

# Let's get it **right** !!!

A rights-based vision  
for children in care

March 2026



ombudsman  
do leanaí  
for children

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# Glossary

**Alternative care:** The State provision of care for children and young people who cannot, for a variety of reasons, remain in the care of their parent(s) or legal guardian(s). This term is used to refer to all children in foster, residential, and ‘other’ care settings. The Child and Family Agency, Tusla, has a statutory obligation to provide alternative care services in Ireland.

**Aftercare:** Supports provided to young people who have left care after turning 18. This may include in-person support, individual plans, and/or financial assistance. In accordance with the Child Care Act 1991, Tusla is obliged to prepare an aftercare plan for all eligible young people who have been in its care for a period of 12 months or more.

**Child Care Act 1991:** This is the primary piece of legislation that informs how alternative care services are provided and regulated in Ireland. In 2017, the Department of Children and Youth Affairs (now the Department of Children, Disability and Equality) commenced a review of the 1991 Act.

**Child Care (Amendment) Bill 2025:** This is the second piece of legislation resulting from the review which commenced in 2017. The first, the Child Care (Amendment) Act 2024, dealt primarily with early years’ service, subsidies and regulation, and was signed into law in July 2024. The Child Care (Amendment) Bill was published in December 2025.

**Foster care:** Foster care is the most common alternative care arrangement in Ireland. It is designed to provide a safe and nurturing family environment for children in the care of the State. Foster care can be provided by relative foster carers (normally someone with whom the child or their family has had a relationship) or general foster carers, for varying periods of time. Foster care in Ireland is governed by the Child Care (Placement of Children in Foster Care) Regulations 1995 and the National Standards for Foster Care 2003.

**Guardian Ad Litem:** A Guardian ad Litem (GAL) is an independent, court-appointed professional who represents a child's best interests, wishes, and feelings in legal proceedings, ensuring their voice is heard in complex family situations, particularly care cases.

**Interim care order:** In accordance with section 17 of the 1991 Act, a District Court Judge can grant an interim care order, requiring that a child whose health or welfare has been or is being avoidably impaired or neglected, be cared for by Tusla for a period not exceeding 29 days, without the consent of the parent or the person acting in loco parentis.

**Kinship care (informal and formal):** When a child or young person can no longer live with their parents or legal guardians, they may end up living full-time with relatives or family friends. This is called kinship care. These arrangements are often informal and are therefore not regulated or reviewed in the same way as state-supported care placements. Children placed with relative foster carers, are said to be in formal kinship care.

**Residential care:** Where an appropriate foster care placement cannot be found, a child will be placed in a residential care centre. Residential centres can be run by Tusla, a voluntary, or private agency. The regulations for running a residential centre are laid out in the Child Care (Placement of Children in Residential Care) Regulations 1995 and the National Standards for Children’s Residential Centres 2001.

**Signs of Safety:** This is Tusla's national child protection framework, a collaborative approach involving families, children, and professionals, focusing on strengths and worries.

**Special care:** A form of residential care that temporarily deprives a child of their liberty, subject to a Special Care Order (SCO) through the High Court. Whilst it is intended as a measure of last resort, due to multiple crises in the sector, it often functions instead as a long-term ‘holding facility’ for children with complex needs.<sup>1</sup>

**Special Emergency Arrangements (SEAs):** These are care arrangements for children, often with complex needs, that operate outside of Tusla’s ordinary placement and procurement mechanisms. They are not subject to inspection by the Health Information and Quality Authority (HIQA). Sometimes also called ‘non-procured bespoke placements’, they typically take place in rented houses or apartments, hotel rooms, or B&B accommodation.

**Stepdown facilities:** Onward placements for children leaving special care. These placements are sometimes called ‘high support units’, referring to the higher staff ratio, therapeutic input, and/or restrictions on the child’s movement/communication.<sup>2</sup> Inspection reports published by HIQA have found that a lack of appropriate stepdown facilities poses ‘massive risk’ for children in special care.<sup>3</sup>

**“Tell Us”:** This is Tusla’s complaint handling mechanism.

**Voluntary care:** This is a care arrangement whereby the parents or legal guardians agree for their child or children to be cared for by Tusla. With reasonable notice a parent can remove their consent for voluntary care. Voluntary care arrangements are provided for in section 4 of the 1991 Act.

