



**Submission of the Ombudsman for Children's Office
Consultation Paper, Department of Education and Skills
Re: Statement of Strategy 2016-2018
8 June 2016**

I. Introduction

The Ombudsman for Children's Office (OCO) was established in April 2004 under primary legislation; the Ombudsman for Children Act, 2002. The Ombudsman for Children is independent of Government and other civil society actors and is accountable to the Oireachtas. The role of the Ombudsman for Children is to promote and safeguard the rights and welfare of children and young people. The functions of the Ombudsman for Children are: to conduct investigations of complaints regarding actions by public bodies, schools and voluntary hospitals; to promote children's rights and to provide research and policy advice to Government and other bodies.

This submission has been framed in light of Ireland's international human rights obligations, the recommendations of the UN Committee on the Rights of the Child, the experience of this Office in carrying out statutory investigations of public bodies and also its advice to the Oireachtas on legislation affecting the rights and welfare of children.

II. A Child Rights-Based Approach to Education

The principal piece of legislation governing the area of education in Ireland is the Education Act 1998. Other key pieces of legislation include the Education for Persons with Special Educational Needs Act, 2004 (significant parts of which are not commenced), and the Education (Welfare) Act 2000. As they currently stand, these pieces of legislation do not properly incorporate the elements of the Convention that are relevant to this domain and need to be reviewed. In particular, the legislation needs to be amended to make proper provision for children to exercise their right to be heard both within educational settings and at a more general, systemic level in respect of policy developments affecting them. Children's status as individual rights-holders and as active agents in shaping their own education is not reflected in Irish law at present.

The UN Committee on the Rights of the Child has highlighted the need for education to be child-centred, child-friendly and empowering. The Committee emphasises that the goal of education is to empower the child by developing his or her skills, learning and other capacities, human dignity, self-esteem and self-confidence.

The UN Convention on the Rights of the Child

Article 2 – Non discrimination

Article 2 of the UNCRC requires States Parties to respect and ensure the rights set out in the Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. In order to achieve this, States are required to take all appropriate measures to ensure that the child is protected against all forms of discrimination. The UN Committee on the Rights of the Child has commented that discrimination on the basis of the grounds listed in Article 2 of the Convention, whether it is overt or hidden, offends the human dignity of the child, and is capable of undermining the capacity of the child to benefit from educational opportunities.¹ The principle of non-discrimination applies equally to private institutions and individuals as well as to the State, and this must be reflected in legislation.²

Article 3 – Best interests of the child

Article 3 of the UNCRC provides that 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. The UN Committee on the Rights of the Child has outlined its understanding of this obligation in the legislative context by indicating that States must be able to demonstrate how the best interests have been examined and assessed, and what weight has been ascribed to them in the relevant decision. In addition, the Convention imposes an obligation to undertake a continuous process of child rights impact assessment to predict the impact of any law on children and the enjoyment of their rights, as well as an obligation to evaluate the relevant law after it has entered into force. The UN Committee has also expressed the view that individual decisions taken by administrative authorities in the area of education must be assessed and guided by the best interests of the child, as for all implementation measures.

Article 12 – Respect for the views of the child

Article 12 of the UNCRC obliges States to assure to children who are capable of forming their own views the right to express those views in all matters affecting them, with due weight given to those views in accordance with the age and maturity of the children. It further specifies that opportunities to be heard have to be provided in any judicial or administrative proceedings affecting the child. The UN Committee has identified administrative proceedings in an educational context as a typical example of this.³ The right to be heard applies both to proceedings which are initiated by the child, such as appeals against school exclusion, as well as to those initiated by others which affect the child.⁴ The UN Committee has stressed the importance of making proceedings accessible and age-appropriate.⁵

¹ UN Committee on the Rights of the Child, *General Comment No. 1: The Aims of Education* (2011) UN doc. CRC/GC/2011/1 at www.ohchr.org (date accessed: 6 October 2013).

² UNICEF, *Implementation Handbook for the Convention on the Rights of the Child* (Geneva: United Nations Publications,

³ UN Committee on the Rights of the Child, *General Comment No. 12: The right of the child to be heard* (2009) UN doc. CRC/C/GC/12 at www.ohchr.org (date accessed: 6 October 2013) at para 32.

⁴ *Ibid.* at para 33.

⁵ *Ibid.* at para 34.

Article 28 and Article 29 – Right to Education

Article 28 of the UNCRC provides for the right of the child to education.⁶ The right to education must be achieved on the basis of equal opportunity, reflecting the fact that large numbers of children suffer discrimination in access to education, particularly children with disabilities, minorities and children from rural communities.⁷

In this regard, Article 29 provides that the right to education shall be directed to the development of the child's personality, talents and mental and physical abilities to their fullest potential. The degree to which an education system develops all children's potential depends in part upon the availability of education to all children on the basis of equality of opportunity.⁸

III. Oversight and Accountability

A further element of the general measures for the implementation of the Convention relates to decentralisation and delegation of responsibility from central government. The UN Committee has found it necessary to emphasise that decentralisation of power, through devolution and delegation of government, does not in any way reduce the direct responsibility of the State party's government to fulfil its obligations to all children within its jurisdiction, regardless of the State structure.

This office is aware, through its work, of the significant roles that principals, teachers and other professionals working in schools play in children's and young people's lives and the different ways in which schools are involved in promoting and protecting children's rights on a daily basis. The work of the office has also highlighted, however, the barriers to the realisation of their rights to and in education that children and young people may face. In this regard, the largest category of complaints dealt with by the OCO each year relate to education. Arising from our examination and investigation of these complaints, the OCO is cognisant of the deficits in management, policy, procedure and practice that can arise in schools and, where they do arise, of the adverse effects and at times very serious negative impact that such deficits can have on children and young people.

⁶ Article 28 provides that: "1. States Parties recognise the right of the child to education and with a view to achieving this progressively and on the basis of equal opportunity, they shall in particular:

(a) Make primary education compulsory and available free to all;

(b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;

(c) Make higher education accessible to all on the basis of capacity by every appropriate means;

(d) Make educational and vocational information and guidance available and accessible to all children;

(e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries."

⁷ UNICEF, *Implementation Handbook for the Convention on the Rights of the Child* (Geneva: United Nations Publications, 2007) at p. 407.

⁸ *Ibid.* at p. 440.

