificate Applied (LCA).

660. The Department of Education and Science funds schemes such as 'Giving Children an Even Break', which provides additional financial and teaching supports for children in primary schools from disadvantaged backgrounds who are at risk of educational disadvantage and early school-leaving. Another scheme is the Home School Liaison Scheme, which operates at both primary and post-primary level. The main programme for tackling early school-leaving is the School Completion Programme (SCP), which incorporates the learning, experience and best practice derived from previous initiatives on early school-leaving (*see below*).

661. The School Completion Programme (SCP) was introduced by the Department of Education and Science in May 2002 with the objective of providing a range of interventions in areas of disadvantage that support the retention of young people in education. It is designed to deal with issues of both concentrated and regionally dispersed disadvantage. The SCP is a key component of the department's strategy to discriminate positively in favour of children and young people who are at risk of early school-leaving. It is supported by a national coordinator and four assistant coordinators, and is funded on a multi-annual basis under the National Development Plan with assistance from the European Social Fund. At present, 405 schools have been included in the SCP (110 post-primary and 295 primary).

### **A10. School discipline and respecting the rights of the child**

662. See Ireland's First Report (*paras. 488-492*).

663. As part of school development planning, schools are advised to have stated policies and to develop plans on discipline, health and safety, and countering bullying behaviour. Parental involvement in the planning process is encouraged. Through their representation on the school's board of management and parents' associations, parents can readily be consulted in the clarification and development of these policies.

664. A Report on Discipline, commissioned by the Department of Education and Science, deals comprehensively with the issue of discipline in schools and sets out models of best practice in this area. A copy of the report has been made available to all schools.

665. Section 29 of the Education Act, 1998 provides for an appeal to the Secretary-General of the Department of Education and Science where a school's board of management, or a person acting on behalf of the board, refuses to enrol a student, suspends a student for more than 20 days in an academic year or expels a student from the school.

#### **(a) Children excluded from the educational cycle**

666. All children are entitled to education and special provision is made in the case of those children unable to attend, either for reasons of deprivation of liberty or chronic illness.

667. The Education Act, 1998 sets out the responsibility of the Minister for Education and Science to ensure 'that there is made available to each person resident in the State, including a person with a disability or who has other special educational needs, support services and a level and quality of education appropriate to meeting the needs and abilities of that person'. At present, special educational provision for students with disabilities ranges from additional support in mainstream schools to specialist support in special schools. Essentially, there are three models of provision in which the student with a disability may enrol:

- A mainstream class with additional support;
- A special class in a mainstream school;
- A special school that caters for the student's category of disability.

### **A11. International cooperation and education**

668. Ireland promotes and encourages international cooperation on education issues at a number of levels, as is also required by Article 28 of the UN Convention. This is done at EU level with other Member States, by multilateral cooperation with international bodies (such as UNESCO and OECD) and by bilateral relations with individual countries, such as USA-Ireland, East-West relations with Great Britain and North-South relations with Northern Ireland.

## A12. Data on educational attainment

### (a) Literacy levels

669. There was overall a high level of performance of Irish 15 year-olds in the OECD PISA 2000 assessment of reading literacy. Ireland ranked 5th out of 27 countries.

670. Despite this, young people with poor levels of reading literacy in Ireland remain a source of concern and priority, and form the target group for a range of actions. This is reflected in commitments given under the National Action Plan against Poverty and Social Exclusion (NAPincl) 2003-2005 and in the social partnership agreement, *Sustaining Progress*, which contains a Special Initiative on Tackling Educational Disadvantage: Literacy. The two targets relating to literacy are: (1) halving the proportion of pupils with serious literacy difficulties by 2006 and (2) reducing the proportion of the adult population aged 16-64 with restricted literacy to below 10%-20% by 2007.

671. A range of measures has been put in place to prevent and ameliorate literacy difficulties at primary and second level.

672. Learning-support teaching is provided in all primary schools by over 1,500 teachers who give intensive support to children with literacy difficulties. At second level, in excess of 540 learning-support teachers are employed. In addition, resource teachers are provided for students with more severe learning difficulties and disabilities.

673. Additional supports to improve literacy levels are provided for schools serving areas designated as disadvantaged. These supports include the Reading Recovery Programme in primary schools, reduced class sizes, home-school liaison schemes and additional grants.

674. At post-primary level, the Junior Certificate School Programme (JCSP) focuses specifically on developing literacy skills, while schools participating in the School Completion Programme (SCP) are given considerable financial resources to provide targeted students with opportunities to improve their literacy skills in accordance with their identified needs.

675. The Educational Research Centre carried out, on behalf of the Department of Education and Science, a survey of reading literacy in primary schools designated as disadvantaged. The aim of the survey was to benchmark the progress of children in 1st, 3rd and 6th classes in acquiring literacy skills against the national norms and to identify factors associated with literacy achievement. The results of this research are due in 2005. This survey will be followed by a national assessment of reading in 1st and 5th classes.

676. Continuing assistance will be given to disadvantaged primary schools in implementing the Learning Support Guidelines of the Department of Education and Science. These include the adoption of a whole-school approach to supporting children with literacy difficulties and the development and implementation of a literacy plan by each school. One-day seminars on Literacy and the Learning Support Guidelines were delivered by learning-support trainers to the staff of all designated disadvantaged schools from March to June 2003.

## **B. Aims of education**

### **B1. Primary education**

#### **(a) Development and respect for the child through education**

677. The revised Primary School Curriculum, was approved by the Minister for Education and Science and introduced in National Schools in 1999, marks a significant development in the history of primary education and the culmination of many years' work by all the partners in education. The Primary School Curriculum constitutes a detailed interpretation of the recommendations of the Review Body on the Primary Curriculum (1990). It encompasses the philosophical thrust of the 1971 Curaclam na Bunscoile and reflects the thinking and aspirations of the National Convention on Education (1994), the White Paper on Education, *Charting our Education Future* (1995) and the Education Act, 1998.

678. The revised Primary School Curriculum incorporates the most advanced educational theory and practice, and is designed to enable children to acquire knowledge and skills that are relevant to their lives, both as children and adults.

#### **(b) General aims of primary education**

679. The general aims of primary education are:

- To enable the child to live a full life as a child and to realise his or her potential as a unique individual;
- To enable the child to develop as a social being through living and cooperating with others and so contribute to the good of society;
- To prepare the child for further education and lifelong learning.

### **B2. Specific aspects of the curricula**

#### **(a) Social, Personal and Health Education curriculum**

680. Currently the Social, Personal and Health Education (SPHE) curriculum fosters in children respect for their own dignity and that of others, and promotes a healthy lifestyle and a commitment to the democratic process. As SPHE has a moral and spiritual dimension, it is always developed within the context of the ethos or characteristic spirit of the school. SPHE is a shared responsibility and the involvement of parents at all stages of the programme is essential for its effectiveness.

#### **(b) Science in schools**

681. All children aged 4-12 in primary school study science. A new primary curriculum was introduced in 1999. Its content is being implemented on a phased basis. Environmental Science is incorporated within Social, Environmental and Scientific Education. This curriculum area has been implemented since September 2003. Within this, the strand called 'Living things' addresses environmental issues.



682. In Junior Cycle (12-15 years), approximately 88% of students study science. There are currently two syllabuses (the 1989 and 2003) and environmental education would be integral to both. In the 2003 syllabus, for example, environmental science would be a component of the biological section, which includes the study of ecology and local habitats. There are a number of the specific learning outcomes that are associated with environment.

683. A public information service on the environment, called ENFO, was established by the Department of the Environment, Heritage and Local Government in 1990. The objective of this service is to promote environmental awareness and sustainable lifestyle choices. ENFO provides information to the public in a variety of ways, including leaflets, exhibitions and lectures. Facilities for children include a dedicated Children's Corner in both the Reception and Library areas of the ENFO premises; a 'Kids' Corner' on the ENFO website ([www.enfo.ie](http://www.enfo.ie)); a query answering service; visiting facilities for groups; and videos, games and CDs. ENFO also provides educational materials for both teachers and school children.

**(c) Civic, Social and Political Education programme**

684. Civic, Social and Political Education (CSPE) was first introduced on a pilot basis in 1993 and has been part of the core curriculum in all second-level schools since September 1997. It seeks to make pupils aware of the civic, social and political dimensions of their lives and the importance of active participative citizens to the life of the State and its people.

685. The Department of Education and Science has supported schools in the implementation of CSPE in a number of ways:

- A full-time CSPE support service was initiated in 1996. Among its tasks is the support of CSPE teachers by providing them with school-based and cluster-based in-service training; since 2001, about 2,500 teachers have attended such in-service training. Another task of the CSPE support service is to advise individual teachers and school principals on more effective management and organisational structures for the teaching of CSPE. Yet another task is to liaise with non-governmental agencies to encourage their active participation in providing resource material and related in-service training to teachers of CSPE.;
- As a further means of supporting CSPE teachers in their work, the Department of Education and Science created a team of part-time CSPE Regional Development Officers in September 2001. Their task is to extend the work of the support service and ensure that every CSPE teacher in the country has this valuable resource made more accessible. The Inspectorate in the department has also been engaged in the evaluation of CSPE and the provision of advice to school management and teachers in recent years;
- Provision has also been made for the future supply of teachers of CSPE. All third-level teacher-education faculties now provide a module on CSPE teaching as an optional part of their Higher Diploma in Education courses.