# Foreword

There are almost 6,000 children in care in Ireland. That's 6,000 young lives whose futures are on the line and who in many cases the State has said it can do a better job taking care of them. But despite the best efforts of the hard-working and dedicated staff across the sector, the system as it stands, is broken for many children. Over the years our Office has come into contact with children in care whose rights have at a minimum not been upheld, and in some cases, severely violated. There have been too many news stories and media reports over the years where children in care have been let down by the State. Our Office is also very concerned by the many high-profile cases in recent years where the outcomes have been tragic for children and families who were known to Tusla. We have seen members of the judiciary speak out repeatedly about the urgency of the situation for many children in care. It is deeply concerning that judges have had to continuously hold Tusla to account for its failing in its statutory duty to children.

Our report highlights that Tusla is consistently underfunded and has an estimated annual shortfall of €100 million between their budgetary asks and what they received each year. We have to ask why an agency whose job it is to keep children safe, cared for and have their rights protected would ever be denied these vital funds. This is a serious dereliction of duty by a State that also says it wants Ireland to be one of the best places in Europe to grow up.

It is not only judges that are worried. I have heard from social workers, social care workers and Guardian ad Litem about their real fear for the welfare of these children. But too many times, these calls have gone unanswered. Again we have to ask ourselves, how we have fallen so far as a country that we appear unable to provide a highly vulnerable child, in the care of the State, with a safe and stable place to live? Like for every child, whether they are in care or not, childhood experiences can last a lifetime. Their experiences can have a profound and long-lasting effect and go on to shape their futures as adults.

However, we believe that there is a way forward and that a system that protects, respects and fulfils the rights of all children in care is possible.

We are writing this report to not only highlight the issues across the various parts of the care system, but to present a rights-based vision for the future of the care system. Ireland is at pivotal time to make once in a generational change to our care system with the first ever Alternative Care Plan and review of 25-year-old legislation underpinning child protection in Ireland.

We highlight some of the stories of the children we have come into contact with over the years and whose experiences while jarring and deeply upsetting, are not uncommon. These children have overcome so much in their short lives and when the State steps into the role of parent – it has to do its very best for them. Enough is enough; Let's get it right.

**Dr Niall Muldoon**

*Ombudsman for Children*

# Executive Summary

## Why this report?

The care system in Ireland is broken for many children. As it stands it is not operating in the best interests of children, and it is our experience that the care system is where the most profound breaches of all children rights are found.

In this report, we highlight the current challenges, informed by the experiences of young people in contact with our office, and set out a rights-based vision for the care and child protection system. The children and young people's experience of the care system outlined in our report are just a sample of some of the real-life experiences of children in care in Ireland, and while they paint a stark picture, the issues identified are not insurmountable. The report makes a number of recommendations that we hope the Government will take on board in its new Alternative Care Plan.

Children and young people who grow up in the care of the State have a right to the same life chances as all children and young people in Ireland. We believe that a system that fully upholds children's rights is possible and hope that the stories of children presented in this report will be a strong and urgent call to action for the State to meet its obligations to respect, protect and fulfil their rights.

## What are the key challenges?

The current challenges in the system are continually highlighted not only by the OCO, but also by the judiciary, HIQA, frontline social workers, the Child Law Project and NGOs. The challenges include the acute shortage of appropriate care placements; a lack of investment in prevention and family support services; the lack of interagency collaboration; insufficient supports and safeguards for unaccompanied children; the repeated failures of special care and the placement of vulnerable young people in unregulated settings.

For many years the OCO has raised significant concerns about the care system and last year, 19% of all complaints to the OCO related to Tusla, the Child and Family Agency. We have a range of concerns about the care and child protection system arising from our work:

- a lack of trauma-informed therapeutic support for children in care.
- inadequate provision of appropriate supports for children with disabilities in care.
- provision for young people who have fallen through the cracks of state services and are at risk of exploitation.

- an increase in the number of children under 12 placed in residential care.
- a lack of data on the number of children being cared for in informal kinship care arrangements and inadequate State supports and appropriate oversight for these arrangements.
- a shortage of social workers and difficulties in recruiting and retaining staff in social care settings.
- the extent of the State’s reliance on private providers of alternative care and a lack of resourcing to support voluntary and publicly provided care.
- the number of children and young people in unregulated care settings.
- inadequate provision and support for unaccompanied children.

## **What are the experiences of children and young people?**

In 2024, our Office received 327 complaints relating to children known to, or in the care of Tusla. Those complaints were primarily about the inadequacy of supports and planning required to address their needs.

