**The UN Committee on the Rights of the Child**

**Day of General Discussion - Children's Rights and Alternative Care**

**Submission of Ireland**

**July 2021**

**Introduction**

Ireland recognises that all children in care will have different and particular needs, and that individualised care planning is essential to this end.

**Ireland’s Policy, Legislative and Functional Framework:**

*Policy*

* *Brighter Outcomes Better Futures: The National Policy Framework for Children and Young People 2014 - 2020*[[1]](#footnote-1) sets out a whole of Government vision for Ireland to be one of the best small countries in the world in which to grow up. Ireland is also currently developing a Policy Statement on Children in Care, which will outline the State’s achievements and ambitions for alternative care.

*Legislative*

* The Child Care Act 1991 as amended[[2]](#footnote-2) is the main legislation regulating child protection, welfare and care policy in Ireland. It underlines the importance of family environment and underpins the provision of family support measures in this context. The Act is currently being reviewed.
* The thirty-first amendment of the Irish Constitution (2015)[[3]](#footnote-3) specifically recognised and affirmed the natural and imprescriptible rights of all children, and conferred an obligation on the State to respect and implement these rights through legislation. The Children First Act[[4]](#footnote-4) provides significant key child protection measures. The Act operates alongside the non-statutory obligations in the *Children First: National Guidance for the Protection and Welfare of Children*[[5]](#footnote-5).

*Functional*

* The establishment of the Department of Children and Youth Affairs (2011), and its subsequent expansion to the **Department of Children, Equality, Disability, Integration, and Youth** (2020).
* The establishment of **Tusla, the Child and Family Agency** in 2014 brought together child protection, welfare, family support, and alternative care services in one dedicated agency.
* Tusla implemented the **Partnership, Prevention and Family Support programme** with the aim to provide integrated early supports for a child at community and individual family level before problems escalate to child protection interventions. There have been a number of key components that are relevant in the context of strengthening families to prevent the removal of children.

First is the establishment of a new practice model for delivering early intervention support called **Meitheal[[6]](#footnote-6)** that brings together Tusla, community organisations, and other partner agencies with the view to providing wrap-around support to children and their families.

The second was the creation of **Child and Family Support Networks** nationwide that provide a local forum to co-ordinate service provision to children.

The third was the creation of resources and provision of evidence-based programmes to families. Tusla has also adopted a national approach to practice known as **Signs of Safety.** This means that all social work child protection services are consistent in their work. Individualised assessments of need for all children inform child protection and family support plans. Child friendly language is used in records to ensure that everyone, including the child, understands why the social work child protection intervention is happening.

Signs of Safety requires the involvement of a ‘network’ i.e. family, friends and professionals who know the child and agree to take part in a safety plan.

**Overview of Alternative Care Provision in Ireland**

In Ireland, there are three types of alternative care: foster care (general foster care, relative foster care and kindship care), residential care, and special care, which are operated in order to meet the differing needs and circumstances of children in the care of the State.

The majority of cared-for children in Ireland (91%) are in **family-based foster care**. The State offers a significant range of supports to foster carers, including comprehensive training once they have been approved in this role. Each carer is assigned a fostering link worker, and support continues to be available from the child’s social worker. Each child in care is provided with a medical card. Finally, foster carers can also access the monthly child benefit payment, in addition to the foster care allowance. **Residential car**e is a setting which provides group living for a small number of children, with the home staffed by professional social care workers as opposed to substitute parents. The residential care homes are usually regular houses in the community that can accommodate a maximum of 2-6 children.

**Special Care** is a short-term court-directed intervention, which places a child in a restricted secure care setting intended for children at risk with extreme behaviours. A special care placement is a serious intervention and, as it deprives a child of their liberty, an application must be made in the High Court. Special Care has a separate statutory footing to non-secure residential care.

**Innovative Practices Supporting the Transition from Alternative Care into Independent Living:**

The main supports for children transitioning to independent living are known as aftercare, which describes the planning and support put in place to meet the needs of a young person who is leaving statutory care at 18 years of age.