### **B3. School organisation**

#### **(a) School management**

686. See Ireland's First Report (*para. 462*).

#### **(b) Student councils**

687. Under Section 27 of the Education Act, 1998, students in a post-primary school may establish a student council, the role of which is to promote the involvement of students in the affairs of the school, in cooperation with the board of management, parents and teachers. In 2002, the Department of Education and Science issued comprehensive guidelines on student councils, entitled *Student Councils: A Voice for Students*, to all second-level schools. These provide practical guidance to school management, teachers and students in relation to the establishment and operation of student councils.

688. In June 2003, the National Children's Office established a Working Group on Student Councils. It is comprised of representatives of the student body and all the partners in education, and will work to encourage the establishment of effective and democratic student councils in all second-level schools in the country. The Working Group has commissioned research into enablers and barriers to the establishment and operation of student councils. This research was published in April 2005. A student council support pack for students, teachers and school management is currently being developed by the Working Group and will be launched in September 2005. The Working Group will report on its findings, including a proposed 3-year strategy to support the establishment and development of student councils, to the Minister for Children during 2005.

### **B4. Cultural and religious diversity**

#### **(a) Interculturalism in schools**

689. The National Council for Curriculum and Assessment (NCCA) established a committee to examine all issues around interculturalism at primary and post-primary levels. Draft guidelines for primary schools were launched in May 2005, to be followed by guidelines for post-primary schools. The content of the national curriculum is also being addressed to ensure that gender bias is avoided at all levels of the educational system. Intervention projects in physics and chemistry and action to encourage girls to take up higher-level mathematics and technological subjects are ongoing at second level. Teacher in-service courses have a mandatory module in gender equity.

690. In October 2003, the Department published a pamphlet, *Schools and the Equal Status Act*, outlining the main features of equality legislation as they affect primary and post-primary schools. Ways are identified in which equality legislation, together with the Education Acts, can be used as building blocks for the creation of the 'inclusive school'. The inclusive school prevents and combats discrimination: it is one that respects, values and accommodates diversity across all 9 grounds in the equality legislation (i.e. gender, marital status, family status, sexual

orientation, religion, age, disability, race and membership of the Traveller community). Outcomes include access, participation, personal development and achieving education credentials.

**(b) Non-denominational and minority religion schools**

691. See Ireland's First Report (*paras. 463-464*).

**(c) Official Languages Act, 2003**

692. The Official Languages Act, 2003 was signed into law on 14 July 2003. The Act is the first piece of legislation to provide a statutory framework for the delivery of public services through the Irish language.

693. The primary objective of the Official Languages Act, 2003 is to ensure better availability and a higher standard of public services through Irish. This will be principally achieved by placing a statutory obligation on Departments of State and public bodies to make specific provision for delivery of such services in a coherent and agreed fashion through a statutory planning framework, known as a 'scheme', to be agreed on a 3-year renewable basis between the head of the public body concerned and the Minister. The Act provides for the preparation of guidelines for public bodies by the Minister on the preparation of draft schemes. Schemes remain in force for 3 years and thereafter fall to be renewed. The intention is that this renewal process will be used to secure a significant improvement, over time, in the level of public services available through Irish, as demand requires.

694. The Official Languages Act, 2003 also specifies some basic general provisions of universal applicability, such as correspondence to be replied to in the language in which it was written; provision of information to the public in the Irish language or in the Irish and English languages; production of bilingual publications of certain key documents; and use of Irish in the courts.

**(d) Private primary schools**

695. Private primary schools are autonomous in ownership and administration, but must satisfy the State that their students receive 'a certain minimum education' as required by the Constitution and the Education (Welfare) Act, 2000. Parents who send their children to private primary schools must register with the National Educational Welfare Board (NEWB) and the education provided in these schools will be subject to assessment by persons authorised by the NEWB under the Education (Welfare) Act, 2000. Although not a requirement of the legislation, teachers in these establishments are normally fully qualified. There is no public funding for these schools, the costs of which are met by the parents.

696. There are 59 fee-charging second-level schools in the country, one of which is Jewish, 21 Protestant, 2 inter-denominational and the balance Catholic.

**(e) Non-State institutions and conformity with educational standards**

697. The Education (Welfare) Act, 2000 repealed the School Attendance Acts, 1926 to 1967, with effect from 5 July 2002. As stated earlier, the Education (Welfare) Act, 2000 provided a

major reformulation of the law in regard to all matters connected with school attendance and children's welfare in education (*see para. 636 above*). It raised the age at which children may leave the school system from 15 to 16 years, or following the completion of 3 years of post-primary education, whichever is the later. It also provided for the establishment of the National Educational Welfare Board (NEWB), a core function of which is to ensure that each child 'attends a recognised school or otherwise receives a certain minimum education'. The NEWB is currently developing its services and has appointed a number of educational welfare officers who are responsible for encouraging school attendance. It is hoped to expand this service to cover all parts of the country in the future.

698. Since 2002, the Education (Welfare) Act, 2000 provides that children receiving education in places other than recognised schools must be registered with the National Educational Welfare Board (NEWB) and the education being provided for the child is subject to assessment. In 2003, the Minister for Education and Science published Guidelines on the Assessment of Education in Places Other Than Recognised Schools, in order to assist the NEWB in this work. In this way, the State respects the rights of parents to have their child educated as they wish, while protecting the rights of the child to receive a certain minimum education.

699. In defining what might be considered 'a certain minimum education', the Guidelines on the Assessment of Education in Places Other Than Recognised Schools pointed out the importance of the UN Convention on the Rights of the Child. The guidelines also commented on the right of the child to education and the Constitutional right of the family to determine the way in which the child is to be educated. Echoing the Report of the Constitution Review Group (1996), the guidelines also pointed out the need for clarity where these rights might conflict so that the best interests of the child should be the determining factor.

### **C. Structures supporting leisure, recreation and cultural activities**

#### **C1. Key policy provisions**

700. National Play and Recreation Policies:

- The consultation process with children and young people that preceded the publication of the National Children's Strategy in 2000 revealed that play and recreation is a significant quality of life issue for them. Their concern was reflected in Objective C of the National Children's Strategy, which acknowledges that play is a basic need of all children and specifies that the Government will develop national play and recreation policies. This commitment was reinforced in the agreed Programme for Government of June 2002 and responsibility for the drafting of a national play policy was assigned to the National Children's Office (NCO) by the Cabinet Committee on Children. The drafting of the policy involved consultation with all key stakeholders and a number of government departments;
- *Ready, Steady, Play: A National Play Policy* was launched on 8 March 2004. It is aimed primarily at children up to the age of 12 and covers the time period 2004 to 2008. The policy deals mainly with publicly funded play and provides a framework for the expansion of existing and the development of new public play opportunities over the period of the policy. It builds on existing provisions

(*see below*) and contains actions for 8 government departments, all local authorities and health boards, and a number of other agencies. Arising directly from the National Play Policy, additional expenditure of over €7m was dedicated to children's playgrounds in 2004. The NCO will drive and monitor implementation of the policy and report annually to the Cabinet Committee on Children;

- The NCO is currently working on the development of a recreation policy for the 12-18 age group, in consultation with all the major stakeholders, including young people themselves.

701. The Department of the Environment, Heritage and Local Government gives consideration to the funding of playground equipment and play space as part of the overall funding for a local authority housing estate, where the local authority can justify that the provision of such facilities is warranted.

702. In accordance with the Social Housing Design guidelines of the Department of the Environment, Heritage and Local Government, local authorities should have due regard to the need for and the availability of key services and amenities, including the provision of community meeting places, recreation and leisure facilities.

703. The mission statement of the Department of Arts, Sport and Tourism is to 'contribute to the economic, social and cultural progress of Irish society and the enrichment of its quality of life through promoting sustainable tourism; encouraging excellence in sporting and artistic achievement; facilitating greater access to sport and the arts; and preservation of our cultural inheritance'. Agencies under its aegis include the Irish Sports Council and the Arts Council.

**(a) Irish Sports Council**

704. The mandate of the Irish Sports Council comes from the Irish Sports Council Act, 1999, which gives the organisation six key functions:

- To encourage the promotion, development and coordination of competitive sport;
- To develop strategies for increasing participation in recreational sport and coordinating their implementation by all Irish bodies involved in promoting recreational sport and providing recreational sport facilities;
- To facilitate good standards of conduct and fair play in both competitive and recreational sport;
- To combat doping in sport;
- To initiate and encourage research concerning competitive or recreational sport;
- To facilitate research and disseminate information concerning competitive or recreational sport.