In this report we have included six stories of children and young people in contact with our Office that highlight a number of those issues. We have given those children pseudonyms to protect their identities. The reality for those children is that they have not received the care and protection that they are entitled to. Poor communication and the lack of a joined up and coordinated approach to their needs underpin these complaints, resulting in a failure to uphold their rights.

We hear two separate stories of two 15 -year-old girls, Jasmine and Kate, who, while in Tusla’s care, were accommodated in unapproved and unregulated settings. During that time both were exposed to substance misuse, violence and other criminal behaviours and both subsequently reported being sexually assaulted. The report shares the story of 9-year-old, Paul, who along with his siblings and following the tragic death of their parents were placed with different relatives without any interventions or supports. We describe the experiences of Chidera, a 17-year-old in care, who has had to fight repeatedly for contact with her younger sisters. We share Luke and Arron’s story, brothers aged 4 and 5 years, whose residential placements were not deemed appropriate to their assessed needs. And, James, who at 15 years of age was placed in a special care unit, where he remained for three years as no appropriate step-down placement could be found.

## A rights-based vision for children in care

The OCO believes that Ireland can create a system of alternative care that upholds children's rights and promotes their wellbeing. To achieve this, we must continue to provide and support family-based care, while ensuring the public provision of high-quality alternative care options with robust oversight. Much of this hinges on interagency cooperation and collaboration to support the delivery of holistic support to children.

The powerful accounts of the children and young people who have shared their experiences of care in this report highlight the importance of the right of the child to have their views heard and taken into account. It is important that children with care experience are listened to and properly considered by Government in formulating solutions.

### In this report we make recommendations across eight key areas:

- 1. Make children in care a priority across Government** by adequately resourcing Tusla and setting a budget line to implement the new National Alternative Care Plan. Mandate that progress on key actions are reported to the Cabinet Sub-Committee on Children and Education and the Oireachtas Committee on Children.
- 2. Put children's rights at the centre of the system** by fully and directly incorporating the UNCRC into domestic law. Recognise children in care as rights holders in policy and law and include child rights impact assessments in the framework for integrated social impact assessments.
- 3. Support and prioritise family-based care and early intervention** by investing in early intervention and prevention services, increasing support for foster carers and recognising kinship carers.
- 4. Invest in high quality publicly provided residential care** by developing a funded 5-year action plan to increase State and voluntary provision, banning unregulated settings and prohibiting the placement of children under 12 in residential care.
- 5. Make special care fit for purpose** and compliant with children's rights by implementing the recommendations of the External Group on Special Care and making sure that special care is not to be used as a long-term holding facility for children with complex needs.
- 6. Build in special protection measures for children** at greatest risk of rights violations by making explicit provision for the rights and specific needs of unaccompanied children seeking international protection. Address the current gap in the provision and coordination of supports and services to children with disabilities in foster care through legislative, regulatory, policy and/or budgetary means.

7. **Strengthen aftercare support** by placing it on a statutory footing, extending to 26 years of age and removing the discrimination in the allocation of aftercare services based on progression in further and higher education.
8. **Realise a child's right to be heard** across the continuum of care by ensuring that the courts, legal professionals and parties are given adequate information, support and training on how to implement this requirement. Provide a statutory right to an independent advocate and child friendly information in the Child Care (Amendment) Bill 2025.

# 1. Introduction

The care system in Ireland is broken for many children. As it stands it is not operating in the best interests of all children, and it is our experience that the care system is where the most profound breaches of children rights are found. Deciding to take a child into the care of the State is a monumental decision and by doing so the State is saying ‘we can do better for this child’. In many cases the State is failing to meet this fundamental objective, and in some instances, children are being exposed to greater risk. For many years the OCO has been raising serious concerns about the care system in Ireland. At the same time there have also been numerous high-profile cases where children in the care of the State have died or suffered serious harm. This is not a simple problem to solve.

