

# Making Children's Rights Real

Learning Activities and Actions on  
Children's Rights for Children  
and Young People  
**Teacher Support File**



**ombudsman  
do leanaí  
for children**



Children Now, Rights Now



Centre for  
Human Rights  
and  
Citizenship  
Education  
DCU Institute of Education

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## Fact File for Teachers

### Ombudsman for Children's Office (OCO)

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- Following an open recruitment process in which children and young people played an important role, Niall Muldoon was appointed Ireland's Ombudsman for Children by President Michael D Higgins in February 2015.
- The word 'Ombudsman' comes from Scandinavia. The 'Ombuds' part of the word can be understood as defender of rights and the 'man' part means mankind or everyone. The role of an Ombudsman is to safeguard the interests of individuals or groups by holding government and public organisations to account for their actions and decisions. In the case of the Ombudsman for Children in Ireland, the beneficiaries of his/her work are children and young people under 18 years of age living in Ireland.
- The Ombudsman for Children's Office ('OCO') was set up in 2004 under a law called the Ombudsman for Children Act 2002 ('2002 Act'). Under this law, the Ombudsman for Children has two main roles:
  1. to promote the rights and welfare of children and young people under 18 years old living in Ireland
  2. to deal with complaints made by or for children and young people about the actions of public organisations.
- The 2002 Act requires the Ombudsman for Children to be independent in his/her work to fulfil these two roles. As Ombudsman for Children, Niall Muldoon is directly accountable to the Oireachtas for the OCO's work to implement these roles.



### Promoting children's rights and welfare

In its role to promote children's rights and welfare, the OCO is obliged by law to do a number of things. They include:

- raising public awareness of children's rights and welfare, including among children and young people and including the UN Convention on the Rights of the Child
- consulting with children and young people and highlighting issues relating to children's rights and welfare that children are concerned about to Government and to other people who make decisions that affect children and young people
- giving advice to the Government on any matter relating to children's rights and welfare, including developments in law and public policy
- encouraging public organisations to work in ways that promote children's rights and welfare.

The OCO can also carry out, commission or publish research on any matter relating to children's rights and welfare.

## Dealing with Complaints

As regards the OCO's complaints-handling role:

- Complaints can be made to the OCO by or on behalf of children and young people.
- The OCO can investigate complaints about certain actions ('administrative actions') of public organisations that have had, or may have had, a negative impact on a child.
- Public organisations that the OCO can deal with complaints about include government departments, state agencies, healthcare services, schools, social work services and local authorities.
- The OCO's complaints-handling service is a free service.
- When investigating complaints, the OCO is independent. It is also impartial, acting neither as an advocate for the child nor as an adversary of the public organisation complained about.
- When dealing with complaints, the OCO is obliged to consider the best interests of the child. The OCO must also consider the wishes of the child, in so far as this is possible and taking into account the child's age and understanding.
- As an ombudsman office, the OCO is intended to be a place of last resort for complaints. Accordingly, the OCO respects local complaints procedures. It also promotes the local resolution of complaints.
- A significant majority of the complaints that the OCO receives each year are made by parents on behalf of their children. Complaints are also made by children's relatives, professionals (e.g. principals, teachers, social workers, healthcare professionals) and by young people themselves.
- The complaints brought to the OCO relate to a wide range of issues affecting children, including issues arising in the areas of education, child protection, alternative care, family support, childcare, healthcare, housing and justice.
- Following an investigation of a complaint, the OCO may make recommendations to the public organisation concerned. While these recommendations are not binding, the OCO's experience of investigating complaints indicates that public organisations are generally open to working with the recommendations the OCO makes.