Recommendations:

The Department of Education should ensure that:

- the legislative and/or regulatory framework for schools is reformed and consolidated;
- the capacity of school management and staff is developed and strengthened;
- monitoring, oversight and accountability mechanisms are sufficiently comprehensive and robust; and
- the State assumes an appropriate level of responsibility for advancing and protecting children's rights within the education system.

Human Rights Education

Over the last ten years, the OCO has had occasion to work directly with thousands of children and young people through its rights education programme. The Office's experience of delivering this programme suggests that children's and young people's understanding of the concept of rights is basic and that their awareness of human rights mechanisms and understanding of the purpose of children's rights are generally low. The Office welcomes the on-going developments within the Department of Education, including in the area of curriculum, which are broadening the opportunities for children to engage with human rights education.

Recommendation:

The OCO is of the view that future work by the Department of Education should include a strong focus on:

- building children's and young people's knowledge of human rights and of how human rights relate to their own daily lives as well as to other people living in Ireland and in other countries; and
- supporting whole school approaches that afford children and young people meaningful opportunities in the context of their daily lives in schools to develop and practice attitudes and skills associated with respecting human rights.

IV. Participation of children in decision-making

The OCO welcomes the National Strategy on Children and Young People's Participation in Decision-making, 2015-2020. In particular, the OCO welcomes the promotion of children and young people's involvement in decision-making in education policy, in the running of schools and services, in school inspections, in schools' self-evaluations, in the curriculum, in behaviour and bullying policies, in support services and other areas, as outlined in the Action Plan.

Recommendations:

The OCO recommends that future work focuses on:

- developing children's skills from a young age so as to build their capacity to participate effectively;

- diversifying mechanisms that enable every child to participate in school decision-making and that complement representative mechanisms (e.g. student councils), even where these work well; and
- providing meaningful opportunities that demonstrate to children and young people the value of engagement and active citizenship and, by so doing, support children and young people to self-identify as stakeholders and build their confidence in their own self efficacy.

V. Early Childhood Education

The OCO welcomes the measures announced in the Programme for Partnership Government regarding Early Years, including the introduction of a second preschool year and the commitment to reducing the pupil-teacher ratio for junior and senior infants. The National Policy Framework for children and young people states that it seeks to promote a shift in policy toward earlier intervention and to ensuring the provision of quality Early Years services and interventions, aimed at promoting best outcomes for children and disrupting the emergence of poor outcomes.

It is important to ensure that increased State investment in early childhood includes placing a high value on supporting early childhood professionals. Skills mismatches remain and skills shortages have emerged in certain areas, while upskilling and reskilling opportunities remain insufficient and the decrease in education expenditure could have a negative impact on educational outcomes in the future.⁹ In this regard, the OCO welcomes the introduction of the National Quality Development Services in 2015 which aims to promote quality in early years settings.

Particularly vulnerable situation of children with disabilities

The UN Committee on the Rights of the Child has stated that *'early childhood education is of particular relevance for children with disabilities as often their disabilities and special needs are first recognised in these institutions.'*¹⁰ The Committee highlights the importance of early intervention in helping children achieve their full potential by increasing their opportunities to benefit from early childhood education which the Committee emphasises *'should be designed to respond to her or his individual needs'*.

In February 2016, the UN Committee on the Rights of the Child recommended that Ireland *'Train and employ a sufficient number of specialized teachers and professionals in order to provide special needs education support and early childhood education for children with disabilities'*.¹¹

In 2013, the OCO reported on an investigation into a complaint from a parent of a child with special needs regarding ECCE provision – both the availability of a second year and also

⁹ Recommendation for a COUNCIL RECOMMENDATION on the 2016 national reform programme of Ireland and delivering a Council opinion on the 2016 stability programme of Ireland, 18 May 2016.

¹⁰ General Comment N.9 on the rights of children with disabilities (2006), UN Doc CRC/C/GC/9, para 65.

¹¹ UN Committee on the Rights of the Child, *Concluding Observations on the combined third and fourth periodic reports of Ireland*, CRC/C/IRL/CO/3-4, recommendation 48

supports to assist the child's inclusion in pre-school. A key issue identified through the investigation related to the inconsistency in the level of support available nationally, specifically pre-school assistance support to ensure the fullest possible inclusion for children with disabilities.

On conclusion of the investigation, the Office recommended that steps should be taken to progress outstanding matters from the 2011 cross-sectoral working group report which had been set up to develop a framework for the integration of children with disabilities in pre-school settings. Since that time, the Office has expressed on several occasions the dissatisfaction of the Ombudsman for Children in relation to the lack of progress made in addressing and resolving the matter of inclusion for children with disabilities in mainstream pre-school settings and the significant delay in advancing this matter.

Therefore, the OCO welcomes the Report of the Inter-Departmental Group: Supporting Access to the Early Childhood Care and Education (ECCE) Programme for Children with a Disability published in November 2015. This report set out the new model of Government-funded supports to enable children with disabilities to fully participate in free pre-school in mainstream settings alongside their peers. A Cross-Sectoral Implementation Group has been established to oversee implementation, and to monitor and review progress as the new model is embedded across the system. In Budget 2016, Government committed to secure €17 million to establish the new programme, which is expected to benefit approximately 7,500 children.

The significant delay in progressing this matter is of serious concern to the Ombudsman for Children. This continues to be an issue of concern raised by parents contacting the OCO. Full implementation of the new model will take time due to the need to build capacity in the early years sector. The OCO welcomes the announcement that a new higher education award to train Inclusion Co-ordinators in Early Years Care and Education settings will be available in September 2016. While early years education is under the remit of the Department of Children and Youth Affairs, it is important that there is a shared responsibility with the Department of Education to ensure that the educational needs of all children, and particularly those with disabilities, are met consistently and efficiently.

Recommendations:

- Increased State investment in early childhood should ensure that a high value is placed on supporting early childhood professionals, including upskilling and reskilling opportunities where required.
- It is important that the Department of Education plays an active part in ensuring the swift implementation of the new model to enable children with disabilities to fully participate in mainstream free pre-school settings.
- The Department of Education should develop a strategy to ensure the smooth transition of children with disabilities from early years to primary school settings.

VI. Education of particularly vulnerable groups of children

Particular attention needs to be given to identifying and giving priority to marginalized and disadvantaged groups of children. The non-discrimination principle in the Convention requires that all the rights guaranteed by the Convention should be recognized for all children within the jurisdiction of States. The non-discrimination principle does not prevent States taking special measures to diminish discrimination.