705. Local sport and recreation projects are developed by the Irish Sports Council through the establishment of Local Sports Partnerships to promote the development of sport and recreation. The Irish Sports Council has developed the Buntus Programme, which supports the Physical Education (PE) curriculum in primary schools in order to give children a quality introduction to basic sporting skills. This programme is being supported by the Department of Education and Science, and is currently operating in the Local Sports Partnership areas. To supplement participation opportunities for older children, the Irish Sports Council is also piloting the Youth Sport Scheme, which provides quality opportunities for after-school participation across a wide range of sports and activities.

706. In 2004, €2.3m was allocated to the Local Sports Partnerships, plus an extra €300,000 for the roll-out of the Buntus Programme. This programme provides equipment, resource cards and teacher training to each school and is to act as a support to the primary PE curriculum.

707. In 2003, €700,000 was allocated to the Sport for Young People Grant Scheme and was distributed through the Vocational Education Committees (VECs) to promote sporting opportunities for young people.

708. In relation to the Underage Participation and the Designated Areas Scheme, funding of €6.3m for the three major field sports (FAI, GAA and IRFU) was allocated in 2003 (which includes €378,000 for the Designated Areas Scheme).

**(b) Funding of sports and recreational facilities**

709. In 2004, to mark the launch of *Ready, Steady, Play: A National Play Policy*, the Government committed €0.7m for play equipment in healthcare settings and a further €5.1m for playgrounds, of which €3m was allocated specifically to playgrounds in designated disadvantaged areas. The local authorities contributed an additional €2.2m to this funding, giving a total expenditure of €7.3m on playgrounds in 2004.

710. The Young People's Facilities and Services Fund (YPFSF) was established in 1998 to assist in the development of facilities (including sport and recreational) and services in disadvantaged areas, where a significant drug problem exists or has the potential to develop. To date, the main focus of the YPFSF has been in the 14 Local Drugs Task Force (LDTF) areas, which were established in 1997 in the areas experiencing the worst levels of drug misuse. However, recognising that the drug problem is not confined to the LDTF areas, funding was also allocated to a number of urban areas (Galway, Limerick, Waterford and Carlow). In total, since 1997 over €135m has been spent or allocated through the Local Drugs Task Forces, the YPFSF and the Premises Initiatives (the latter is designed to meet the accommodation needs of community-based drugs projects).

711. The Sports Capital Programme - funded by the National Lottery and administered by the Department of Arts, Sport and Tourism - is the major source of funding available for the provision of sporting facilities for voluntary and community organisations at local, regional and national level throughout the country, including children's sporting organisations. In 2004, €61m was allocated to 738 sports and recreational projects nationwide. Over €23m of the 2004 funding was allocated to projects located in disadvantaged areas. The National Aquatic Centre in Dublin was opened in March 2003, with government investment of €71m; it has received over

1 million visitors and hosted over 250 visits from schools in May and June 2003 alone. A proportion of free hours have been made available to Fingal Sports Partnership to run a Primary School Swimming Programme, aimed at promoting increased participation by children in swimming.

712. Under a programme of refurbishment, the Department of the Environment, Heritage and Local Government provides local authorities with the funds to replace and provide new swimming pools. In 2004, €15m was provided for this purpose. Since 2000, when the current round of the programme commenced, 55 swimming pool projects were 'in the pipeline': 13 of these have been completed to date and the remaining 42 are at various stages of completion.

**(c) Code of Ethics and Good Practice for Children's Sport in Ireland**

713. The Code of Ethics and Good Practice for Children's Sport in Ireland was launched in 2000 and since then about 70,000 copies have been disseminated to national governing bodies and sports clubs around the country. The principles contained in the Code - namely, fair play, enjoyment and a commitment to maintaining a child-focus - are the keystones of the Irish Sports Council's future work in relation to sport for young people. All governing bodies have signed up to the principles and policies of the Code and those with junior members now have a National Children's Officer appointed. Awareness of the Code of Ethics and training in good practice, including child protection, are now being offered to those involved in children's sport by governing bodies and Local Sports Partnerships, in conjunction with the regional health boards. The Irish Sports Council is committed to ensuring the compliance of the Code across all sports and will continue to work on promoting the importance of child-centred sport.

**C2. Cultural life and the arts**

714. See Ireland's First Report (*paras. 512-524*).

715. The Arts Council upholds the rights of children and young people to enjoy their full cultural entitlements, including access to an adequately resourced Arts Education curriculum. Of particular relevance are those measures being undertaken to enable better public engagement with the arts. These include specific outcomes aimed at improving the quality of arts programming for children and young people within the arts education and youth arts sector.

**(a) Arts education**

716. The Department of Education and Science appointed an Arts Education Specialist in 2002 to address needs in arts education and to establish a common set of principles and guidelines for good practice for arts in schools. The following outcomes have resulted:

- A joint working group has been set up to develop guidelines to be widely disseminated to schools and the arts education community. The Arts Council and the Department of Education and Science are each contributing 50% of the total costs of this initiative;

- Art Formations, an action research initiative, was completed in 2004 and a seminar was held in September that year to disseminate its findings. The evaluators are collating the experiences of all the partners involved, including the children. Documented findings will be disseminated to key people from the arts and education communities;
- Under the first phase of the Schools' Collections Linkage Programme, the Schools Touring Exhibitions organised by the Arts Council have been placed in 7 Education Centres around the country. The centres exhibit and loan collections to schools, thereby allowing greater numbers of young people to view the works of leading Irish artists. In 2005, the centres are scheduling events where artists can work with young people, using the collections as stimuli. The Arts Council is contributing to the artists' costs;
- Under the auspices of the Yehudi Menuhin Foundation, the Arts Council, in collaboration with Froebel College (Blackrock, Co. Dublin), has supported a 3-year Artists in Primary Schools Programme with schools in Dublin and Co. Clare. The MUS-E Ireland project is currently being evaluated and outcomes will include findings and recommendations on the needs of artists and teachers when working together in classroom contexts. The experience of the child and the impact of the arts on the child's development are at the heart of this research. Documented findings will be disseminated in 2005;
- The Arts Council has produced a schools' directory, listing details of 136 arts organisations (in receipt of Arts Council funding) that deliver arts programmes for primary and post-primary schools at local and national level. This directory service will become an interactive online resource in 2005;
- Communities involved in arts education are singularly disadvantaged by the lack of a national resource facility to articulate, represent, support and deliver on the arts education agenda. In 2005, research into the provision of such a service is planned. Central to this proposal is the involvement of the Department of Education and Science;
- In 2004, the Arts Council, as one of 10 participating agencies, contributed to the publication of *A Policy Framework for Education, Community, Outreach (ECO)*, produced by the Council of National Cultural Institutions (CNCI). Research and development of a national arts education resource facility will involve the CNCI group (*see above*).

**(b) Young people's art**

717. The appointment of a Youth Programmes Manager in 2003, to address needs in young people's arts, has facilitated the Arts Council in achieving the following key outcomes:



- 74 arts organisations have taken part in child protection training modules in 4 centres. A set of child protection guidelines for use in the arts sector are being piloted, with a view to seeking compliance from all arts organisations working with children and young people in 2006;
- The Arts Council continues to support the National Youth Arts Programme (NYAP), a partnership initiative set up in 1998 by the National Youth Council of Ireland in collaboration with the Arts Council and the Youth Affairs Section of the Department of Education and Science. The Arts Council and the department have funded the programme since its inception;
- The Arts Council provides grant-aid to organisations dedicated to working with children and young people (23 in 2004) or to those that offer programmes for younger age groups as part of a wider remit (133 in 2004). These organisations create a critical infrastructure and are a key resource for arts education and young people's arts. The Arts Council will continue to offer support to these organisations in 2005 through its grants programmes;
- Each year, the Arts Council negotiates 33 Arts Partnership Programmes with local authorities. These include strands aimed at increased participation of children and young people in high-quality arts;
- A shared concern among artists and arts organisations is access to continuing professional development opportunities for artists choosing to work in education and youth arts as part of their careers. Individual artists in all disciplines can apply for a number of professional development awards, details of which appear in the Arts Council's *Artists' Support Handbook*. In 2005, it is proposed to set up a steering group drawn from the sector, to undertake a needs analysis and put forward more informed training options;
- In 2004, the Arts Council published a report on youth arts, entitled *The Participation of Young People in the Arts in Ireland*. Its aim was to inform the forthcoming consultation process towards a new strategy for the arts in Ireland;
- Feedback from focus group sessions on this report was unanimous in the opinion that a youth arts festival represents the ideal means of celebrating excellent youth arts practice and raising awareness of how the arts benefit the lives of young people in Ireland. It is proposed to carry out a feasibility study that will consider a range of art forms, including electronic arts.

718. Research is underway towards a series of networking events to facilitate artists, arts organisations, local authorities and others (including schools and youth services) to come together to share and learn from each other's practice and collectively address issues and concerns related to arts education and young people's arts. Further research and pilot initiatives will be undertaken in 2005, towards establishing the most appropriate and effective networking strategies to use in supporting the arts for, by, with and about children and young people in Ireland.