More information about the OCO and its different areas of work is available on the OCO's website, [www.oco.ie](http://www.oco.ie)

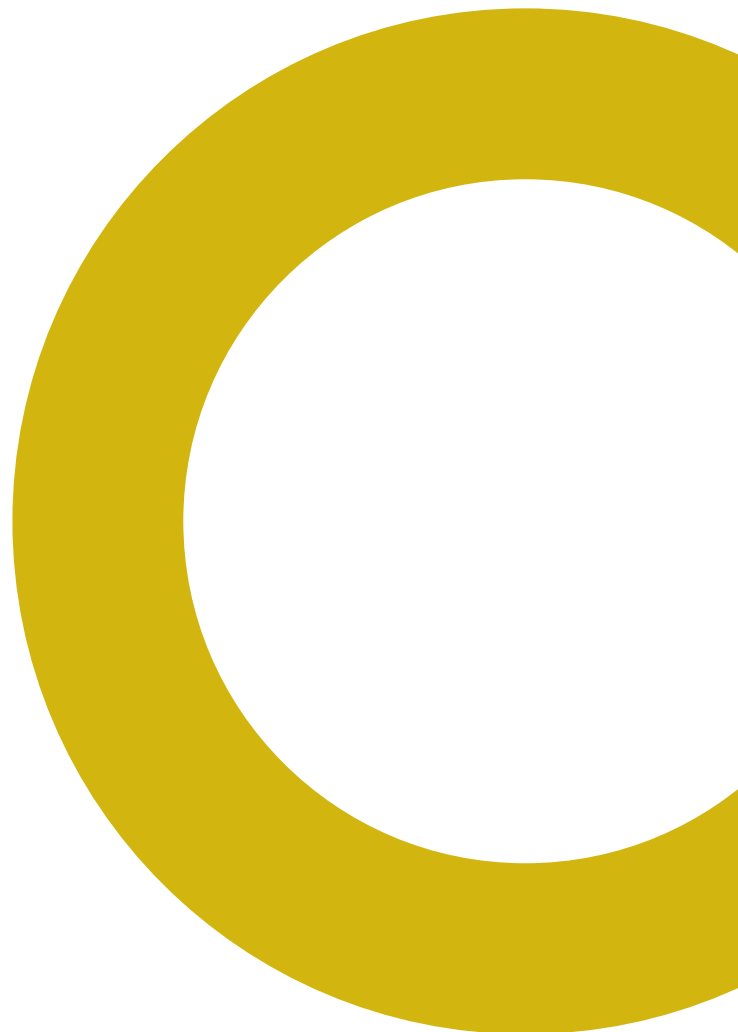
## Fact File for Teachers

### Bunreacht na hÉireann – Constitution of Ireland

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- Bunreacht na hÉireann is the Irish Constitution. Enacted in 1937, the Constitution is the fundamental legal instrument in Ireland. It sets out how Ireland should be governed and the rights of Irish citizens.
- The Constitution establishes and describes the main institutions of the Irish State. The power to run the State is divided into three separate powers, the legislative power, the executive power and the judicial power:
  - The Constitution gives legislative power (the power to make, amend and remove laws) to the Oireachtas, which comprises Dáil Éireann, Seanad Éireann and the President.
  - The executive power (the power to put laws into effect) rests with the Government, assisted by the gardaí, the defence forces and the civil service.
  - The judicial power (the power to interpret and apply the law to conflicts between the State and the individual as well as disputes between individuals) lies with the courts.
- The Constitution also sets out the fundamental rights that every Irish citizen is entitled to. They include the right to equality before the law, the right to personal liberty, the right to religious liberty, the right to freedom of expression, and the right to privacy.
- Among the articles of the Constitution that concern children are Articles 41 and 42. Article 41 relates to the family and recognises the family as having a special place in society. Article 42 of the Constitution concerns education. It acknowledges the family as the “primary and natural educator of the child” and defines the State’s role in relation to education.
- If the Government wishes to amend the Constitution, it must hold a referendum as any decision to change the Constitution rests with citizens of Ireland. If the majority of votes cast in a referendum are in favour of the proposed change, the Bill containing the proposed amendment is signed by the Irish President and the Constitution is then amended.
- On 10 November 2012, a referendum was held to insert a new article relating to children and their rights into the Constitution. The proposed amendment was supported by a majority of voters who voted in this referendum. The Thirty-First Amendment of the Constitution (Children) Act 2012 was signed into law on 28 April 2015.
- Article 42A of the Constitution is called ‘Children’. It says that the State “recognises and affirms the natural and inalienable rights of all children” and that the State must, in as far as practicable, protect and vindicate those rights by its laws (42A.1). Among the matters addressed by Article 42A are:
  - the role of the State in circumstances where parents “fail in their duty towards their children to such extent that the safety and welfare of their children is likely to be prejudicially affected” (42A.2.1)