A. Children living in poverty and homeless children

In 2014 UNICEF Report which examined the impact of the financial crisis on children across OECD countries found that Ireland saw one of the largest increases in child poverty between 2008 and 2012, ranking 37th out of 41 countries.¹² The report estimated that Irish families lost the equivalent of a full decade of progress during these years. The number of children living in consistent poverty rose from 6.3% in 2008, to 9.3% in 2011, to 11.7% in 2013.¹³ While there was a moderate reduction in the consistent poverty rate to 11.2% in 2014, the 'at risk of poverty' rate rose from 17.9% in 2013 to 18.6% in 2014.¹⁴ Children in certain situations are particularly at risk of poverty,¹⁵ including Traveller and Roma children,¹⁶ children in jobless households,¹⁷ children with a disability,¹⁸ homeless children¹⁹ and children living in direct provision centres.²⁰

The number of families experiencing homelessness has increased dramatically. At the end of April 2016 there were 1037 families (884 in January) recorded as homeless with 2121 children (1,830 in January) living in emergency accommodation. The vast majority of homeless families 888 (769 in January) were in Dublin. The number of homeless children rose by 90% during 2015 and children now account for almost one-third of the homeless population. Reflecting the current homelessness crisis, the OCO has seen an increase in complaints from families in this situation. Cases examined by the OCO highlight concerns regarding significant delays in accessing social housing and the impact of inappropriate, temporary or emergency accommodation on children, where they may reside on a long-term basis. The accommodation provided impacts negatively on family life and children's development, particularly on the full enjoyment of the right to education. In many cases, children are traveling long distances to attend school and there is often no safe area for children to play or do homework.

Recommendation:

- It is important that the Department of Education is particularly cognisant of the increased number of children living in consistent poverty and of children at risk of

¹² UNICEF, *Innocenti Report Card 12*, Children of the Recession, at p. 8.

¹³ Central Statistics Office, *Consistent poverty rate by demographic characteristics and year* (CSO), 2010-2014.

¹⁴ Central Statistics Office, *At risk of poverty rate by demographic characteristics and year* (CSO), 2010-2014.

¹⁵ Children's Rights Alliance, *Report Card 2016*, at p. 69.

¹⁶ The Office of Social Inclusion, *National Action Plan for Social Inclusion 2007-2016* (Stationary Office 2007), at p. 35.

¹⁷ *Ibid* at p.31.

¹⁸ *Ibid* at p.31.

¹⁹ *Ibid* at p.35.

²⁰ Health and Information Quality Authority, *Report on inspection of the child protection and welfare services provided to children living in direct provision accommodation under the National Standards for the Protection and Welfare of Children, and Section 8(1)(c) of the Health Act 2007*, (HIQA, 25 May 2015).

poverty. Measures should be taken to provide additional supports to children living in poverty to ensure that there are no barriers to their participation in education.

B. Children in direct provision

The OCO has received and taken action on complaints regarding access to education for children living in Direct Provision. The Working Group Report to Government on Improvements to the Protection Process, Including Direct Provision and Supports to Asylum Seekers²¹ states that access to education for children in direct provision varies considerably depending on the stage they are at in the education cycle and raised concerns in relation to the ability of these children to fully participate in school life and extra-curricular activity, given financial and transport barriers.

The Working Group Report recommended that all Direct Provision accommodation centres that host families should be required to provide or facilitate a full-time serviced and age-appropriate after-school homework or study club. Alternatively, transport to and from school-based homework or study clubs should be provided throughout the school year. The Report also recommended that an awareness initiative should be rolled out to ensure that Boards of Management and school principals are familiar with the financial and other challenges facing children in Direct Provision and their families.

Recommendation:

- The Department of Education should put a plan in place to implement the relevant recommendations with regard to education of the Working Group Report to Government on Improvements to the Protection Process, Including Direct Provision and Supports to Asylum Seekers.

C. Migrant Children

According to the 2011 Census, there were 110,008 children living in Ireland with a foreign nationality and migrant children represent 14.7% of all children. Among them 33,716, or 30.6% indicated having a non-European nationality. There is a wealth of outcome data available at varying levels of the Irish schooling system, but rarely are migrant students made visible in them. Collecting data from schools on applicants and enrolments would make it possible to differentiate between the experience of immigrants and native Irish students.

Figures from an OECD review of migrant education in 2009²² suggest that approximately 10 per cent of primary school students and 8 per cent of post-primary students are migrants. According to this review the socio-economic status of migrant students is similar to that of the Irish students. Language, however, remains a key challenge and needs to be addressed in combination with other factors that may affect education outcomes of immigrant students.

²¹*Working Group Report to Government on Improvements to the Protection Process, including Direct Provision and Supports to Asylum Seekers*. Final Report, June 2015 (Dublin: June 2015), at p. 213-216.

²² Taguma, M., Kim, M., Wurzburg, G., and Kelly, F., *OECD Reviews of Migrant Education, Ireland* December 2009.

The Free Pre-school Year for All should be successfully implemented, placing a priority on disadvantaged children. The reasons for under-representation of migrant children in early childhood education and care are often reported as the lack of information about such rights and parent's limited language proficiency in the host country, especially asylum seekers; financial barriers and cultural norms regarding the age when children should start pre-schooling.²³ This indicates that even with the universal approach, a targeted measure may be necessary to provide a safety net to catch those children.

The "Siolta" and "Aistear" frameworks (age 0 to 6), should be implemented in light of the priority placed on the implementation of the Free Pre-School Year for all children. The Early Start programme should be embedded into universal pre-school access. In the implementation of these initiatives, the specific needs of migrant children should be addressed in all areas of the initiatives but especially through the language and socio-cultural development of the child through pedagogy and curriculum, training of teachers, and parental and community involvement.

It is important that migrant children are exposed to teachers with migrant backgrounds, who can learn to teach both language and culture into the overall pedagogical activities. Based on their own experiences of being a migrant, such teachers may be more culturally sensitive to the child's language, social and emotional development, all of which are the prerequisite for successful integration and social cohesion.²⁴

In order to ensure migrant parents become involved in their child's school life, it is important to take an integrated approach, in which not only the home school community liaison (HSCL) coordinators but also the whole school team actively engage with parents. School leaders should also be trained so that they may take initiatives such as getting immigrant parents and communities more involved in school activities and education for migrant children outside school. The government should identify schools with good practice in whole-school approach and disseminate such practice to other schools.