## **VIII. SPECIAL PROTECTION MEASURES**

### **A. Children in situations of emergency**

#### **A1. Asylum-seeking and refugee children**

719. Asylum-seeking and refugee children are subject to the Refugee Act, 1996 (as amended), along with relevant orders made thereunder: the 1951 Geneva Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees. Applications for asylum in Ireland (first stage) are dealt with by the Office of the Refugee Applications Commissioner (ORAC), an independent statutory body. ORAC is charged with recommending to the Minister for Justice, Equality and Law Reform whether asylum applications should be granted or refused. The Refugee Appeals Tribunal (RAT) is the independent statutory body charged with hearing appeals (second stage) against negative decisions of the Commissioner. Most applications for asylum of children are made by their parents. As a general rule, the applications of children are dealt with in conjunction with the applications of their parents. However, parents sometimes choose to make separate applications on behalf of their children and in such cases the child's application will be investigated independently.

#### **A2. Provisions for unaccompanied minors**

720. The Office of the Refugee Applications Commissioner (ORAC) recognises that certain applicants or groups of applicants in the asylum process may have special needs, including in particular unaccompanied minors and children. Thus, it has developed procedures that take into consideration any specific factors and circumstances arising in these cases. In addition, guidelines are in place for determining applications from unaccompanied minors, which take account of past experience, UNHCR guidelines and advice, and the EU's Children First Programme. Unless special circumstances pertain, interviews are scheduled for children seeking asylum as soon as possible after the application has been made.

721. Section 8(5) of the Refugee Act, 1996 (as amended), which came into operation on 20 November 2000, provides that where a child under the age of 18 has arrived at the frontiers of the State, or has entered the State and is not in the custody of any person, the Immigration Officer/Authorised Officer is required to inform the relevant health service region (*see also para. 738 below*). An inter-agency Working Group on Unaccompanied Minors has been established, which is attended by the relevant government departments and agencies, including ORAC and RAT. In addition, regular informal liaison takes place with the health board to arrange for the processing of unaccompanied minor cases and to deal with practical issues as they arise with a view to ensuring that the best interests of the minors are considered at all times.

722. The Refugee Appeals Tribunal (RAT) has also drawn up detailed procedures on the processing of appeals made by unaccompanied minors. These procedures are subject to ongoing review. Appeals from minors are, where possible, given priority over other appeals. The Member of the Tribunal hearing the case is cognisant of factors, apart from age, that may affect the best interests of the child, such as gender, cultural background, mental development, ability

to recall, level of education and past experiences. In conducting an oral hearing, the Member does so as informally as is practicable, consistent with fairness and transparency. The form of questioning used is transparent and open-ended.

723. The provisions of the Child Care Act, 1991 require every health board to promote the welfare of children in its area who are not receiving adequate care and protection. The Refugee Act, 1996 (as amended) also provides that the health board will determine what is in the best interests of the child, including the option of whether an application for refugee status should be made on behalf of the unaccompanied minor.

**(a) Role of the health boards**

724. The immediate and ongoing needs of unaccompanied minors seeking asylum seekers in relation to accommodation, medical and social needs, as well as their application for refugee status, are the responsibility of the health boards in accordance with the Refugee Act, 1996 (as amended) and the Child Care Act, 1991. The main responsibilities of the health boards are:

- The decision as to whether it is in the best interests of the child to make an application for asylum;
- To support the child through the application process;
- To provide for the immediate and ongoing needs and welfare of the child through appropriate placement and links with health, psychological, social and educational services.

**A3. Entitlements of asylum-seekers and refugees**

**(a) Asylum-seeking children**

725. A child seeking refugee status as part of a family will be in Direct Provision and will be entitled to a Child Dependant Allowance on their parent's Supplementary Welfare Allowance claim. An unaccompanied child seeking refugee status will be in the care of a health board (*see para. 738 above*). A child who is considered a refugee has the same entitlements to social welfare benefits and allowances as an Irish child.

**(a) Refugees**

726. The rights of refugees are similarly laid out in the Refugee Act, 1996 (as amended). Section 3 of the Act provides that a refugee:

- May seek and enter employment, carry on any business, trade or profession and have access to education and training in the like manner and to the like extent as an Irish citizen;
- Shall be entitled to receive the same medical care and services and the same social welfare benefits as an Irish citizen;

- Shall be entitled to reside in the State and have the same rights of travel as an Irish citizen;
- Shall have the same freedom to practise his or her religion and the same freedom regarding religious education as an Irish citizen;
- Has access to the courts in the like manner and to the like extent as an Irish citizen;
- Has the right to form and be a member of associations and trade unions in the like manner and to the like extent of an Irish citizen.

**(b) Information provision and training**

727. An information seminar on Unaccompanied Minors was held in 2002, involving all the health boards; Department of Health and Children; Department of Justice, Equality and Law Reform; UNHCR; Office of Refugee Applications Commissioner; Refugee Appeals Tribunal; Refugee Legal Services; and Garda National Immigration Bureau. The aim of the seminar was to improve knowledge and awareness of the roles and responsibilities of the relevant organisations and the sharing of best practice.

**(c) Numbers of unaccompanied asylum-seeking minors**

728. For statistics on asylum applications by unaccompanied minors (by age, gender and category), *see Tables 8, 9 and 10 in Chapter V, Section D of this report.*

**A4. Children in armed conflicts**

729. The minimum age of recruitment to the Defence Forces are outlined in Chapter II regarding the definition of the child. In November 2002, Ireland ratified the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict. Children have the status of protected persons in accordance with Article 4 of the Geneva Convention, relative to the Protection of Civilian Persons in Time of War. In addition, the provisions of Articles 24, 25, 26 and 27 are designed to afford considerable protection to children in times of war. The Defence Forces are bound by the provisions of the Geneva Convention.

730. Since 1996, Ireland has ratified two conventions relating to International Humanitarian Law:

- The Additional Protocols to the Geneva Convention (incorporated into domestic legislation by the Geneva Convention Act, 1998);
- The Statute of the International Criminal Court (not yet incorporated into domestic legislation). The International Criminal Court Bill, 2003 is currently before the Oireachtas, awaiting Dáil Committee Stage.

## **B. Children involved with the system of administration of juvenile justice**

### **B1. Administration of juvenile justice**

#### **(a) Background**

731. Chapter II of this report refers to related issues such as the age of criminal responsibility; respect for the views of the child in legal proceedings and rights of the child in giving evidence.

#### **(b) Introduction**

732. The issue of offending and non-offending children in need of special care or protection has been the subject of considerable debate over the last number of years. Serious concerns were raised in the courts and in media circles about the State's ability to provide appropriate accommodation for these children. It had been clear for some years that the juvenile justice system could no longer continue to develop within the statutory confines of the Children Act, 1908 and that further development would have to be underpinned by new legislation. The provisions of the 1908 Act relating to care issues were repealed by the Child Care Act, 1991. The primary purpose of the Children Act, 2001 was to replace the remaining provisions of the 1908 Act and associated legislation, with a modern comprehensive statute covering three main areas of the law, including the administration of the juvenile justice system and additional provisions regarding special care and protection to augment the provisions of the Child Care Act, 1991. It is widely recognised that community and multi-agency cooperation at local level is essential to counterbalance the risks to which some young people are exposed during adolescence. Supervision under the Garda Juvenile Diversion Programme involves a wide range of activities, including contact between the juvenile, their family, Juvenile Liaison Officer and teachers.

#### **(c) Children Act, 2001**

733. The Children Act, 2001, which was passed by the Oireachtas in June 2001, constitutes a fundamental revision of existing legislation governing the treatment of children in conflict with the law and non-offending children in need of special care or protection. The considerations behind the Act were that:

- Prevention, through early intervention, is desirable and in the medium to long term likely to produce positive results;
- Where a child is apprehended for committing an offence, diversion should, where possible and where the interests of society would not be adversely affected, be the preferred option;
- Where it is necessary to bring a child before the courts on a criminal charge, a wide range of community sanctions should be available to the court;
- Detention should be a last resort, but where it is unavoidable it should be in institutions where the ethos is educational rather than penal.

734. The Children Act, 2001 covers three main areas of law, namely:

- The Act provides the framework for the development of the juvenile justice system. It reflects the thinking that young offenders, by reason of their age and level of maturity, deserve to be dealt with differently than adult offenders. The philosophy underpinning the juvenile justice aspects of the Act is that there should be a suitable intervention for every child who commits an offence, no matter what the offence or the circumstances of the child who commits it;
- The Act re-enacts and updates provisions in the Children Act, 1908, protecting children against abuse by persons who have the custody, charge or care of them;
- The Act provides for family welfare conferences and other provisions for dealing with non-offending children in need of special care or protection.

735. The central principle that governs the Children Act, 2001 is that children should be brought up in their own communities and families. Where intervention occurs, it should aim to support and maintain children within these relationships and networks because it is clear that this is where children do best.

## **B2. Legislative provisions for the care of non-offending children**

### **(a) Background**

736. Provisions relating to the care of children who are in need of care and protection are set out in Chapter III, Section B, which outlines the provisions of the Child Care Act, 1991.