- o making provision in law for the adoption of children, including in circumstances where the parents of a child “have failed ... in their duty towards the child” for a period of time set down in law and where this is in the best interests of the child (42A.2.2) as well as the voluntary placement for adoption and the adoption of any child (42A.3)
- o making provision in law for the best interests of the child to be treated as “the paramount consideration” and, in as far as practicable, for the views of the child to be ascertained and given due weight, in accordance with the child’s age and maturity, in care proceedings and in proceedings regarding adoption, guardianship, custody or access (42A.4.1° and 42A.4.2°).



## Fact File for Teachers

### UN Convention on the Rights of the Child

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- The UN Convention on the Rights of the Child (UNCRC) was adopted by the United Nations in 1989. Providing the most comprehensive definition of children's rights to date, this Convention has been ratified by almost every country in the world. Ireland ratified the UNCRC in 1992. Having done so, Ireland has an obligation under international law to respect, protect and fulfil the rights of children set out in the Convention. As Ireland is a dualist State, international treaties like the UNCRC do not become part of Irish law unless they are incorporated by the Oireachtas. To date, certain principles of the Convention have been partially incorporated into Irish law in a number of areas affecting children.
- Defining a child as a "human being below the age of 18 years", the UNCRC recognises children as rights-holders who are entitled to special care, assistance and protection due their age and stage of development.
- The Preamble to the UNCRC clarifies that realising children's rights is about:
  - respecting children's inherent dignity and worth;
  - promoting improved living conditions and a better quality of life for children;
  - protecting and assisting the family as the "fundamental group of society" and the "natural environment for the growth and well-being" of children;
  - acknowledging that children "should grow up in a family environment, in an atmosphere of happiness, love and understanding";
  - supporting children to respect principles of "peace, dignity, tolerance, freedom, equality and solidarity";
  - recognising that there are children throughout the world who need special protection because they live in exceptionally difficult circumstances.
- The UNCRC defines what rights children have. In doing so, the Convention promotes an holistic view of children's lives and needs: the rights set out in the UNCRC are to be understood as interdependent and as being of equal importance.
- Four rights in the UNCRC are considered vital to realising other Convention rights. Known as the Convention's 'general principles', they are:
  - children's right not to be discriminated against on any grounds (Article 2)
  - children's right to have their best interests treated as a primary consideration in all decisions and actions affecting them (Article 3)
  - children's right to life, survival and development (Article 6)
  - children's right to express their views freely in all matters affecting them and to have their views taken into account, in accordance with their age and maturity (Article 12).
- The UNCRC identifies the State as the primary duty bearer as regards realising children's rights under the UNCRC and Article 4 places an obligation on the State to undertake all appropriate measures to implement children's rights. Among the State's obligations in this regard are to respect parents' rights and to support parents to fulfil their roles and responsibilities towards their children.
- An international panel of independent experts on children's rights called the UN Committee on the Rights of the Child is responsible for periodically monitoring

and assessing the progress being made by States, including Ireland, to fulfil their obligations to children under the Convention. Having ratified the UNCRC in 1992, Ireland appeared before the UN Committee on the Rights of the Child in 1998 and again in 2006. Ireland's third appearance before the UN Committee on the Rights of the Child was in January 2016. Following this meeting, the UN Committee published its observations on Ireland's progress and recommendations on steps for Ireland to take in the coming years to further respect, protect and fulfil children's rights. Ireland is due to submit its next periodic report to the UN Committee on the Rights of the Child in 2021.