In spite of the positive policy change in 2013, access to third level education remains problematic for young migrants who may have completed their secondary and even primary education in Ireland but do not have a clear path to citizenship or are in the midst of what is generally a long process.²⁵

In 2014, a review of Ireland's approach to migrants was ordered by the Government. A Cross-Departmental Group on Integration was established in March 2014 to draft an overarching Integration Strategy taking account of existing policies and actions being implemented. Consultation with key stakeholders was carried out and in October 2015 a draft of the Strategy was shared with stakeholders for their observations; the Strategy was due to be published shortly.²⁶

²³ OECD, 2001; Leseman, 2002; Otero and McCoshan, 2005; Eurydice, 2009.

²⁴ This has been done by the governments of the Netherlands and the Flemish Community of Belgium (OECD, 2001).

²⁵ RTÉ *All Irish Citizens to pay equal college fees* (online, 2013) <<http://www.rte.ie/news/2013/0725/464653-college-fees-irish-citizens/>> (accessed 14 Apr 2016)

²⁶ <http://www.integration.ie/website/omi/omiwebv6.nsf/page/NewIntegrationStrategy-en>

Recommendations:

- Train teachers – mainstream teachers as well as language teachers – so that they can cope with linguistic and cultural challenges in the classroom by using, for example, the language assessment kits and the intercultural education guidelines;
- Concentrate on implementing the “Siolta” and “Aistear” frameworks (age 0 to 6), with special attention to language development and socio-cultural competencies of migrant children.
- Provide additional diversity training to social workers and HSCL co-ordinators, or to recruit such people with migrant backgrounds.
- Encourage a “whole-school approach” – involving all teachers, school leaders, parents and communities – as it is essential to make schools more culturally and linguistically diverse.
- Re-examine the criteria of access to financial assistance for higher education and the application of a standard residency test in third level institutions.
- Adopt expeditiously a comprehensive legal framework which is in accordance with international human rights standards for addressing the needs of migrant children, as recommended by the UN Committee on the Rights of the Child.²⁷
- Urge the publication of the new Integration Strategy without delay together with a plan and timeline for its implementation. The Strategy should contain a specific focus on the rights of migrant children and young people, including on the right to education which lies at the heart of the integration process.

D. Traveller and Roma Children

School enrolment

School enrolment policies have had a disproportionately negative impact on Traveller students due to their selection criteria. The ‘past-pupil criterion’ can pose a significant barrier as for the majority of Traveller children, their parents have not attended post-primary schools,²⁸ and is particularly problematic for Travellers who are nomadic. This has a disproportionate impact on communities with high levels of educational disadvantage and therefore gives rise to indirect discrimination.

Addressing Educational Disadvantage

The Report on the First Phase of the Evaluation of DEIS (2011) found that the educational attainment of Travellers remains significantly lower than that of their settled peers in both reading and mathematics. These findings were repeated in a DEIS evaluation carried out in April 2015.²⁹ This is of particular concern given the access to extra supports in DEIS schools. There is no information available on the educational attainment of Traveller pupils in non-DEIS schools despite the fact that 47% of Traveller students at primary level, 51% of Travellers at post primary level, are in non-DEIS schools.³⁰

²⁷ Concluding Observations on the combined third and fourth periodic reports of Ireland, CRC/C/IRL/CO/3-4, para 68(a).

²⁸ The *Our Geels: All Ireland Traveller Health Study (AITHS)* found that 38.5% of 30-44 year olds and 25.8% of 45-64 year olds had primary education only.

²⁹ Smyth, E., et al, *Learning from the Evaluation of DEIS*, (Economic and Social Research Institute 2015), at p. 12.

³⁰ Pavee Point, *Shadow Report to the UN Committee on the Rights of the Child*, 2015.

The Report and Recommendations for a Traveller Education Strategy was published in 2006 but without an implementation plan which was meant that progress has been very slow. In Budget 2011 Traveller specific education supports were cut by 86.6%. This resulted in the dismantling of the Visiting Teachers for Travellers Service and the Resource Teacher for Travellers Service. Despite the obstacles faced by Traveller and Roma children in accessing education, Budget 2016 did not include any additional supports or targeted initiatives for Traveller children to support their engagement in mainstream education. The OCO notes that the Programme for Partnership Government does not contain any specific commitments in relation to the provision of education for Traveller children.

In the National Policy Framework for Children and Young People, the Government has acknowledged the poorer educational outcomes for Traveller children. The Framework sets out a number of targets/commitments for improving the situation for young Travellers. These include strengthening social inclusion measures to reinvigorate efforts to improve educational outcomes for Traveller children and implement and monitor the National Travellers/Roma Integration Strategy, with a particular focus on Traveller accommodation and the engagement of Roma in education. Notwithstanding this, it must be noted that European Commission has been critical of the absence of concrete measures and timelines for achieving this.

In January 2016, the UN Committee on the Rights of the Child has urged the Irish Government to undertake concrete and comprehensive measures to address the structural discrimination against Traveller and Roma children, in particular with regard to access to education.

Recommendations:

- The Department of Education should undertake concrete and comprehensive measures to address the structural discrimination against Traveller and Roma children, in particular with regard to access to education.
- Comprehensive data on the participation of Traveller and Roma children in education, including educational attainment of Traveller pupils in non-DEIS schools, should be collected.
- Additional supports and targeted initiatives to support the engagement of Traveller and Roma children in mainstream education should be introduced.
- Concrete measures with timelines should be published in relation to the commitments in the National Policy Framework for Children and Young People to improve educational participation and outcomes for young Travellers.

E. Children in care

Studies have shown that children in care experience barriers to participation in education.³¹ Research published by the OCO³² made a number of recommendations for improving the

³¹ Penelope Welbourne, Caroline Leeson, (2012) *The education of children in care: a research review*, *Journal of Children's Services*, Vol. 7 Iss: 2, at pp.128 - 143

³² Ombudsman for Children's Office, *Education of Children in Care in Ireland: An Exploratory Study*, 2013

educational experiences of children currently in care and young people who have already left the care system. The study highlights the need to establish a mechanism for systematically gathering data on the educational experiences of children in care in order to inform evidence-based policy making. There needs to be an explicit public policy commitment to promoting all possible educational opportunities (including access, participation, and attainment in education) for children in care.

Relevant government departments/ statutory agencies should collaborate on preparing training materials for key stakeholders, including social workers, carers, foster parents, teachers and school management, to help them deal with educational issues that can arise for children in care. Additional educational supports from social workers and care givers should be provided where required. At school-level, whole-school approaches and inclusive education should be adopted for young people in care (and other high-need groups). A flexible approach is required for education provision for children from care backgrounds reflecting an understanding that it is possible for all children in care to achieve educational success, and, furthermore, while it may take some longer than others to progress through the system, all can do so under suitable conditions.