737. The provision of secure placements for a small number of non-offending children in need of special care or protection has been the subject of considerable public attention in recent years. A number of important judicial decisions in this area have been given, including:

- FN v Minister for Education and Others (1995) 1 IR 409;
- B (D) v Minister for Justice (1998) IEHC 123; (1999) 1 ILRM 93 (29 July 1998);
- D (T) v Minister for Education and Others (2001) IESC 86;
- G (D) v Eastern Health Board (1997) 3 IR (this case has also given rise to a decision of the European Court of Human Rights).

738. Additional provisions for children in need of special care or protection are set out in the Children Act, 2001. Part 2 of the Act provides for the introduction of the family welfare conference prior to seeking a special care order. These conferences are to be convened by the health boards. They represent an early intervention multi-agency response to children at risk. All of Part 2 has recently commenced, with the exception of Sections 7 (1)(a), 10(2) and 13(2) which relate to family welfare conferences ordered by the court.

739. Part 3 of the Children Act, 2001 (amendment of the Child Care Act, 1991) provides for special care orders, regulation of special care units and private fostering arrangements. This Part has recently commenced, with the exception of Section 23D (which requires a health board out-of-hours service to be in place).

740. Part 11 of the Children Act, 2001 has commenced in full and places the Special Residential Services Board on a statutory footing. The Board has a key role in ensuring that secure accommodation is not over used and that inappropriate placements are not made. In this regard, the Board also acts to resolve differences between services over the most appropriate placement of children prior to court appearances.

**(b) Court orders to detain non-offending children**

741. While High Court orders of detention are currently required by health boards to detain non-offending children with challenging behaviour in special care units, Parts 2, 3 and 11 of the Children Act, 2001 provide a statutory scheme for non-offending children in need of special care or protection to be placed in special care units, on foot of a special care order made by the District Court on the application of a health board, in appropriate circumstances as a last resort for a relatively short period of time (between 3 and 6 months, which period may be extended by the court). Provision is also made for an interim special care order for 28 days in circumstances where a family welfare conference has been arranged and where pressing grounds exist for the order to be made. In certain circumstances, this 28-day order may be extended.

**(c) Criteria for admission to special care units**

742. Three health boards run special care units for young people aged 11-17 years, providing a total of 30 places. These units offer secure residential care, with educational and therapeutic programmes. They are run by the health boards, reviewed by the Department of Health and Children, and inspected annually by the Special Residential Services Board (established under Part 11 of the Children Act, 2001 to advise on special residential services for offending and non-offending children). It is important to note that the placement of a child in a special care unit must be done under court order and is subject to review and ongoing oversight by the court.

743. In addition, a number of intensive community-based services have been put in place to provide for the needs of this group of children, such as the Youth Advocacy Pilot Projects in the Northern Area Health Board and the Western Health Board, which commenced in 2002. Youth Advocate Programmes (YAPs) provide supportive community-based alternatives for the care and protection of children most at risk in the form of a one-to-one, strengths-based flexible mentoring service. Up to 50 children are dealt with at any one time.

**(d) High support units**

744. Historically, in the absence of dedicated special care units, the term 'high support' covered both open units and secure units. High support and special care units share certain characteristics, such as high staff/client ratios, education (usually available on site) and the provision of therapeutic services and tailored programmes in suitably adapted or purpose-built residential facilities. However, they differ in one key respect - high support units are open facilities, while special care units are secure facilities. This approach has been endorsed by the

Special Residential Services Board, which has been established to provide expert advice on special residential care. High support units play a vital role in providing a step-down service from special care units (where children are subject to special care orders) and in preventing the inappropriate use of special care facilities. A court order of detention is required for placement in a special care unit, with placement being subject to ongoing review by the court. Over €40m capital has been invested in increasing the number of high support and special care places for the small number of non-offending children in need of special care or protection - from 17 in 1997 to over 120 currently. Of these, 30 places fall into the special care category.

### **B3. New legislative provisions for offending children**

#### **(a) The Children's Court and related provisions**

745. Part 8 of the Children Act, 2001 sets out the proceedings in the Children's Court. It contains the following two significant provisions.

##### *(i) Current situation*

746. The first provision - recently commenced - under Part 8 of the Children Act, 2001 permits the court to adjourn a case and direct the Probation and Welfare Service to convene a family conference in order to formulate an action plan for the child. Other provisions of Part 8 are in operation since 1 May 2002, including the provisions that children are no longer required to pay bail, that parents or guardians may attend in court and that there be restrictions on reporting in the interests of the child.

##### *(ii) Future situation*

747. The second provision - not yet fully commenced - under Part 2 of the Children Act, 2001 is the referral of children, whose real problem may be a need of care or protection, by the court to the health board for the convening of a family welfare conference (*see paras. 456-459 above*).

748. Provision is also made in the Children Act, 2001 for remand centres for 16 and 17 year-olds. These will be designated by, and the responsibility of, the Minister for Justice, Equality and Law Reform. This section has not yet commenced and is linked to the commencement of Parts 9 and 10 (*see below*). The remand provisions are also set out in this Part (Section 88). Children under 16 years will be remanded in custody to junior remand centres, operated by the Minister for Education and Science, but designated by the Minister for Justice, Equality and Law Reform.

#### **(b) Non-custodial measures for children found guilty of offences**

749. Part 4 of the Children Act, 2001 has been introduced in full and places the Garda Juvenile Diversion Programme on a statutory basis. This programme enables child offenders to be dealt with by way of caution rather than the formal court system. In addition to this, the Children Act, 2001 has introduced the concept of 'restorative justice' to the juvenile justice system in the form of restorative cautions and restorative family conferences. Since the introduction of this Part of the Act in May 2002 to December 2003, there have been 147 restorative events.



**(c) Future provisions of the Children Act, 2001**

750. Part 9 of the Children Act, 2001 - not yet fully commenced - sets out the powers of the courts in relation to child offenders, from the time of a finding of guilt to a decision on how best to deal with the child. In the main, it deals with non-custodial measures to be available to the court so that detention is a last resort. A wide range of community sanctions (10 in all, 8 of which are new) will be available to the courts (*see para. 761 below*).

751. The 8 new community sanctions are:

- Day centre order;
- Probation (training or activities) order;
- Probation (intensive supervision) order;
- Probation (residential supervision) order;
- Suitable person (care and supervision) order;
- Mentor (family support) order;
- Restriction on movement order (commenced);
- Dual order.

752. The provisions of Part 9 of the Children Act, 2001 will require a very significant input from the Probation and Welfare Service. The bulk of these provisions have not yet commenced, with the exception of fines, costs, etc. (Sections 108 to 110), compensation by a parent or guardian (Sections 113-114), binding over of a parent or guardian (Sections 113 and 114) and restriction on movement orders (Sections 133 to 136). Preparations are underway to introduce some of these measures on a pilot administrative basis in 2005.

**B4. Children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings**

**(a) Current situation - all age groups**

753. As stated in Ireland's First Report (CRC/C/11/Add. 12, paras. 555-570), males under 16 and females under 17 cannot, except in exceptional circumstances, be sent to prisons or places of detention operated by the Department of Justice, Equality and Law Reform through the Irish Prison Service. Below those ages, young offenders may be detained in special schools operated by the Department of Education and Science (*see Table 12*).

**Table 12**

**Places of detention for young offenders (by age)**

Age of young offender	Place of detention
7 years and less than 15 years	May be sent to an Industrial School (S. 58(1) 1908 as amended by S. 10 1941 Act)
12 years and less than 17 years	May be sent to a Reformatory School (S. 57 as amended by S. 9 of 1941 Act)
12 years and less than 15 years	May be sent to either an Industrial or a Reformatory School, depending on whether or not they are first-time offenders
15 years and less than 17 years	<ul style="list-style-type: none"> <li>• Can be imprisoned if he is unruly or depraved (S. 97 of 1908 Act);</li> <li>• Cannot be sent to an Industrial School under any circumstances (S. 58 (1) as amended by S. 10 1941 Act);</li> <li>• Can be sent to a Reformatory School (S. 57(1) 1908 Act as amended by S. 9 of 1941 Act);</li> <li>• May be detained in a place of detention if not released on bail pending trial (S. 95-97 of 1908 Act as amended by S. 24 and 25 of 1941 Act);</li> <li>• May be detained for one month as substitute for imprisonment (S. 106 of 1908 Act);</li> <li>• Can in certain circumstances be sent to St. Patrick's (place of detention).</li> </ul>

754. Section 131 of the Children Act, 1908, as amended by Section 29(1) the 1941 Act, defines a child as a person under 15. Such a person cannot be imprisoned for any offence (Section 102(1) of the 1908 Act).

755. Section 107 of the Children Act, 1908 sets out the ways in which a child (under 15 years) or a young person (15 and 16 years) may be dealt with. These include detention in an Industrial School or a Reformatory School. There are five such schools currently available, under the aegis of the Department of Education and Science and operating in accordance with the Criteria and Standards for Children Detention Schools, developed and published in 2002. They provide residential accommodation for children under 16 years who have been convicted of an offence or remanded in custody by the courts. They also provide residential care, education and rehabilitation for young people referred by the courts.