The Child Care Act 1991, as amended by the Child Care (Amendment) Act 2015, imposed a statutory duty on Tusla to prepare an aftercare plan for eligible children or young persons.

Ireland was the first country in Europe to develop a ***National Strategy on Children and Young People’s Participation in Decision-Making***(2015)[[7]](#footnote-7), and in this spirit aftercare plans are developed together with the child or young person, who participate in all aspects of the plan and therefore have a voice in decisions affecting them. The individualised plan outlines needs such as education, training, employment, health, wellbeing, accommodation, finance, budgeting, social networks and supports, family access and contact, personal and social issues, and supports needed from other services.

Those over 18 and who have been in care and who continue in further education or training receive a standardised aftercare allowance of €300 a week. This allowance is to support the young adult as they progress in education or accredited training However, difficulties in the wider housing market in Ireland can present difficulties for children leaving care. Subsequently, a small cohort of children leaving care are at higher risk of homelessness, and this group needs extra support to prevent this. In response the Irish Government and Tusla, secured an extension of the Capital Assistance Scheme (CAS)[[8]](#footnote-8) to now include vulnerable care leavers.

**Preventing and Phasing-Out the Institutionalisation of Children**

In Ireland, the high level of institutionalisation of children, which characterised the early decades of the country’s existence, has now been completely reversed. The vast majority of children in alternative care in Ireland are now being cared for in a family setting. Residential care makes up 7% (422) of children in care in Ireland. Children who enter residential care do so because of family problems, neglect or abuse, however many of the children in residential care are placed there due to challenging behaviour, which is better managed in such a setting. The overwhelming majority of residential care centres are small and community based, with most have approximately two beds only, and the largest one having six beds. These residential centres are staffed 24 hours by social care workers, and are especially equipped to deal with the specific issues of the children placed there.

**Alternative Care in the Context of COVID-19**

With the emergency measures imposed by COVID-19, many efforts were made to make sure that child protection work could continue as effectively as possible. For example, two sets of regulations governing foster care and relative foster care were amended in response to the COVID crises. These amendments provided a more flexible approval process for foster carers, and a relaxation of the statutory timelines surrounding the visitation of children in care, for the duration of the crises. This was to continuation this essential service during the crisis, and to ensure that children could continue to be placed in foster care/relative foster care as necessary, but with due regard to safety.

As of May 2021, the revised regulations were allowed to lapse in response to the improved public health conditions.

Tusla also introduced specific measures to ensure that children ageing out of care or young people in receipt of aftercare, who were already balancing the transition from care to independent living, would not be adversely affected by the pandemic in terms of access to supports and aftercare. This included:

* The aftercare allowance of €300 per week continued to be administered to care leavers who are currently in receipt of the allowance, and to those who become eligible during this period, up until 31st January 2021.
* All young people who reach the age of majority (18 years old) during the public health crisis were supported to remain in their care placement until the 31st January 2021.
* Young adults who are engaged in education or accredited training will be supported to continue to engage in this activity, through the various methods employed by colleges and training services.

**Traveller and Roma Communities**

The *National Traveller and Roma Inclusion Strategy* *(*2017-2021)[[9]](#footnote-9) is a cross-Departmental initiative, which specifies that Traveller and Roma children should be consulted appropriately in the development of policy, legislation, research and services, and that Tusla will encourage representations from the Traveller and Roma communities in all relevant participatory forums.

The Strategy also outlines that appropriate, culturally sensitive, preventative and early intervention supports should be available for Traveller and Roma families, if and when required, to enable children to live in a safe and secure environment. Tusla-led Child and Family Networks will encourage involvement from Traveller and Roma organisations and communities when engaging with Traveller and Roma families. The use of Meitheal will be encouraged where more than one agency involvement is needed to support children and families and concerns are not at a sufficient level of risk to require Social Work involvement. Tusla will also consider and promote the human rights and equality impact of its strategic programmes to ensure that its child protection and welfare services balance the need to recognise and respect ethnic and cultural diversity with the need to promote and ensure child welfare and protection.