Children in care, and their carers, need to be given opportunities to engage in decision-making processes and to express their views on matters affecting them, including issues relating to children's education, future pathways, and in the context of care planning and review. Children in care, and their carers, also need to be provided with clear information about the education and training options available to them in the education system (for example, subject choices and different types of Leaving Certificate programmes).

Recommendations:

- A joint action plan for children in care needs to be developed by relevant government departments, statutory agencies, and NGOs with responsibility for children in care. A robust collaborative and coordinated approach to supporting access, participation, and attainment in education of children in care is needed.
- At school-level, whole-school approaches and inclusive education should be adopted for young people in care (and other high-need groups).

VII. Children with special educational needs

In February 2016, the UN Committee on the Rights of the Child expressed concern that there is no comprehensive strategy for the inclusion of children with disabilities in mainstream education and the encouragement of their autonomy; and, the Education for Persons with Special Educational Needs Act 2004 has yet to be fully commenced and implemented.

The Education for Persons with Special Educational Needs (EPSEN) Act 2004 provides the statutory framework for supporting and educating children with special educational needs. Significant parts of the Education for Persons with Special Educational Needs (EPSEN) Act 2004 have not been commenced, including provisions relating to the preparation of individual education plans for children with identified educational needs. The Department

of Education should set out the measureable and concrete steps it proposes to take in order to bring into effect the statutory framework put in place by the Oireachtas over a decade ago. While the previous Government had given an indication that it intended to bring into effect aspects of the EPSEN Act on a non-statutory basis initially, it did not provide a specific timeline or commitment to bring the remaining parts of the EPSEN Act into operation.

Since the establishment of the Office, access to resources to support children with special educational needs has been one of the largest subset of complaints received by the Ombudsman for Children in relation to education. Typically, complaints have related to:

- access to resource teaching hours/low incidence special needs under the Department of Education and Skills' Circular;
- the adequacy of supports under the General Allocation Model; and
- the process for determining and assessing the level of need for supports.

In May 2013 the Office completed an investigation into the provision of resource teaching support for children with Down Syndrome. At that time, the Office made a number of recommendations to the Department to establish the adequacy of provision including the method of delivery for children with Down Syndrome and the need for arrangements to centrally monitor the impact of additional support measures. The Department advised that it had set up a working group to develop a proposal for a new model of resource allocation that will focus on allocating additional resources to children in line with their level of need rather than by disability category.

In 2014, the NCSE working group reported and the Minister for Education and Skills announced that a new model for allocating additional teacher supports to all children with special needs would be introduced. The new model to change the way resources are allocated to schools and to increase autonomy for schools in relation to determining how resources are to be allocated was piloted in 47 schools for the school year 2015/16. The OCO welcomes this pilot scheme and looks forward to seeing the learning experiences from this pilot as promised by the Department. The OCO is keen to ensure that this new model addresses the recommendations made by the working group and that it will then be implemented nationwide.

Recommendations:

- Introduce a comprehensive strategy for the inclusion of children with disabilities in mainstream education.
- The Department of Education should set out time-framed and measureable concrete steps it proposes to take in order to bring the Education for Persons with Special Educational Needs (EPSEN) Act 2004 into effect.
- Review the new model for resource teaching support for children with Down Syndrome with a view to implementing it nationwide.

Reasonable Accommodation in Examinations for Children with Special Educational Needs

In January 2016, the UN Committee on the Rights of the Child raised concerns that reasonable accommodation, such as Braille and sign language, is not provided to all children with special needs, including children with visual and hearing impairments; and, there is no

clear and objective framework, for the State party's State Examination Commission, for providing reasonable accommodation for children with disabilities in the context of State examinations.

The Committee recommended that, in the light of its general comment No. 9 (2006) on the rights of children with disabilities, Ireland establish a clear and objective framework to ensure that children with disabilities are provided with reasonable accommodation for their education needs, including in the context of State examinations.

The State Examinations Commission (SEC) came within the investigative remit of the OCO through the Ombudsman (Amendment) Act in 2012 and which was enacted at the end of April 2013. Since that time, the Office has received a significant number of complaints regarding the administrative actions of the SEC. These complaints primarily relate to decisions made regarding applications by students under the Reasonable Accommodations in Certificate Examinations (RACE) scheme.

The following are examples of some of the issues being brought to this Office:

- lack of written explanation to applicants when accommodations are refused;
- although an appeal process is offered at this stage, applicants in effect do not know what they are appealing as no explanation has been given for original decision;
- a concern amongst parents and practitioners (including some educational psychologists) that the school-based assessment test does not fully measure the nature of many young peoples' learning difficulties, particularly children with difficulties such as Dyslexia, Dyspraxia and Dyscalculia; and
- a concern about the impact of the RACE scheme on children with dyslexia who are in the above average intelligence bracket and who do not meet the criteria for the scheme.

This Office notes that many of the concerns being raised by parents could be partially addressed by a more open and transparent process and clearer communications at an earlier stage in the process. We recommended that the SEC provide a clear written rationale to applicants when a decision is being communicated. It is also a central tenet of natural justice that in advance of an appeal, the appellant should know the basis of the decision which he or she is allowed appeal against. Complaints to this office and recent judicial review proceedings in the High Court³³ have confirmed that the provision of a rationale for SEC decisions is still not in place.

Recommendations:

- The system of school-based assessments should be reviewed.
- The framework for providing reasonable accommodation for children special educational needs in the context of State examinations should be reviewed with a view to ensuring that a comprehensive and transparent system is in place which complies with fair procedures.

³³ Deehan v Blain & Others, Unreported, High Court, April 2016.

VIII. The need for reform of the education legislative framework

A. Education (Admission to Schools) Bill 2015

The majority of schools in Ireland (94%) are still denominational and publically funded. Schools have an exemption under equality legislation as regards their admission policies. Where the school is an environment that promotes certain religious values, the school may admit students with a particular religious denomination in preference to others. Schools may also refuse to admit, as a student, a person who is not of that denomination where it is proved that the refusal is essential to maintain the ethos of the school. This feature of the current system for school admissions has not been addressed in the proposed Education (Admission to Schools) Bill 2015. In January 2016, the Committee on the Rights of the Child recommended that Ireland *'expeditiously undertake concrete measures to significantly increase the availability of non-denominational or multi-denominational schools and to amend the existing legislative framework to eliminate discrimination in school admissions, including the Equal Status Act'*.