**(b) Future provisions of the Children Act, 2001**

756. Part 9 of the Children Act, 2001 - not yet fully commenced - sets out the powers of the courts in relation to child offenders, from the time of a finding of guilt to a decision on how best to deal with the child. These powers are to be exercised in accordance with the principles set out in Section 96 of the Act, relating to the exercise of criminal jurisdiction over children, one of

which is that detention should be a last resort and for as short a period as possible. Part 9 is a core part of the Act insofar as juvenile justice issues are concerned. In the main, it deals with the non-custodial measures to be available to the courts so that detention is a last resort. A wide range of community sanctions (10 in all, 8 of which are new) will be available to the courts to impose on more serious offenders who have been found guilty of committing offences.

757. However, there will always be cases where a period of detention in a residential facility will be necessary. Consequently, Sections 142-156 of Part 9 of the Children Act, 2001 provide for a children detention order.

**(c) Where a child under 16 is placed in a children detention school  
(Minister for Education and Science)**

758. Part 10 of the Children Act, 2001 - not yet fully commenced - provides for the change-over of reformatory or industrial schools to children detention schools and the establishment of boards of management and staffing arrangements for special schools. There has been a partial commencement of Part 10 in the form of Section 159(1) which is related to the functions of the Special Residential Services Board and for that purpose only. The implementation of Part 10 of the Act (which falls under the aegis of the Minister for Education and Science) is linked to the provision of detention facilities (Part 9 of the Act) for 16 and 17 year-old boys and girls by the Irish Prison Service under the Minister for Justice, Equality and Law Reform.

**(d) Where a child between 16 and 18 years is placed in a children detention centre  
(Minister for Justice, Equality and Law Reform)**

759. Children must only be detained where it is the only suitable way of dealing with them and, in the case of a child under 16 years, where there is an available place in a children detention school. Where such a place is not available, or for any other reason, the court may defer making a children detention order and place the child under the supervision of a Probation and Welfare Officer, who must prepare a report on the child's behaviour for a resumed hearing of the court.

760. Part 9 of the Children Act, 2001 makes provision for the making of detention orders, deferment of detention, a new detention and supervision order, and the designation of places of detention for 16 and 17 year-olds. These provisions have not been commenced.

**B5. Sentencing of children, with particular reference to the prohibition  
of capital punishment and life imprisonment**

761. No court in Ireland may pass a sentence of capital punishment. The death penalty was abolished by the Criminal Justice Act, 1990. Ireland has also ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights (see Ireland's First Report, CRC/C/11/Add.12).

**B6. Physical and psychological recovery and social reintegration of the child**

762. In Ireland, the departments of Education, Justice and Health liaise closely in the provision of support services targeted at children in conflict with the law.

763. The Department of Education and Science has responsibility for the operation of five Special Schools for Young Offenders, which cater for the detention of young persons committed by the courts. Accommodation in these centres is comprised of short-term remand facilities and long-term detention facilities. The operation of the centres is governed by the provisions of the Children Act, 1908. The long-term detention facilities are certified and funded by the Minister for Education and Science, under whose overall control they operate, while the short-term remand facilities are certified by the Minister for Justice, Equality and Law Reform.

764. The primary role of the Young Offenders Centres is to provide a programme of care and education, aimed at rehabilitating those referred to them by the courts. Boys and girls up to 17 years of age on the date of admission are catered for.

### **C. Children in situations of exploitation, including physical and psychological recovery and social reintegration**

#### **C1. Economic exploitation of children, including child labour**

##### **(a) General**

765. The increasing availability of part-time jobs and the opportunities to leave school early to take up unskilled employment are pressures which can interfere in a young person's successful completion of their schooling. The Protection of Young Persons (Employment) Act, 1996 consolidates the law on young workers and gives effect to international rules on protecting young workers drawn up by the International Labour Organisation (ILO) and the European Union (EU). The law sets minimum age limits for employment, rest intervals and maximum working hours, and prohibits the employment of under-18s on late-night work. Employers must keep specified records for workers who are under 18.

766. Under the National Children's Strategy, measures are to be taken to ensure that benefiting from employment opportunities does not interfere in children's education. For those who decide to leave school early, there is a special need to ensure that they receive on-the-job training and that there are opportunities to return to education later. The Education (Welfare) Act, 2000 provides for the identification of early school leavers who enter the workforce; once identified, the National Educational Welfare Board will assist them in accessing continuing education and training. There are provisions in the Protection of Young Persons (Employment) Act, 1996 as regards the definition of a child and the definition of work in relation to a child (*see para. 773 below*).

767. Ireland has ratified the following International Labour Organisation (ILO) Conventions relating to children and young persons:

- Convention No. 138 - Minimum Age Convention 1973.  
Ireland adopted this Convention on 22 June 1978;
- Convention No. 182 - Worst Forms of Child Labour Convention 1999.  
Ireland registered its ratification of this Convention on 20 December 1999.

## **C2. Enforcement of legislative provisions for the protection of young persons in employment**

### **(a) Inspection**

768. The Labour Inspectorate of the Department of Enterprise, Trade and Employment has responsibility for enforcing employment legislation generally, including the Protection of Young Persons (Employment) Act, 1996. Between January 2000 and April 2004, 7,233 inspections were carried out under that Act. The Labour Inspectorate's responsibility under the Act is evidenced by their Business Plan for 2004, which provides for a minimum of 12% of their working time to be carried out at night in the enforcement of the Act. The experience of the Labour Inspectors is that most irregularities are resolved through the cooperation of the employers in question. Where such cooperation is not forthcoming, it is the policy of the department to prosecute. During 2003, the Labour Inspectorate undertook 7,168 inspections/visits in the course of its enforcement of various Employment Rights' enactments. Of this total, 1,593 inspections/visits were undertaken in respect of the Protection of Young Persons (Employment) Act, 1996, with 740 of these inspections/visits being conducted at night. Referrals for prosecutions under the Act led to 19 convictions in 2003.

769. Breaches of the Protection of Young Persons (Employment) Act, 1996 may come to the attention of the Department of Enterprise, Trade and Employment either by way of complaint by an individual employee or other concerned person, or by routine inspections carried out by the department's Labour Inspectorate.

770. There is also provision for a civil complaint and remedy under the Protection of Young Persons (Employment) Act, 1996 to a Rights Commissioner of the Labour Relations Commission, where the parent or guardian of a child or a young person considers that an employer has contravened Section 13 of the Act (preservation of existing rates of pay and conditions) or Section 17 (refusal to cooperate with the employer in breaching the Act). A person found guilty of an offence under the Act is liable on summary conviction to a fine of up to €1,904.61. Continuing contraventions can attract a fine of up to €317.43 per day.

### **(b) Information and complaints**

771. The Employment Rights Information Unit of the Department of Enterprise, Trade and Employment provides a service to answer inquiries from employers and employees about employment rights legislation, including the Protection of Young Persons (Employment) Act, 1996 and the National Minimum Wage Act, 2000. Calls, e-mails and person-to-person contacts to the Unit increased by 16.7% from 2002 to 2003. The Unit provides a comprehensive range of information leaflets and explanatory guides (many of them translated into 9 languages) on different entitlements under employment rights legislation in Ireland; these are available on request or on the department's website, ([www.entemp.ie](http://www.entemp.ie)). An updated *Guide to Labour Law* was published in November 2003. Complaints about infringements of the Protection of Young Persons (Employment) Act, 1996 may be made in confidence to the department.

**(c) Minimum wage**

772. The National Minimum Wage Act, 2000 became law on 1 April 2000. Under the terms of the Act, all employees under the age of 18 are entitled to a minimum hourly rate of pay of €4.90 from 1 February 2004.

**C3. Drug abuse****(a) International agreements**

773. Ireland is party to the 1961 Single Convention of Narcotic Drugs, the 1971 Convention on Psychotropic Substances and the 1988 Convention against Traffic in Narcotic Drugs and Psychotropic Substances. Under these agreements, Ireland is obliged to apply specified measures to substances listed in the Conventions and to any substance subsequently brought within the scope of the Convention by the UN Commission on Narcotic Drugs.

**(b) National Drugs Strategy**

774. Ireland has a range of strong legislation in place to tackle drug trafficking, but this legislation is not aimed at any particular age group. The primary legislation in relation to the supply of illegal drugs is the Misuse of Drugs Acts, 1977 and 1984, which make drug trafficking a criminal offence. A range of legislative measures have been introduced, all of which have a role to play in the prevention of drug trafficking. These laws include the Criminal Justice (Drug Trafficking) Act, 1996; the Criminal Assets Bureau Act, 1996; the Proceeds of Crime Act, 1996; the Licensing (Combating Drug Abuse) Act, 1997; and the Criminal Justice Act, 1999.

775. The National Drugs Strategy 2001-2008, *Building on Experience*, which was launched in May 2001, is designed to protect all persons, including children, from the dangers of drug misuse. The strategy recognises that the problem of drug misuse is a complex and difficult one. It proposes a multidisciplinary approach based on 'the four pillars' of supply reduction, prevention, treatment and research, together with coordination mechanisms geared towards their effective implementation. It also recognises that various drug treatment options are required to deal with the needs of individual drug abusers. Such options include methadone maintenance, needle exchange, detoxification and rehabilitation.