At the end of 2025, there were 5,879 children in Ireland in care, including 150 children under the Service for Separated Children Seeking International Protection.<sup>4</sup> 86% of those children were in foster care (3,545 general foster care and 1,513 in relative foster care), with 10.4% in residential care (609 general residential care and 15 special care) and 3.6% in other care arrangements.<sup>5</sup> In February 2025, 128 children were placed in unregulated settings or Special Emergency Arrangements (SEAs) and 68% of those were unaccompanied children seeking international protection.<sup>6</sup>

In this report, we highlight the current challenges, informed by the experiences of young people in contact with our office, and set out a rights-based vision for the care and child protection system. We make recommendations to strengthen the Child Care (Amendment) Bill as it passes through the Dáil<sup>7</sup> and to inform the development of the new National Alternative Care Plan by the Department of Children, Disability and Equality. It is vital that there is a joined-up approach to this work with a strong children’s rights basis for legislative reform and policy development. Fundamentally, we need to ensure adequate resources are available to Tusla to carry out their work effectively.

The experiences of children and young people presented in our report are just a sample of some of the real-life experiences of children in care in Ireland, and while they paint a stark picture, the issues identified are not insurmountable. We believe that a system that fully upholds children’s rights is possible and hope that their stories will be a strong and urgent call to action for the State to uphold its obligations to respect, protect and fulfil those rights.

For many years the OCO has raised significant concerns about the care system<sup>8</sup> and last year, 19% of all complaints to the OCO related to Tusla,<sup>9</sup> and we have a range of concerns about the care and child protection system arising from our work:

- a lack of trauma-informed therapeutic support for children in care.
- inadequate provision of appropriate supports for children with disabilities in care.<sup>10</sup>
- provision for young people who have fallen through the cracks of state services and are at risk of exploitation.<sup>11</sup>
- an increase in the number of children under 12 placed in residential care.
- a lack of data on the number of children being cared for in informal kinship care arrangements and inadequate State supports and appropriate oversight for these arrangements.
- a shortage of social workers and difficulties in recruiting and retaining staff in social care settings.
- the extent of the State's reliance on private providers of alternative care and a lack of resourcing to support voluntary and publicly provided care.
- the number of children and young people in unregulated care settings.
- inadequate provision and support for unaccompanied children.

These problems are set within the context of increased pressure on the child protection system. The number of referrals to Tusla have increased significantly in the past four years. In 2019, over 56,000 referrals were made<sup>12</sup> compared to over 106,000 in 2025.<sup>13</sup> While HIQA states it is not possible to determine key factors driving the increase,<sup>14</sup> Tusla have pointed to contextual factors such as cost-of-living challenges, post-Covid surge in notifications, rising homelessness, domestic violence, addiction, and more children arriving unaccompanied to Ireland.<sup>15</sup> Tusla is now operating a triage system, prioritising children experiencing the highest risk of abuse and neglect.<sup>16</sup>

While our Office meets the children who have been failed by the system, many more children have positive experiences in care and are given all the necessary supports to grow, develop and thrive. Others are provided with early interventions and family support that prevents them entering the care system in the first place. This is a testament to the dedication and perseverance of staff across Ireland who work in the care system. However, children in alternative care are among the most vulnerable groups of children in Ireland. They experience significant barriers to the full enjoyment of their rights under the UN Convention on the Rights of the Child (UNCRC), including unsafe living conditions, not being heard in decisions that impact their lives, a lack of best interest assessments when decisions are made, and difficulties accessing education and healthcare.

Article 20 of the UNCRC places a specific duty on the State to provide special care and protection for all children unable to live with their families. Children and young people who live in the care of the State have a right to the same life chances as all children and young people in Ireland. They have faced difficult childhoods experiencing periods of instability and insecurity; many have had their education disrupted and their health needs neglected. For these reasons, children in care require the full support of services to enable them to achieve a good education, emotional stability and security in their placement. They have the right to be fully prepared for a successful adult life, but despite the best efforts of every individual working with children, the system is failing to uphold children's rights across the continuum of care.

Change is needed, and it is needed urgently. A better system is possible, but it needs resources, strong leadership and greater accountability, with children's rights at its centre.

## 2. Current Challenges

The current challenges in the system are continually highlighted not only by the OCO, but also by the judiciary, HIQA, frontline social workers, the Child Law Project and NGOs. The challenges include the acute shortage of appropriate care placements; a lack of investment in prevention and family support services; the lack of interagency collaboration; insufficient supports and safeguards for unaccompanied minors; the repeated failures of special care and the placement of vulnerable young people in unregulated settings.

A pattern emerges when we examine key statistics from Tusla over the past 10 years – a decline in foster care placements, an increase in children in residential care and a significant increase in the private provision of care as illustrated in Table 1.