The OCO provided advice on the then General Scheme of the Education (Admission to Schools) Bill 2013. The Office broadly welcomed the General Scheme and noted that it addressed many of the concerns previously expressed by the Office to the Department of Education and Skills and to the Oireachtas in respect of matters such as consistency between admission policies; transparency in admission procedures; communication of reasons for refusal to parents; soft barriers to enrolment; and central oversight of cases in which children cannot access a school place. The Office's advice, which was informed by our investigatory work and Ireland's international human rights obligations, focused on a number of areas in which we were of the view that the legislation could be enhanced to serve the interests of children. The areas in question concerned admission and oversubscription criteria; appeals mechanisms; and oversight and monitoring.

The OCO welcomes that the Education (Admission to schools) Bill 2015 has addressed a number of the concerns raised in this Office's advice on the General Scheme. Specifically, we welcome:

- the exclusion from the Bill of a provision contained in the General Scheme as regards the proposed power of schools to refuse admission on the basis of the opinion of the HSE or An Garda Síochána in relation the effect of admitting particular children on the safety of other students;
- the retention in the Bill of the competence of section 29 appeals committees to consider appeals relating to enrolment; and
- provisions under 66(2)(c) and (d) and under 66(4)(b) and (d) of the Bill requiring the National Council for Special Education and the Child and Family Agency respectively to have regard to the wishes of the child and the child's best interests when designating a school for the child concerned.

In a number of other important areas, the concerns and corresponding recommendations of this Office have not been addressed by the 2015 Bill to the extent that they could have been. In particular:

- In respect of the past pupil criterion, the OCO recommended that the possibility of obtaining a derogation with respect to the past pupil criterion should be removed. As the Office highlighted in its advice on the General Scheme (paras. 3.9 to 3.13), this criterion is problematic because it can give rise to instances of indirect discrimination against particular groups of children.
- In our advice on the General Scheme, the OCO also recommended that section 7 of the Equal Status Act 2000 should be amended to provide that no child should, in general, be given preferential access to publicly-funded education on the basis of their religion, subject to a derogation that may be granted to a denominational school where the operation of this principle gives rise to a situation in which a school's student body may no longer reflect the school's denominational character (paras 3.14 to 3.28).

In view of the State's obligations under the UN Convention on the Rights of the Child, the Office would recommend an approach to resolving these matters that prioritises children's rights and dignity and that takes full account of two general principles of the Convention, namely: children's right to be protected from all forms of discrimination (Article 2) and to have their best interests treated as a primary consideration in all actions concerning them, including the actions of legislative bodies and administrative authorities (Article 3).

In accordance with the OCO's advice on the General Scheme, we would also encourage clarification within the legislation as regards:

- the capacity of the NCSE and the Child and Family Agency to make designations where a school has ceased to admit pupils to a particular class; and
- a specific timeframe within which a Patron must comply with the direction of the Minister, failing which an independent person will be appointed.

The OCO would encourage the Department of Education and Skills to take a systematic approach to gathering data on the operation of schools' enrolment policies in order to facilitate a rigorous evaluation of the impact of the proposed legislation.

Recommendations:

- Amend the Education (Admission to schools) Bill 2015 and the Equal Status Act to eliminate discrimination (direct and indirect) in school admissions, having regard to the issues raised above.
- undertake concrete measures to significantly increase the availability of non-denominational or multi-denominational schools.

B. Complaints-handling in the education sector

Article 4 of the Convention requires States to undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognised in the Convention. The Committee on the Rights of the Child has made it clear that rights are not effective without measures being taken to enforce them and to offer redress where they have been violated. In particular, it has recommended that States need to give particular attention to ensuring that there are effective, child-sensitive procedures available to

children and their representatives to challenge rights violations. According to the Committee, these should include the provision of *'child-friendly information, advice, advocacy ... and access to independent complaints procedures ... with necessary legal and other assistance.'*

The complaints-handling structures in the education sector are incomplete. It was originally envisaged that in order to bring about higher standards and consistency in schools' complaints handling practice, the Minister for Education and Skills would prescribe procedures for schools to deal with grievances raised by students or their parents, as well as the remedial action to be taken in response to those grievances. These provisions never came into operation. This has been a matter of concern to the Ombudsman for Children's Office for many years, as many of the education-related complaints examined by the Office highlight difficulties with the handling of complaints in individual schools. The Government has indicated that it intends to replace the relevant section of the Education Act 1998 with a provision underpinning the creation of a Parent and Student Charter. The precise scope of this new provision is not yet known.

The OCO continues to receive complaints that relate to the handling of allegations of inappropriate professional conduct of teachers and school staff. The OCO is specifically precluded from looking at allegations of professional misconduct. However, at present there is no alternative avenue of redress for complaints as Part 5 of the Teaching Council Act (2001) has yet to be commenced. This is a serious concern for the Office and is an issue that the OCO has highlighted with successive Ministers for Education and the Oireachtas. The previous Government had indicated that it intended to bring this legislation into effect later in 2015. It is the continued position of the OCO that Section 5 must be commenced without any further delay.

The prolonged and continuing absences of these parts of the architecture for handling complaints in the education sector represents a barrier to ensuring that where grievances arise, they are dealt with in as swift, appropriate and fair a manner as possible. The State should ensure that a comprehensive and consistent complaints-handling framework is put in place in the education sector.

Recommendations:

- Introduce a comprehensive and consistent statutory complaints-handling framework within the education system.
- Ensure that children, as well as parents, have access to the complaints procedures, having regard to their evolving capacity.

C. Proposed Ombudsman for Education

This section above has highlighted particular issues in relation to the absence of an effective local complaints mechanism within the education system. Rather than solving this issue, establishing an Ombudsman for Education with legally binding powers will only exacerbate the problem by adding another legal layer to a system without addressing the underlying systemic problem. It will inevitably result in significant legal costs for schools and for parents and also raise issues around equality of access. A more effective solution would be to put a

robust statutory complaints mechanism in place and to empower boards of management to handle complaints in a child-friendly manner. This is the type of systemic work which the OCO can play a role in terms of our statutory remit to encourage public bodies to develop policies, practices and procedures which are designed to promote children's rights and welfare.