- Further information:
  - The full text of the UN Convention on the Rights of the Child is available at <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
  - If you would like to find out more about the UN Committee on the Rights of the Child and the process to monitor the progress of States, including Ireland, to fulfil their obligations to children under the UNCRC, go to <http://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx>
  - To view the UN Committee's most recent concluding observations and recommendations in relation to Ireland, which were published in 2016, go to [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fIRL%2fCO%2f3-4&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fIRL%2fCO%2f3-4&Lang=en)
  - If you would like to read one or more of the UN Committee's General Comments on measures States can take to progress the realisation of children's rights under the UNCRC, go to [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11)



## Children’s Rights and the UNCRC – A short Glossary

Term	Definition
<b>absolute right</b>	An absolute right is a right that can never be interfered with - for example, the right to freedom from torture.
<b>Article</b>	International treaties generally include a Preamble (stating the underlying reasons for a treaty) and a series of Articles. The Articles set out the obligations of States, which choose to be bound by a particular international treaty or convention.
<b>adopt</b>	This is when the United Nations formally agrees the text of a treaty (such as the UN Convention on the Rights of the Child).
<b>civil and political rights</b>	Civil and political rights concern rights to liberty and equality. These rights include the right to freedom of expression, the right to freedom of assembly, the right to information, the right to equal protection before the law, the right to freedom from torture, and the right to privacy and respect for family life.
<b>Convention</b>	A convention is a formal, binding agreement between States. A convention is stronger than a declaration because it is legally binding for States that have ratified it.
<b>duty bearer</b>	Human rights, including children’s rights, are linked to duties, obligations and accountability. Duty bearer is a term used to refer to those actors who have obligations and responsibilities to respect, protect and fulfil human rights. The term is often used to refer to State actors, as States are the primary duty bearers with regard to realising human rights, including children’s rights. Non-State actors can also be duty-bearers. Depending on the context, these duty-bearers can include international institutions, private companies, and individuals.
<b>economic, social and cultural rights</b>	Economic, social and cultural rights include the right to an adequate standard of living (food, clothing and housing), the right to the highest attainable standard of health, the right to social security, and the right to education.
<b>entry into force</b>	A treaty does not enter into force when it is adopted. Typically, the provisions of the treaty determine the date on which the treaty enters into force, often at a specified time following its ratification or accession by a fixed number of States. For example, the UN Convention on the Rights of the Child was adopted by the UN General Assembly in 20 November 1989, but entered into force on 2 September 1990.
<b>general measures of implementation</b>	This term refers to measures that do not concern a specific right, but rather provide the foundation for efforts to protect all rights and principles set out in a Convention, such as the UNCRC. Such general measures include: law reform, resource allocation, education and training, devising national plans/strategies for implementing rights, monitoring and data collection; and setting up independent, statutory human rights institutions (e.g. the Irish Human Rights and Equality Commission and the Ombudsman for Children’s Office in Ireland).
<b>inalienable</b>	This term is used to refer to the idea that rights belong to every person and that they cannot be given or taken away.