**Table 1: Tusla statistics – 2015 vs 2025**

	2015	2025	% change
<b>No. of children in Ireland (0-17)<sup>a</sup></b>	1182821	1229603	+3.5
<b>No. children in care</b>	6384	5879	-7.9%
<b>Foster care (all)<sup>b</sup></b>	5926	5058	-14.6%
<b>Relative care</b>	1816	1513	-18.0%
<b>Private foster care</b>	308	609	+98%
<b>Residential care (all)<sup>c</sup></b>	335	609	+81%
<b>Special care</b>	15	15	n/c <sup>d</sup>
<b>Private residential care (% of all residential care)</b>	175 (52%)	419 (69%)	+140%
<b>% of children in foster care</b>	93%	86%	- 7 pp
<b>% of children in private care</b>	8%	17%	+9 pp
<b>% of children with allocated social worker</b>	100%	98%	-2 pp
<b>No. child protection referrals</b>	47399	106444	+125%

All data extracted from <https://data.tusla.ie/>.

<sup>a</sup>Population figures extracted from the CSO <https://data.cso.ie/>

<sup>b</sup> includes relative foster care

<sup>c</sup> includes special care and private residential care

<sup>d</sup> the number of beds available (15) has not changed

## Insufficient resources

The OCO acknowledges the pressure the system is under – the increase in referrals coupled with a shortage of social workers and alternative care places, has hindered Tusla’s capacity to respond effectively. Child protection referrals have increased by 125% in the past 10 years. Despite a 94% increase in Tusla’s budget in that time it is still way behind on what it should be receiving to cater for demand, with a significant shortfall in the resources required to keep children safe, cared for and their rights protected.

Figures provided to the OCO on Tusla’s pre-budget estimates (2021 to 2025) illustrate the significant funding gap for a vital agency. Table 2 shows that from 2021 to 2026, Tusla only received 48% (€571m) of what they submitted in their pre-budget estimates, leaving a shortfall of €616m (approx. €100m per year or 52%). This undoubtedly compromised its ability to properly provide for the children at a time of increased workload and complexity in their work.

Factors like the impact of Covid-19 on children, the war in Ukraine and the arrival of children and families in need of support, as well as the overall increase in international protection applicants and the cost of living crisis placed further pressure on the system. During this time the number and capacity of appropriate placements for children fell, and there was also a drop in foster carer numbers. Despite this clear need for more resources, the required level of funding was not provided.

A report by HIQA published in January 2025 highlighted how increased demand and resourcing challenges have weakened Tusla’s ability to provide a timely and safe service.<sup>17</sup> It states that the prioritisation of children at immediate and serious risk of harm, meant children considered medium/low risk are not receiving the right supports at the right time. In 10 Tusla service areas, at least 25% of children had not been allocated a social worker. In a separate report, concerns were raised about the capacity to assess all child protection and welfare referrals in line with Children First (2017). This was specifically in regard to separated and unaccompanied children and the team’s ability to respond to issues arising for children accessing that service.<sup>18</sup>

**Table 2: Tusla Budget Estimates and Allocation 2021-2026**

	Estimate Ask (€M)	Allocation Received (€M)	Shortfall (%)
<b>2021</b>	71	39	45
<b>2022</b>	96	41	57
<b>2023</b>	129	72	44
<b>2024</b>	260	95	63
<b>2025</b>	305	147	52
<b>2026</b>	326	177	45
<b>Total over 6 years</b>	1,187	571	52

The direct accounts from children presented in this report highlight the importance of having an adequately and fully resourced Child and Family agency. Budgets are all about choices and this raises serious questions about the prioritisation of the most vulnerable children in the State. It shows how our budget process is not child centred, or evidence based and why we need to implement child rights budgeting. This will ensure that the Minister for Children, Minister for Finance and Minister for Public Expenditure always consider the impact on children and their rights when weighing up budgetary choices. Integrating Child Rights Impact Assessments (CRIAs) into the budget process, would ensure that fiscal decisions are compliant with obligations under the UNCRC. Despite being recommended by the UN Committee on the Rights of the Child in 2016 and in 2023, this has never been implemented. Our current crisis can be understood, in part, as a consequence of this funding shortfall.

While recognising these challenges, the additional pressures and budget deficits do not discharge the State of its obligations towards children and young people. The judiciary has repeatedly ruled that statutory obligations under the Child Care Act cannot be set aside due to a lack of resources, reinforcing that Tusla must fulfil its duties irrespective of staffing levels or budget constraints. The responsibility for addressing these issues does not solely lie with Tusla, the Department for Children, Disability and Equality and the Department of Public Expenditure must play a much more active role. The State can and must do better.