The Strategy further argues that there should be a special focus on traveller and Roma children’s rights, all work undertaken with the Traveller and Roma communities should be underpinned by the ten common basic principles on Roma inclusion adopted by the European Commission. Tusla will consult with the Traveller and Roma communities in relation to the development of an implementation plan to support the provision of culturally-appropriate care placements for Traveller and Roma children who are in care. Tusla will also highlight the need for culturally sensitive placements and a diversity of carers in its national recruitment campaigns for foster families, and ensure that Care Plans will consider the cultural needs of children in care.

**Abuse prevention, intervention, complaints handling and therapeutic support**

As part of its commitment under the national policy framework for children and young people, *Better Outcomes Brighter Futures*, the Irish government made “Listening to and involving young people” a transformational goal. Part of this was the first *National Strategy on Children and Young People’s Participation in Decision-Making 2015 – 2020[[10]](#footnote-10).* The strategy is guided and influenced by the United Nations Convention on the Rights of the Child (UNCRC) and the EU Charter of Fundamental Rights.

Tusla’s *Children First: National Guidance for the Protection and Welfare of Children[[11]](#footnote-11)* outlines the steps which should be taken to ensure that a child or young person is protected from abuse, and what a person should, and is legally obliged, to do if they suspect abuse is taking place. It also includes specific information for professionals and organisations which have legal obligations under the Children First Act 2015 to keep children safe, and to report any concerns they have about a child’s welfare.

*Children First* includes circumstances, which may make some children more vulnerable to harm than others, and highlights that residential care settings for children, including special care, are, as providers of a service for children, legally obliged to report suspicions of abuse to Tusla. All foster carers are also legally obliged to report suspicions of abuse to Tusla. If Tusla suspects that a crime has been committed and that a child has been neglected or physically or sexually abused, it will formally notify the Gardaí[[12]](#footnote-12) without delay.

Mechanisms for complaints are clearly and thoroughly outlined in all three national standards for Alternative Care in Ireland. This is in line with the commitments made under the UN Convention of the Rights of the Child. The National Standards for Foster Care[[13]](#footnote-13), written by the HSE[[14]](#footnote-14) outline the complaints procedure for children in foster care.

The National Standards for Foster Care define a complaint as any expression of dissatisfaction about the quality, lack of, or refusal, of a service that the person complaining is entitled to use. The Standards outline that copies of procedures for complaint mechanisms must be given to children in an age- appropriate format, their parents and foster carers, and that all parties involved in the foster care service should be aware of their right to make a complaint. Also, those with a bona fide interest in their welfare must be informed of their right to avail of the services of an advocate or other independent service and how to access them. Complaints procedures must also take account of the particular needs of people with disabilities, and facilitate access to translation, interpretation and communication services for those who require these services.

The Health Information and Quality Authority (HIQA) have developed the National Standards for Children’s Residential Centres.[[15]](#footnote-15) These standards also clearly outline a complaints procedure for children in residential care. The Standards state that each child must be listened to and complaints acted upon in a timely, supportive and effective manner. The children must be reassured that there are no adverse consequences for raising an issue or making a complaint, and the complaints process must be consistent with relevant legislation, regulations and best practice guidelines. In addition, children must be made aware of other supports outside of the centre, such as the option to escalate a complaint to an external body or to access independent advocacy services as necessary.

Likewise, it was HIQA who published the National Standards for Special Care Units in 2015[[16]](#footnote-16). These Standards outline a similar complaints process to those for Residential Care.