<b>Term</b>	<b>Definition</b>
<b>indivisible</b>	This term is used to refer to the idea that all human rights are part of an inseparable whole.
<b>interdependent</b>	This term is used to refer to the idea that enjoyment of a particular human right is dependent on enjoyment of all the others.
<b>limited right</b>	While rights cannot be taken away, they can be limited through appropriate, judicially sanctioned processes – for example, a person’s liberty can be curtailed through criminal proceedings.
<b>periodic review</b>	Within the UN system, there are ten human rights treaty bodies, which monitor implementation of the core international human rights treaties. The treaty body for the UNCRC is the UN Committee on the Rights of the Child. The term periodic review refers to the work done by each treaty body (e.g. the UN Committee on the Rights of the Child) to monitor and examine the progress that States (e.g. Ireland) are making to fulfil their obligations under a particular treaty (e.g. the UNCRC).
<b>progressive realisation</b>	Immediate full realisation of rights can be difficult, including because of resource constraints. The concept of progressive realisation is a central aspect of States’ obligations in relation to economic, social and cultural rights under international human rights treaties, including the UNCRC. It means that States have a continuing obligation to take appropriate measures to realise rights as efficiently and effectively as possible. Article 4 of the UNCRC includes an example of a progressive realisation clause, where it says that States must “undertake such measures to the maximum extent of their available resources” to implement children’s economic, social and cultural rights under the UNCRC.
<b>qualified right</b>	A qualified right is a right that can be restricted in specific circumstances. Any such interference must be necessary, legitimate and proportionate.
<b>ratification</b>	Ratification is when a State (e.g. Ireland) agrees to be legally bound by a treaty (e.g. by the UN Convention on the Rights of the Child) The instrument of ratification, a formal sealed letter referring to the decision and signed by the State’s responsible authority, is then prepared and deposited with the UN Secretary General in New York. Ireland ratified the UN Convention on the Rights of the Child on 28 September 1992.
<b>reservation</b>	This term refers to exceptions that States can make to a treaty, for example in relation to one or more provisions of a treaty that they do not agree to follow. Reservations may not undermine the fundamental meaning of the treaty.
<b>respect, protect, fulfil</b>	States that have ratified the UNCRC have an obligation to respect, protect and fulfil the rights of children set out in the Convention: <ul style="list-style-type: none"> <li>○ respect – the obligation to refrain from interfering directly or indirectly with children’s enjoyment of their rights</li> <li>○ protect – the obligation to prevent third parties (e.g. corporations) from interfering with children’s enjoyment of their rights</li> <li>○ fulfil – the obligation to adopt the necessary measures to achieve the full realization of children’s rights</li> </ul>

<b>Term</b>	<b>Definition</b>
<b>rights</b>	Human rights are basic rights and freedoms that every person has by virtue of being a human being. Rights can also be understood as entitlements, legitimate claims and as minimum standards to be met.
<b>rights-holder</b>	Rights-holders are individuals or social groups that have particular entitlements in relation to specific duty bearers. The UNCRC recognises children as rights-holders.
<b>signature</b>	Signature of a treaty is when a State (e.g. Ireland) provides a preliminary endorsement of the treaty. Signing does not create a binding legal obligation, but does demonstrate the State's intent to examine the treaty domestically and consider ratifying it. While signing does not commit a State to ratification, it does oblige the State to refrain from acts that would defeat or undermine the treaty's objective and purpose. Ireland signed the UN Convention on the Rights of the Child on 30 September 1990.
<b>State Party</b>	A State Party to a particular treaty is a country (e.g. Ireland) that has ratified that treaty (e.g. the UN Convention on the Rights of the Child) and is therefore legally bound by the treaty's provisions.
<b>universal</b>	This term is used to refer to the idea that human rights apply to all people, everywhere, without exception.
<b>United Nations</b>	The United Nations is an international intergovernmental organisation (IGO) founded in 1945 after the Second World War with the aim of maintaining international peace and security, developing friendly relations among nations and promoting social progress, better living standards and human rights.
<b>UN General Assembly</b>	The UN General Assembly is an important forum of the United Nations where a wide range of international issues (e.g. peace and security) are discussed and voted on by Member States, including Ireland.
<b>UN Committee on the Rights of the Child</b>	This Committee is a group of independent international experts on children's rights that guides countries on how to fulfil their obligations to children under the UNCRC and examines the progress that countries are making in this regard.

## Children's Rights Calendar

The international days below mark important themes and issues relating to children's rights. You and your colleagues might like to use this calendar to plan one or more actions/events relating to children's rights during the school year.