## **A lack of appropriate placements**

The Child Law Project in their 2024 report highlighted the lack of appropriate foster and residential placements for children with complex needs, breakdown in children's placement, and use of unregistered placements becoming increasingly common.<sup>19</sup> The report called for mandatory, structured inter-agency cooperation to care for and protect exceptionally vulnerable children. It also highlights the need for better supports for parents, including early evaluation of parental ability (sensitive to disability) and improvement of access to addiction services and domestic violence orders.

A 2023 report from HIQA, into services in one particular area identified that shortfalls in staffing (poor retention and recruitment of foster carers, and insufficient social work graduates) was leading to risk factors including children in care without allocated social workers and a lack of sufficient and suitable placements to meet children's needs.<sup>20</sup> The report also highlighted that a lack of oversight at national level, and the weakened ability to respond to emergencies was leading to children's rights violations. A further report from HIQA at the end of 2025, assesses the progress the service had made to address non-compliances since the previous inspection in May 2024 but found that the service was still non-compliant with all five standards.<sup>21</sup>

## **A decline in family-based care**

Ireland traditionally has a very high rate of foster-based care when compared to other European countries. While levels remain high (above 80%), there has been a seven-percentage point decrease in the proportion of children in foster care in the past 10 years (see table 1). While supports for foster families have increased more recently, a study from 2023 reported that three-quarters of foster carers surveyed said they would not recommend fostering to others, due to the lack of financial support from the State. Half (of 460 surveyed) had considered giving up due to financial strain.<sup>22</sup>

Relevant laws around kinship care are inadequate, the OCO and many other organisations have highlighted how they get little or no support from the State even though their care offers huge benefits to the State by preventing children entering care of the state, which risks violating a child’s right to be with their family.<sup>23</sup> It is welcome that the Government has recognised this gap and is developing a new policy for kinship carers.

## **A crisis in special care with a lack of step-down facilities**

The crisis in special care, which is intended to provide short-term stabilising placement for children at high risk with complex needs, is well documented. Judges have continually called out Tusla for their inability to comply with Special Care Orders, with Justice Hogan stating that orders for special care are “effectively being ignored by CFA”, due to lack of beds and in another case stated that Tusla “prevaricated and failed to perform its statutory duty” by not complying with a special care order<sup>24</sup>. Justice Hogan goes on to say that:

*“This is a tsunami about to reach shore, and nothing is being done.”<sup>25</sup>*

A lack of appropriate step-down placements means that special care risks being used as a holding facility beyond the nine-month maximum which is recommended, leading to a concern that children are becoming institutionalised.<sup>26</sup> All these issues were highlighted in the recently published report by the External Review Group on Special Care, which stated that special care has drifted from its purpose as a ‘short-term stabilising intervention’, with some children being detained up to two years. This was largely due to insufficient onward placements.<sup>27</sup>

## Failures by Tusla to uphold their statutory duties

An 18-month review of Tusla by the Court Service, found that they did not comply with 859 court directions, relating to 471 children, failing in their statutory duty. Directions related to children under care orders without social workers for more than four weeks, child-in-care reviews not taking place within statutory timelines and foster placements not being long-term matched as per timeframe directed by the court. Judge Fottrell stated:

*“This is an alarming and unprecedented situation where the agency with statutory responsibility for child protection has failed to comply with care orders on such a widespread level.”<sup>28</sup>*

## Use of inappropriate unregulated placements for vulnerable children

A report from October 2025 found that 15 companies shared €56m in payments from Tusla to run ‘special emergency arrangements.’<sup>29</sup> These placements are not regulated and the OCO has long called for them to be banned. Judge Fottrell stated that:

*“private business owners are making substantial profits out of a placement crisis in the child protection system. This is just wrong. The idea that you would have vulnerable at-risk children placed in either an apartment, a hotel room, a B&B – it’s just not suitable.”<sup>30</sup>*

Unaccompanied children are often placed in unregulated settings, and the judiciary has repeatedly stated their concerns about their ongoing use for children in care. In November 2025, the guardian ad litem for two child asylum seekers, sought a review of the circumstances in which they were placed in a special emergency arrangement under section 5. The court was told that they had experienced significant trauma before they arrived in the State earlier this year and required more than just accommodation. Judge Campbell stated