Tusla have also introduced child-friendly complaint mechanisms and created the National Children Charter and Young People’s Charter. Tusla published the Children and Young People Participation Strategy 2019-2023[[17]](#footnote-17) to further improve structures, processes and culture of the Agency with the view to embedding participation of children and young people in every aspect of the organisation

**Recent Innovations supporting Children in Care:**

In addition to the initiatives to support Children in Care during COVID-19 previously outlined, the State:

* Reached an agreement with relevant sectors on the redeployment of Youth Workers into the Children’s Residential Care Sector in order to supply a potential shortfall in care staff.
* Issued guidance to all staff in Tusla on the priority of maintaining contact between children in care and their families during lockdown periods. Where possible, based on public health guidance, face to face contact was to take place.

1. [gov.ie - Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People, 2014-2020 (www.gov.ie)](https://www.gov.ie/en/publication/775847-better-outcomes-brighter-futures/) [↑](#footnote-ref-1)
2. [Child Care Act, 1991 (irishstatutebook.ie)](http://www.irishstatutebook.ie/eli/1991/act/17/enacted/en/html) [↑](#footnote-ref-2)
3. [Thirty-first Amendment of the Constitution Act, 2012 (irishstatutebook.ie)](http://www.irishstatutebook.ie/eli/2012/ca/31/enacted/en/html) [↑](#footnote-ref-3)
4. [pdf (irishstatutebook.ie)](http://www.irishstatutebook.ie/eli/2015/act/36/enacted/en/pdf) [↑](#footnote-ref-4)
5. [gov.ie - Children First (www.gov.ie)](https://www.gov.ie/en/policy-information/d1b594-children-first/) [↑](#footnote-ref-5)
6. Meitheal is the Tusla-led National Practice Model for early identification of need and practical help provision. [↑](#footnote-ref-6)
7. [gov.ie - National Strategy on Children and Young People’s Participation in Decision-Making (www.gov.ie)](https://www.gov.ie/en/publication/9128db-national-strategy-on-children-and-young-peoples-participation-in-dec/) [↑](#footnote-ref-7)
8. The Capital Assistance Scheme (CAS) funds the provision of social housing by independent non-profit-housing providers, called approved housing bodies (AHBs). [↑](#footnote-ref-8)
9. [National Traveller and Roma Inclusion Strategy, 2017-2021.pdf (justice.ie)](http://www.justice.ie/en/JELR/National%20Traveller%20and%20Roma%20Inclusion%20Strategy,%202017-2021.pdf/Files/National%20Traveller%20and%20Roma%20Inclusion%20Strategy,%202017-2021.pdf) [↑](#footnote-ref-9)
10. [gov.ie - National Strategy on Children and Young People’s Participation in Decision-Making (www.gov.ie)](https://www.gov.ie/en/publication/9128db-national-strategy-on-children-and-young-peoples-participation-in-dec/) [↑](#footnote-ref-10)
11. [2b9355febe2542ac871aa69d2fc4a96a.pdf (assets.gov.ie)](https://assets.gov.ie/34574/2b9355febe2542ac871aa69d2fc4a96a.pdf) [↑](#footnote-ref-11)
12. An Garda Síochána is the official name of the Irish police force. [↑](#footnote-ref-12)
13. [gov.ie - National Standards for Foster Care (www.gov.ie)](https://www.gov.ie/en/publication/1dc05d-national-standards-for-foster-care/) [↑](#footnote-ref-13)
14. The HSE is the national Health Services Executive. [↑](#footnote-ref-14)
15. [NATIONAL STANDARDS FOR CHILDREN'S RESIDENTIAL CENTRES (assets.gov.ie)](https://assets.gov.ie/16374/86b69236d23b4dfb94bd5218d0e912a3.pdf) [↑](#footnote-ref-15)
16. [National Standards for Special Care Units | HIQA](https://www.hiqa.ie/reports-and-publications/standard/national-standards-special-care-units) [↑](#footnote-ref-16)
17. <https://www.tusla.ie/uploads/content/tusla_child_and_youth_participation_strategy-2019-2023.pdf> [↑](#footnote-ref-17)