<p><b>12 February</b></p> <p>Red Hand Day for Child Soldiers</p> <p><a href="http://www.redhandday.org/index.php?id=4&amp;L=0">www.redhandday.org/index.php?id=4&amp;L=0</a></p>	<p><b>12 April</b></p> <p>International Day for Street Children</p> <p><a href="http://www.streetchildrenday.org">www.streetchildrenday.org</a></p>	<p><b>15 May</b></p> <p>International Day of Families</p> <p><a href="http://www.un.org/en/events/familyday">www.un.org/en/events/familyday</a></p>	<p><b>21 May</b></p> <p>World Day for Cultural Diversity</p> <p><a href="http://www.un.org/en/events/culturaldiversityday">www.un.org/en/events/culturaldiversityday</a></p>
<p><b>12 June</b></p> <p>World Day Against Child Labour</p> <p><a href="http://www.un.org/en/events/childlabourday">www.un.org/en/events/childlabourday</a></p>	<p><b>29 June</b></p> <p>World Refugee Day</p> <p><a href="http://www.un.org/en/events/refugeeday">www.un.org/en/events/refugeeday</a></p>	<p><b>9 August</b></p> <p>International Day of the World's Indigenous People</p> <p><a href="http://www.un.org/en/events/indigenousday">www.un.org/en/events/indigenousday</a></p>	<p><b>12 August</b></p> <p>International Youth Day</p> <p><a href="http://www.un.org/en/events/youthday">www.un.org/en/events/youthday</a></p>
<p><b>21 September</b></p> <p>International Day of Peace</p> <p><a href="http://www.un.org/en/events/peaceday">www.un.org/en/events/peaceday</a></p>	<p><b>10 October</b></p> <p>World Mental Health Day</p> <p><a href="http://www.who.int/mental_health/world-mental-health-day/en/">www.who.int/mental_health/world-mental-health-day/en/</a></p>	<p><b>11 October</b></p> <p>International Day of the Girl Child</p> <p><a href="http://www.un.org/en/events/girlchild">www.un.org/en/events/girlchild</a></p>	<p><b>16 October</b></p> <p>World Food Day</p> <p><a href="http://www.fao.org/world-food-day/2017/home/en">www.fao.org/world-food-day/2017/home/en</a></p>
<p><b>24 October</b></p> <p>United Nations Day</p> <p><a href="http://www.un.org/en/events/unday">www.un.org/en/events/unday</a></p>	<p><b>20 November</b></p> <p>Universal Children's Day</p> <p><a href="http://www.un.org/en/events/childrenday">www.un.org/en/events/childrenday</a></p>	<p><b>3 December</b></p> <p>International Day of Persons with Disabilities</p> <p><a href="http://www.un.org/en/events/disabilitiesday">www.un.org/en/events/disabilitiesday</a></p>	<p><b>10 December</b></p> <p>Human Rights Day</p> <p><a href="http://www.un.org/en/events/humanrightsday">www.un.org/en/events/humanrightsday</a></p>

## Further Information and Resources

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The list below provides links to several sources of additional information and resources, which may be of interest and assistance to you in your work with children and young people.

The OCO's It's Your Right website provides information about the UNCRC and issues related to children's rights in Ireland. You can find links to a range of education resource materials on children's rights issues here:

**Start to find out more:** [www.itsyourright.ie/explore-more](http://www.itsyourright.ie/explore-more)

You can find out more about the United Nations' adoption of the UN Convention on the Rights of the Child, including photographs and videos, here:

**Start to find out more:** [legal.un.org/avl/ha/crc/crc.html](http://legal.un.org/avl/ha/crc/crc.html)

You can see an up to date list of which countries have signed and ratified the UNCRC here:

**Start to find out more:** [treaties.un.org/pages/ShowMTDSGDetails.aspx?src=UNTSOnline&tabid=2&mtdsg\\_no=IV-11&chapter=4&lang=en#Participants](http://treaties.un.org/pages/ShowMTDSGDetails.aspx?src=UNTSOnline&tabid=2&mtdsg_no=IV-11&chapter=4&lang=en#Participants)

You can read the full version of the UNCRC here:

**Start to find out more:** [www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx)

You can find resources relating to children's rights from the Centre of Human Rights and Citizenship Education, Dublin City University here:

**Start to find out more:** [www.dcu.ie/chrce/resources.shtml](http://www.dcu.ie/chrce/resources.shtml)

You can find resources relating to children's rights issues globally here:

**Start to find out more:** <http://developmenteducation.ie/resources>



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