*“This court has repeatedly expressed serious concerns ... and ... reservations on the ongoing use of special emergency arrangements for children in care.”<sup>31</sup>*

## **Insufficient support for unaccompanied children**

A report from EPIC in October 2025 identifies instability in placements, unequal access to education and healthcare, and uncertainty about legal status as key concerns for unaccompanied children. The transition to adulthood is a particularly difficult stage, as many of these young people lose vital supports at 18 and face the risk of homelessness or being moved into emergency adult accommodation.<sup>32</sup>

HIQA, in a 2024 review of foster care services to unaccompanied children found that foster services were not compliant with five of the eight national standards against which they were assessed. Safeguarding measures were in place, but there was an absence of a coordinated approach to the management of child protection and welfare concerns. All children had an allocated social worker, but care plans were of inconsistent quality.<sup>33</sup>

# 3. Children's Experiences of the Care System

In 2024, our Office received 1,772 complaints on behalf of children about the administrative actions of public bodies and the adverse effect this has had on those children. 327 of those complaints related to children known to, or in the care of Tusla. Those complaints were primarily about the inadequacy of supports and planning to address the needs of children in state care. Poor communication, and concerns about the lack of joined up and coordinated approach to children's needs underpinned those complaints.

In this report we have included the stories of seven children in contact with the OCO which highlight a number of those issues through their experience. We have given those children agreed pseudonyms to protect their identities, and key identifying information has been changed. This does not affect the reality of the experiences of those involved. That reality being, that for those children, they have not received the care and protection that they are entitled to.

## Jasmine's story

### A vulnerable girl with no safe or stable placement

#### Complaint

In September 2025, we received a complaint from a mother about the quality of services provided by Tusla to her 15-year-old daughter Jasmine, who was in State care. Jasmine had a lot of problems socially and emotionally and this impacted on her behaviour. This led to concerns about her mother's ability to keep her safe in the family home. Tusla secured an Interim care order for Jasmine in April 2025, and she was placed with a foster family. Unfortunately, that placement quickly broke down, and with no other placement available at that time, Jasmine was accommodated in Special Emergency Arrangements (SEAs).

During her time in SEAs Jasmine went missing several times, for days on end, once even travelling to another jurisdiction. Jasmine and her mother told us that during this time she was exposed to violence, drug use and other criminal behaviour. They also said that on one occasion Jasmine was in the company of a man who we understand was exploiting her. Jasmine has further complained that she had been assaulted by another man. The concerns about both of those men are being investigated by Gardaí. Since

Jasmine has been in Tusla’s care, she has also come to the attention of the Gardaí and is herself facing several charges connected to her unfortunate circumstances.

Due to the serious risk of harm and her extreme vulnerability, a Special Care Order was granted for Jasmine in August 2025. However, no bed was available, and Jasmine continued to be accommodated for several months in SEAs.

### **OCO’s Actions**

We were deeply concerned about the Jasmine’s circumstances and what she had been exposed to. In keeping with the OCO Child Protection and Welfare Policies, we made a notification of suspected child abuse to Tusla. We also wrote to Tusla in September 2025 about the complaint we had received and requested information about Jasmine’s care planning. Subsequently, in October 2025, a placement was secured for Jasmine in Special Care.

### **Outcome**

We met with Jasmine in the Special Care Unit, and she spoke positively about staff in Tusla, Special Care and the efforts they were making to “*look after her*”. She told us that she goes to school every day and is working with her social worker and her therapist to get “*the help she needs*”. Jasmine also spoke about her frustration at being removed from her mother’s care and placed in SEAs, which she described as a “*chaotic*” experience. Jasmine described one SEA as a “*dirty dingy*” basement flat where her diet was solely fast food and where there was no plan in place for any daily activity for her. Jasmine told us “*It was crap, I had to keep begging for the basic toilet stuff, I had no change of clothes for ages, and the staff didn’t care.*”

A second Special Care order has since been sought to allow for more stability and safety in Jasmine’s life and planning around her future needs. Our Office will be following up to make sure this happens.

## **Paul’s story**

### **A young boy in Kinship Care due to tragic circumstances with no support**

#### **Complaint**

In October 2024, a relative carer contacted us about Tusla’s role in the lives of nine-year-old Paul and his three siblings and what they believed had been a failure to plan and support around the children’s needs. Both Paul’s parents had their own difficulties and when Paul’s father tragically died suddenly in 2021 there were concerns at that time about their mother’s ability to care for the children.