**Table 13****Children and young people under 17 prosecuted for drugs offences**

Year	Urban		Rural		Total	
	Male	Female	Male	Female	Under 17	All Persons
1998	143	8	89	7	247	5 984
1999	127	13	87	5	232	6 022
2000	136	18	160	9	323	7 853

**(c) Raising awareness/prevention**

776. Substance misuse prevention programmes were introduced in all schools in the Local Drugs Task Force areas during 2001/02. Guidelines to assist schools in the development of a drugs policy have also been issued to all post-primary schools in May 2002. Substance misuse programmes are now on all school curricula since September 2003. A National Awareness Campaign on Drugs was launched in 2003, featuring television and radio advertising, supported by an information brochure and website, all designed to promote greater awareness and communication about the drugs issue in Ireland. A leaflet was launched in November 2003 entitled *A parent's guide to drugs*, which gives answers to many questions raised by parents concerning their children and drugs.

777. The Young People's Facilities and Services Fund (YPFSF) was established in 1998 to assist in the development of facilities and services in disadvantaged areas where a significant drug problem exists or has the potential to develop. The YPFSF operates in the 14 Local Drugs Task Force areas and in 4 urban centres). Its main aim is to target young people 'at risk' in the 10-21 age-group in disadvantaged areas and attract them into recreational facilities and activities that will divert them away from the dangers of substance abuse. Approximately 450 projects are being supported under the YPFSF. These initiatives fall under 7 broad headings:

- Building, renovating or fitting out of community centres, youth facilities and sports clubs;
- Building of a number of purpose-built youth centres;
- Employment of 173 youth and outreach workers;
- Employment of 14 sports development officers;
- Running a wide variety of community-based prevention/education programmes;
- Managing a number of targeted interventions for particular groups;
- Employment of a number of national drugs education and training officers.

778. To date, total allocations under the YPFSF are approximately €80m.

**(d) Monitoring the incidence of drug abuse**

779. In 2003, a study was published on the prevalence of opiate misuse in Ireland. This study estimated the number of people using heroin at 14,452 in 2001. The research was commissioned by the National Advisory Committee on Drugs (NACD) and was the first such study undertaken for the whole of the country. It was based on statistics provided by three data sources:

- Central Drug Treatment List;

- National Garda Study on Drugs, Crime and Related Criminal Activity;
- Hospital In-Patient Enquiry Database.

780. The methodology used determines a prevalence estimate, based on identifying the number of individuals in each data source and the overlap of those appearing in one, two or three data sets. The numbers are then modelled, using a statistical technique to provide an estimate.

781. Also in 2003, the first Drug Prevalence Survey in Ireland was launched. A total number of 8,442 people, aged 15-64, were surveyed (4,925 in Ireland and 3,517 in Northern Ireland) between October 2002 and April 2003.

782. Key findings of this 2003 Drug Prevalence Survey on the extent of drug misuse in Ireland included the following:

- One in 5 people (19%) surveyed reported ever using an illegal drug;
- One in 18 (5.6%) reported use in the last year and one in 33 (3%) reported use in the last month;
- Cannabis is the most widely used illegal drug, with 18% of those surveyed having used it in their lifetime, 5% in the last year and 2.6% in the last month;
- One-quarter of 25-34 year-olds reported ever having used cannabis.

783. Prevalence of other illegal drugs is lower and largely confined to the younger age groups. For example, those aged 15-24 had the highest prevalence rates for most illegal drugs in the last 12 months; those aged 35 and over reported minimal rates of use.

784. Ireland also contributes to the European School Survey Project on Alcohol and other Drugs (ESPAD) surveys. The ESPAD survey examines the prevalence of drug use, both legal and illegal, among 15-16 year-old school-goers.

#### **C4. Sexual exploitation and sexual abuse**

785. Since Ireland's First Report (1996) was prepared, there have been significant legislative changes aimed at protecting children against sexual abuse, providing for their care, protection, rehabilitation as well as the prosecution of their attackers.

##### **(a) Legislative and other provisions**

##### **(b) Child Care Act, 1991**

786. Earlier in this Report reference is made in detail to the provisions of the Child Care Act, 1991 (*see paras 451-454*). Essentially, this Act, as amended, sets out the legislative basis for child welfare and protection services, including the taking into care of a child without the consent of the parents where the parents have neglected or ill-treated the child, or where there are other compelling reasons.



**(c) Children First: National Guidelines**

787. Earlier in this Report reference is made in detail to the Children First: National Guidelines for the Protection and Welfare of Children, issued in 1999 (*see paras. 310-312*). These guidelines were introduced to assist people in identifying and reporting child abuse and to improve professional practice in both statutory and voluntary agencies and organisations that provide services for children and families. The objectives of the guidelines are to improve the identification, reporting, assessment, treatment and management of child abuse; clarify the responsibilities of professionals and individuals within organisations; and enhance communication and coordination of information between disciplines and organisations. For details on raising awareness and training programmes associated with the introduction of these guidelines, *see paras. 309-311*.

**(d) Code of Good Practice, Child Protection for the Youth Work Sector**

788. In 2002, the Department of Education and Science published the Code of Good Practice: Child Protection for the Youth Work Sector. Its overall objective is the protection and well-being of all participating children and young people. It aims to assist and give direction and guidance to youth workers and youth work organisations in dealing with allegations or suspicions of child abuse.

**(e) Sex Offenders Act, 2001**

789. The Sex Offenders Act, 2001 introduced a package of measures aimed at protecting children and other vulnerable persons against sexual abuse. It provides innovative reforms designed to protect the public against sex offenders. There are six key elements to the package:

- A new notification procedure or tracking system for all convicted sex offenders. This requirement will also extend to any sex offenders entering the State from abroad;
- Civil Sex Offenders Order;
- New system of post-release (from prison) supervision for sex offenders;
- New requirements for sex offenders when seeking employment where unsupervised access to children is involved;
- Separate legal representation in rape and other serious sexual assault cases in certain circumstances;
- Increased penalty for sexual assault.

**C5. Sale, trafficking and abduction**

**(a) Child Trafficking and Pornography Act, 1998**

790. The Child Trafficking and Pornography Act, 1998 came into operation in July 1998 and makes it an offence to traffick children into, through or out of Ireland for the purpose of their sexual exploitation. The maximum penalty on conviction is life imprisonment. The Act also

makes it an offence to knowingly possess child pornography; for which the maximum penalty is a fine of €6,348 and/or 5 years' imprisonment. Other offences include the production, distribution, printing, publishing, importing, exporting, selling or showing of child pornography. These offences attract maximum penalties of an unlimited fine and/or 14 years' imprisonment on conviction or indictment. The legislation deals fully with the possession and distribution of child pornography on the Internet.

## **C6. Special units and training activities**

### **(a) Special units among law enforcement officials**

791. The Domestic Violence and Sexual Assault Investigation Unit (DVSAIU) on the Garda Síochána was established to support relevant legislation. The DVSAIU has a central role in the operation of the Sex Offenders Act, 2001, regarding the notification requirements imposed on convicted sex offenders by that Act. It also leads criminal investigations in the more complex cases involving paedophilia and child pornography. In addition, it provides advice, training and assistance to Gardaí at local level in the investigation of sexual crimes, child sexual abuse, paedophilia, child pornography and domestic violence. In a multi-agency approach, the DVSAIU maintains liaison with the relevant government departments, voluntary groups and other bodies involved with the protection and welfare of children. The DVSAIU is participating in an ongoing Europol training module, involving police investigators from the EU Member States, with a particular focus on child Internet pornography.

792. Training in the investigation of sexual crime is provided to each member of the Garda Síochána during the initial 2-year training programme and on an ongoing basis at local level through in-service training. Selected members in each Garda Division receive specific training in the Children First: National Guidelines for the Protection and Welfare of Children. These guidelines (operated in conjunction with the Department of Health and Children) ensure best practice, following receipt of reports of criminal activity, with a focus on protecting children at risk. The Domestic Violence and Sexual Assault Investigation Unit (DVSAIU) is actively involved in the training process, imparting expertise and knowledge at various Garda training and development courses, and to outside agencies at seminars and conferences.

793. Training modules for the Garda Síochána include instruction in the following legislation:

- **Child Abduction and Enforcement of Custody Orders Act, 1991**, which includes instruction on the Hague and Luxembourg Conventions;
- **Domestic Violence Act, 1996**, which includes information on Garda policy and powers in the area of domestic violence. Training is also provided by Women's Aid, an organisation dedicated to providing support and refuge to women and children who experience domestic violence. Instruction is provided on the procedure for notifying the relevant health boards of emotional abuse of a child under the Children First: National Guidelines for the Protection and Welfare of Children (1999);

- **Child Trafficking and Pornography Act, 1998**, which includes instruction on the identification of offences and Garda powers to deal with breaches of the legislation. The Children First: National Guidelines for the Protection and Welfare of Children (1999) would also be included as part of this module;
- **Non-Fatal Offences against the Person Act, 1997**, which includes particular instruction on abduction of a child by a parent, abduction of a child by other persons and custody of children born outside marriage;
- Sexual Crimes and Indecency, which includes instruction on all aspects of the Criminal Law (Sexual Offences) Act, 1993 and the Child Pornography Act, 1998;
- The human rights aspects of child abduction, which is delivered by Mary Banotti, (former MEP), who has considerable expertise in this area;
- In-Service Continuous Professional Development Programmes are delivered to all members of Sergeant and Garda rank at Divisional In-Service Training Centres throughout the country. The programme for 2002/2003 included instruction on the Children Act, 2001 and the Sexual Offenders Act, 2001. The programme for 2003/2004 included instruction on human rights, Code of Ethics and the Children Act, 2001.