The largest category of complaints dealt with by the OCO are in relation to education (47% in 2014). These queries do not solely relate to schools but include the entire education sector, including for example the National Council for Special Education and the State Examinations Commission. In addition to examining and investigating complaints, the Ombudsman for Children has a complimentary statutory remit which is broadly concerned with promoting and monitoring the rights and welfare of children. The different statutory functions of the OCO inform and support each other. Work in accordance with one particular function may trigger complimentary work under a different function. Some complaints can involve a number of different issues, including education, across a number of different agencies. The establishment of an Education Ombudsman would undermine the ability of this office to work strategically across the different statutory functions. It may also weaken the ability of the OCO to examine complex complaints that often involve a number of issues, of which education is just one component. For example, a complaint may involve Tusla, the HSE and the Department of Education.

The essential element of ombudsman-ship is to work on the element of encouragement and to provide an alternative to court proceedings. The OCO is a free alternative to court and offers an impartial and fair assessment and resolution to issues and concerns. We respect local complaints procedures and seek at all times to promote the resolution of complaints at a local level. The Office also endeavours to achieve systemic change through our complaints and investigations function by considering the root causes of complaints we receive. Three quarters of complaints concerning education are in relation to individual schools. In these cases, the office strives for local resolution, working with children, parents and boards of management. In the vast majority of cases, this leads to fast and effective resolution and this is in the best interests of children. The impartial role of the OCO in dealing with these complaints is a very powerful agent for change and the OCO has been very effective in making encouraging suggestions in relation to changing policies and procedures at school board of management level.

IX. Mental Health and Wellbeing in Schools

A recent report by the National Disability Authority raised questions over the extent to which children and young people experiencing emotional and mental health difficulties receive adequate social and personal support. The report stated that this raised issues for schools, particularly the need to identify and support young people experiencing these difficulties and attempt to counter potential social isolation among them.

The recommendations made by the National Council for Special Education from the 2012 report in relation to the Education of Students with Challenging Behaviour arising from Severe Emotional Disturbance/Behavioural Disorders should be progressed. However, the

Department should take account of the findings of the NDA report which stated that: *In Ireland, the DES resource allocation system classifies this group of children and young people as having an “Emotional/behavioural disturbance” with little clear understanding of what distinguishes those with emotional difficulties and those with behavioural problems. It may be that appropriate provision for this group of children and young people cannot be realised until the distinction is made between emotional and behavioural difficulties. The removal of disability categories highlighted in the proposed new model of SEN funding might go some way in addressing these issues (NCSE, 2014).*³⁴

In recent years there has been a considerable growth in national and international research on mental health in schools.³⁵ International evidence based research demonstrates that school based mental health promotion programmes, when implemented effectively, can lead to long term benefits for young people by improving social and emotional functioning and improved academic performance.³⁶ International systematic reviews of mental health promotion programmes have shown that comprehensive programmes that target multiple health outcomes in the context of a coordinated whole-school approach are the most consistently effective strategy.³⁷

Research shows that mental health promotion programmes can be effective in equipping people with the skills necessary to avoid or deal with mental distress.³⁸ Evidence from systematic reviews supports the effectiveness of universal mental health promotion programmes in schools that take a whole school approach, involving staff and students, the wider school environment and local community.³⁹ This approach moves beyond the individual, classroom and curriculum focus and takes a multi-component approach which mobilises the whole school as an organisation.

The OCO welcomes the publication of the Department of Education Guidelines on Wellbeing in Primary Schools and Wellbeing in Post-Primary Schools and the fact that both sets of guidelines reference the promotion of a whole-school approach. However, schools will need guidance and support to set up the structures required to implement a whole school approach to mental health and well-being. There is a need for protocols for inter-agency work between schools and mental health services to be developed by the Department of Education together with the HSE. Support structures will also need to be established so that schools have access to professional expertise in relation to students with more complex mental health needs or for students in a crisis. There is also scope for the incorporation of well designed, evidence-based social and emotional learning programmes across early learning and primary school settings.

³⁴ National Disability Authority, (2015) *Insights into the Lives of Children with Disabilities, Findings from the 2006 National Disability Survey*

³⁵ Weare, K. and Nind, M. (2011) Mental health promotion and problem prevention in schools: what does the evidence say? Health Promotion International, Vol. 26; Clarke & Barry, 2010.

³⁶ Clarke, A., O’Sullivan, M. & Barry, M., (2010). Context matters in programme implementation Health Education, Vol 110 (4), pp.273-293.

³⁷ Jané-Llopis, E., Barry, M., Hosman, C. and Patel, V. (Eds.) (2005) The Evidence of Mental Health Promotion Effectiveness

³⁸ Oireachtas Library & Research Service (2012) *Well-Being: promoting mental health in schools*. Available at: http://www.oireachtas.ie/parliament/media/housesoftheoireachtas/libraryresearch/spotlights/spotWellbeing280212_101701.pdf

³⁹ Wells, J., Barlow, J. and Stewart-Brown, S. (2003) *A systematic review of universal approaches to mental health promotion in schools* Health Education, Vol. 103 No. 4, pp.18

Training on mental health promotion, mental health issues, and behavioural management should be provided to all teachers and included in teacher training curriculum. Greater co-ordination between health and education providers in the design and delivery of such training would be beneficial.

Recommendations:

- Review the recommendations made by the National Council for Special Education from the 2012 report in relation to the Education of Students with Challenging Behaviour arising from Severe Emotional Disturbance/Behavioural Disorders with a view to making a distinction between emotional and behavioural difficulties and adapt the recommendations in accordance to these distinct needs.
- Provide guidance and support to schools in order to set up the structures required to implement a whole school approach to mental health and well-being and in order to enable access by schools to professional expertise in relation to students with more complex mental health needs or for students in a crisis.
- Develop, together with the HSE, protocols for inter-agency work between schools and mental health services.
- Incorporate well designed, evidence-based social and emotional learning programmes across early learning and primary school settings.
- Provide training on mental health promotion, mental health issues, and behavioural management to all teachers and include this type of training in the teacher training curriculum.

X. Bullying

A significant minority of complaints made to the OCO annually relate to education and the issue of how peer-bullying among children is dealt with in and by schools.⁴⁰ In addition to dealing with complaints in this area, the OCO undertook a consultation with over 300 children during 2011 and 2012 to ascertain their views on how schools might deal effectively with bullying.⁴¹ This consultation was conducted in order to facilitate due consideration of children's viewpoints by relevant stakeholders and in the context of work to develop a new Action Plan on Bullying and new Anti-Bullying Procedures for Primary and Post-Primary Schools.