#### **D. Children belonging to a minority or indigenous group**

##### **D1. General**

794. Earlier in this Report detail was set out on the special provisions made for Travellers and other ethnic minority groups (including asylum-seekers and refugees) in such areas as social inclusion, education, housing and rights to practise their own culture and religion, as well as measures to combat discrimination and racism (*see Chapter III, Sections A and B*).

##### **D2. Census data for 2002**

795. Ireland has seen a significant increase in multiculturalism over the last 15 to 20 years. A question on nationality was included for the first time in the 2002 Census of Population, which gives an indication of this trend (*see Table 14*). Tick boxes were used for the three categories of 'Irish', 'Other nationality' (the response had to be written in) and 'No nationality'. Respondents could also indicate more than one nationality ('Multiple nationality').

**Table 14**  
**Usually resident population by main nationality group and sex, 2002**

Nationality	Persons	Males	Females	Persons	Males	Females
	(in thousands)			%		
Irish	3 535.7	1 754.7	1 781.0	91.6	91.6	91.7
Dual Irish/other	49.3	23.9	25.4	1.3	1.2	1.3
UK	103.5	50.7	52.8	2.7	2.6	2.7
Other EU	30.0	14.0	16.0	0.8	0.7	0.8
Rest of Europe	23.1	12.9	10.2	0.6	0.7	0.5
Africa	21.0	11.0	9.9	0.5	0.6	0.5
Asia	21.8	12.0	9.8	0.6	0.6	0.5
USA	11.4	5.2	6.2	0.3	0.3	0.3
Other countries	11.2	5.7	5.5	0.3	0.3	0.3
Multiple nationality	2.3	1.1	1.2	0.1	0.1	0.1
No nationality	0.8	0.5	0.4	0.0	0.0	0.0
Not stated	48.4	24.6	23.9	1.3	1.3	1.2
<b>Total</b>	<b>3 858.5</b>	<b>1 916.2</b>	<b>1 942.3</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>

796. As Table 14 shows, Irish nationals accounted for 91.6% of the usually resident population, while those with dual Irish/other nationality accounted for a further 1.3%. Of the remaining 5.8% of the population for whom a non-Irish nationality was indicated, almost half (2.7%) were UK nationals. Other EU nationals and the nationals of other European countries were the next most numerous categories, followed by African, Asian and US nationals.

797. Table 15 classifies the usually resident population aged one year and over by usual residence 12 months before the Census in 1986, 1991, 1996 and 2002. The data provides a picture of short-term migration both within the State and from outside the State.

**Table 15**  
**Usually resident population aged one year and over by usual residence  
12 months before the Census in 1986, 1991, 1996 and 2002**

Usual residence 12 months ago	1986	1991	1996	2002
	(in thousands)			
Ireland	3 446.4	3 412.2	3 507.4	3 728.3
Same address	3 245.6	3 253.4	3 282.9	3 467.4
Elsewhere in county	127.6	94.8	140.1	185.8
In another county	73.3	64.1	84.5	75.0
Outside Ireland	17.2	37.3	40.6	76.1
Northern Ireland	1.2	1.5	2.2	3.5
Great Britain	7.9	20.5	18.5	22.2
Other EU	2.1	4.0	7.5	9.9
USA	2.2	4.5	5.1	6.1
Other countries (including not stated)	3.7	6.8	7.3	34.4
<b>Total</b>	<b>3 463.6</b>	<b>3 449.6</b>	<b>3 548.0</b>	<b>3 804.4</b>

798. As Table 15 indicates, following a decrease between 1986 and 1991, migration within the State (as measured by changes of address in the 12 months before the Census) increased by 16.2% in the 12 months to April 2002 compared with the same period 6 years earlier.

799. Nearly twice as many persons migrated into the State in the 12-month period before the 2002 Census compared with the corresponding 12-month period in 1996. The extent of immigration has more than quadrupled since the 1986 Census. Over a third of those who immigrated into the State in the 12 months before Census Day were from Great Britain. The remaining countries of the EU accounted for 13.1% of the inflow.

800. The USA was the origin for 8.1% of immigrants, while countries in the rest of the world accounted for nearly one-half of all immigrants. In absolute terms, the number of immigrants from the rest of the world has more than quadrupled between 1996 and 2002.

### Notes

<sup>1</sup> Young person is defined as 0-19 years.

<sup>2</sup> The proportion of the population under 15 as a percentage of the population aged 15-64.

<sup>3</sup> The Disability Bill, 2004 was signed into law on 8 July 2005.

<sup>4</sup> Reference to health boards throughout this report should be taken to refer to the Health Service Executive (HSE), which was established on 1 January 2005 and will replace the Health Board structure.

<sup>5</sup> Although these posts impact youth homelessness services, they are not all exclusively dedicated to youth homelessness services.

<sup>6</sup> Reference to health boards throughout this report should be taken to refer to the Health Service Executive (HSE), which was established on 1 January 2005 and will replace the Health Board structure.

<sup>7</sup> The NCAC has an independent advisory role on implementation of the National Children's Strategy, reporting to the Minister for Children. It includes in its membership representatives of the statutory agencies, voluntary sector, research community, parents and children.

<sup>8</sup> Established in 1995, the Children's Rights Alliance (CRA) is a coalition of non-governmental organisations concerned with the rights and welfare of children and young people in Ireland. The overall aim of the CRA is to secure the changes in legislation, policies and services required to ensure the implementation in Ireland of the principles and provisions of the UN Convention on the Rights of the Child.

<sup>9</sup> North Western Health Board - v - H.W. & C.W.

<sup>10</sup> The High Court decision in this case was not reported and the parties were not identified.

<sup>11</sup> There are, however, severe difficulties with the interpretability and international comparability of routinely collected data on breastfeeding, an issue which requires attention.

### **Acronyms of organisations**

ASAI	Advertising Standards Authority of Ireland
BCI	Broadcasting Commission of Ireland
CARI	Children at Risk in Ireland
CCSI	Cabinet Committee on Social Inclusion
CDB	County or City Development Board
CDU	Curriculum Development Unit
CECDE	Centre for Early Childhood Development and Education
CNCI	Council of National Cultural Institutions
CPA	Crisis Pregnancy Agency
CRA	Children's Rights Alliance
CSO	Central Statistics Office
CYPF	Children and Young People's Forum
DTO	Dublin Transportation Office
DVSAIU	Domestic Violence and Sexual Assault Investigation Unit
ECMT	European Conference of Ministers of Transport
EDC	Educational Disadvantage Committee
ERHA	Eastern Regional Health Authority
ESRI	Economic and Social Research Institute
FAI	Football Association of Ireland
FÁS	Training and Employment Authority
FSP	Family Services Project
GAA	Gaelic Athletic Association
GRIO	Garda Racial and Intercultural Office
HeBE	Health Boards Executive

HIQA	Health Information Quality Authority
HSE	Health Service Executive
IAYPIC	Irish Association of Young People in Care
IDG	Interdepartmental Group
ILO	International Labour Organisation
IOM	International Organisation for Migration
IPH	Institute of Public Health
IRFU	Irish Rugby Football Union
IRTC	Independent Radio and Television Commission
ISPCC	Irish Society for the Prevention of Cruelty to Children
NACD	National Advisory Committee on Drugs
NCAC	National Children's Advisory Council
NCCA	National Council for Curriculum and Assessment
NCCC	National Childcare Coordinating Committee
NCGE	National Centre for Guidance in Education
NCO	National Children's Office
NDA	National Disability Authority
NEPS	National Educational Psychological Service
NESC	National Economic and Social Council
NESF	National Economic and Social Forum
NEWB	National Educational Welfare Board
NGO	non-governmental organisation
NSRG	National Suicide Review Group
NYCI	National Youth Council of Ireland
NYWAC	National Youth Work Advisory Committee

ORAC	Office of the Refugee Applications Commissioner
PwDI	People with Disabilities in Ireland
RAT	Refugee Appeals Tribunal
RIA	Reception and Integration Agency
RTÉ	Radio Telefís Éireann
SGSES	Steering Group on Social and Equality Statistics
SSI	Social Services Inspectorate
UNFPA	United Nations Population Fund
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
VEC	Vocational Education Committee
WFP	World Food Programme
WHO	World Health Organisation
YPFSF	Young People's Facilities and Services Fund



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