Published by the Department of Education and Skills in September 2013, the new Procedures set out a monitoring framework, which includes a requirement for schools to undertake an annual review of their anti-bullying policies and an increased focus by the Department of Education and Skills' Inspectorate on the actions schools take to create a positive school culture and to prevent and tackle bullying. However, no agency is tasked with examining schools' annual reviews or any trends or anomalies that may emerge from them. As a result, it is not clear how the State will fully track progress at a national level in relation to how different forms of bullying are being tackled in schools. The OCO believes

⁴⁰ Ombudsman for Children's Office, *Annual Report 2013*, (Dublin: OCO, 2014)

⁴¹ Ombudsman for Children's Office, *Dealing with Bullying in Schools: A Consultation with Children and Young People*, (Dublin: OCO, 2012)

that undertaking such a review would strengthen the framework in place for ensuring that the Procedures are being properly implemented.

Recommendation:

- The Department of Education should build on the monitoring framework contained in the Anti-Bullying Procedures for Primary and Post-Primary Schools by examining schools' annual reviews of their implementation of the procedures.

XI. Safe and Effective Participation in Digital and Social Media

The first phase of the National Digital Strategy (2013)⁴² committed to utilise ICT to its full potential across the education system including the use of the internet in learning. Actions in this area included new research on the nature and extent of children's internet and social network use including issues of internet risks and safety for young people. This research was published in 2015 and according to the Net Children Go Mobile: Full findings from Ireland report:⁴³

- One in five children (20%) report that they have been bothered by something on the internet in the past year, a figure which has more than doubled since 2011.
- Cyber bullying is now more prevalent than face-to-face bullying (13% now compared to 4% in 2011), and this occurs most commonly on social networking services (SNS).
- As regards other risks, children now encounter more negative user-generated content than in 2011 (from 12% to 16%). However, this is much lower than the European average of 25%.
- Bullying is still the most harmful risky experience: 17% of children (out of 22%) who have been bullied on - or offline claim they have been 'very' or 'a bit' upset.
- With regard to teacher mediation, in many ways teachers are as supportive as parents helping with and providing guidance about the internet. Compared to 2011, there is an increased level of teacher support across different types of mediation. In comparison to other countries, Irish teachers still do considerably more than the European average (89% vs. 69%).

The OCO welcomes the commitments in the National Policy Framework for Children and Young People 2014-2020 to increase the digital literacy of young people and to build their skills and understanding about being safe online. DES, in partnership with others, has specifically committed to:

- continue to develop, evolve and implement curricula in the education system and to support initiatives in out-of school settings, to teach children knowledge and skills relating to information management, new technologies, coding and digital literacy; and
- support and link existing partnerships, strategies and initiatives that aim to improve the decision-making capacity of children and young people through

⁴² Available at:

<http://www.dcenr.gov.ie/communications/Lists/Publications%20Documents/National%20Digital%20Strategy%20July%202013%20compressed.pdf>

⁴³ Available at: <http://www.webwise.ie/news/netchildrengomobile2015/>

strengthening self-esteem, resilience, responses to social and interpersonal pressure, health and media literacy (including social media literacy).

Recommendations:

- The Department of Education should take a participative approach to the development of policy in this area by consulting children and young people on the challenges which they face in relation to social and digital media.
- Strong collaboration between relevant stakeholders and education partners is essential to ensure safe and effective participation in social and digital media by children and young people, including preventive measures required. A whole school approach at school level needs to be supported by a system-wide response.

XII. Sexual and Reproductive Health Education

The government committed, in its National Policy Framework for Children and Young People 2014-2020, to implement a National Sexual Health Strategy as a strategic framework for the sexual health and wellbeing of the population, ensuring access for young people to age-appropriate information and services about relationships and sexual health. The strategy has identified shared responsibility for this objective between three governmental departments: Health, Education and Children and Youth Affairs.⁴⁴

The National Sexual Health Strategy 2015-2020 was published in October 2015 and while it is a positive development, it is not adolescent-specific as recommended by the UN Committee. In its 2016 Concluding Observations, the UN Committee on the Rights of the Child recommended that Ireland adopts a comprehensive sexual and reproductive health policy for adolescents and ensure that sexual and reproductive health education is part of the mandatory school curricula and targeted at adolescent girls and boys, with special emphasis on preventing early pregnancy and STIs.

This was reiterated in recommendations made by the Human Rights Council 25th Session of the Working Group on the Universal Periodic Review of Ireland in May 2016 (recommendations made by Lithuania and New Zealand). The Irish Government committed to examine these recommendations and provide responses no later than September 2016 to the 33rd Session of the HRC.

The National Health Strategy makes specific recommendations to the Department of Education regarding sexual health education for children and young people, including to:

- Ensure that all young people will have continued access, and knowledge of how to access, age-appropriate sources of trustworthy and accurate information and support on relationships and sexual health. This is to be achieved in partnership with the Department of Children and Youth Affairs, the HSE, NGOs and Youthreach.

⁴⁴ *Better Outcomes, Brighter Futures, The National Policy Framework for Children and Young People 2014-2020*, at p. 58.

- Evaluate State-funded relationship and sexuality education programmes, within available resources, with input from stakeholders, including the Department of Health, the HSE, children and young people representatives, and NGOs.⁴⁵

The Department of Education should also have regard to a report on the Sexual Health and Sexuality Education Needs Assessment of young people in care in Ireland published in March 2016, which found that there was a very strong shared sense that good sexual health and Relationships and Sexuality Education (RSE) needed to be underpinned with emotional security, stability and self-esteem, along with social competence to safely negotiate sexual encounters.

Although in theory Relationships and Sexuality Education (RSE) has been mandatory since 1996, in practice each school has the discretion to develop its own RSE policy in accordance with its own ethos. In addition to this, the policy is subject to the approval of the board of management of the school. This leads to a significant inconsistency in the delivery of the RSE programmes throughout the country's schools. It would be useful to consult with children and young people around their experiences of the RSE curriculum and in relation to what they would consider helpful in terms of curriculum content and delivery. Parents should also be consulted in this regard.

Recommendations:

- Children and young people should be consulted on their experience of RSE in schools. Parents should also be consulted in relation to their needs with regard to supporting the education of their children in the area of relationships, sexuality and sexual health.
- A single consistent curriculum for relationships and sexuality education should be developed and introduced across all schools. The standard curriculum should include sexual and reproductive health education at post-primary level. This curriculum and its delivery should be regularly evaluated.

⁴⁵ *National Sexual Health Strategy 2015-2020*, at p.36-38.