After their father's death Tusla did get involved briefly, placing the children with three different extended family members, in different parts of Ireland. The relative who had contacted us was not one of the children's carers at that time. As this was deemed to be Kinship Care, an informal arrangement between the relatives and the children's mother, Tusla closed the case without offering any further assessment or supports. Tusla later told us that under the *Signs of Safety*<sup>34</sup> national assessment framework, the case was closed on the understanding that the extended family was best placed to meet the children's needs and could contact services if they had concerns.

Within a year Paul's mother resumed care of all four of her children without Tusla being told first by the Kinship Carers. In August 2021, when the relative who complained to us learned of this change in care arrangements, they raised this as a concern and Tulsa contacted the mother and spoke to the children themselves in September 2021. Tragically, the children's mother died just days later. Following this, the relative who assumed Paul's care told us they felt *'the children were again handed out like puppies'* to different relatives around the country. Tusla closed the case again and there was no plan in place for support, counselling or to arrange for the now orphaned siblings to sustain their relationships with each other. Tusla's position was that this was up to the carers and that they could seek their support if needed.

The relative was particularly concerned about the lack of monitoring of the children's placements with extended family members. She was also concerned that the Signs of Safety assessment framework had not been sufficient to determine the concerns and risks with the family. She made a formal complaint through "Tell Us" - Tusla's complaint handling mechanism. Subsequently, some aspects of this complaint were upheld and Tusla acknowledged that there was a need to meet with the children more often as part of ongoing assessments. However, the complainant was not reassured that there was sufficient learning from Paul's case and came to us with their complaint.

### **OCO's Actions**

We engaged with Tusla and explored how the relative carers had been prepared and supported to take care of the children in traumatic circumstances. We further raised the need to provide assessment and supports to each child in their current placement and to coordinate their relationships with each other going forward. We also met with Paul to discuss the concerns raised with us on his behalf. When asked how he felt social workers had helped him and what he thought they could have done differently, Paul said he only remembered meeting a social worker once. He continued that he felt this *"was not enough for them to get to know him or the things that he was worried about"*. He also told us that contact with his

siblings is important to him and that he wants to know more about their lives. In this regard Paul said that he would “like to see them more”.

### **Outcome**

Tusla agreed to meet with the complainants, and Paul, to receive feedback on their experiences and to forward plan in relation to any unmet needs, including the issues of contact with his siblings. We drew Tusla’s attention to our concerns around how the Signs of Safety assessment framework had not resulted in a positive outcome in this case and raised our concerns about the closure of this case where there had been considerable child protection and welfare concerns.

## Chidera’s story

### A young girl fighting for contact with her siblings

#### **Complaint**

In October 2024, Chidera, a 17-year-old complained to us about Tusla not facilitating access between her and her four siblings, who had all been in State care since 2022. Chidera told us that access visits with her siblings took place once every two months, for a two-hour period. These visits were important to her as she was very close with her siblings, but she said the visits were sometimes postponed or shortened without clear reasons given on the day. Chidera was extremely upset about this, particularly as she did not have a close relationship with either of her parents.

Chidera said she had made a written complaint to Tusla with the support of her own residential care team, the Community Law and Mediation Services and from EPIC, a rights-based organisation who advocate for children in care. Chidera wasn’t satisfied with Tusla’s response as she felt there was no clear explanation as to why she couldn’t have more frequent contact with her siblings. She also told us about frequent changes in social workers, having had four in the previous year, and that she felt no one had listened to her concerns or had taken them seriously.

#### **OCO Actions**

We met with Chidera and one of her younger sisters who shared their concerns that they were “losing connection with each other” and that they deserved their “right to family, siblinghood, love and sisterhood”. Chidera told us “I feel the void and weight of not properly getting to know my sisters in their most formative years”.

We liaised with Tusla and Chidera’s residential service to see if there was a way to address the issues locally. Tusla explained that the dynamics within the children’s family were very complex and required careful and considered

input. However, Tusla said they would re-engage with Chidera and her siblings to ensure they felt heard and included in decisions affecting them.

### **Outcome**

In July 2025, Chidera contacted us to say she hadn't had an access visit with her siblings in four months. Chidera was told this was because of the strained relationship she had with her mother, who she had been told wouldn't cooperate with arranging visits. Chidera spoke about how distressing this was for her. We followed up with Tusla who told us that Chidera could again raise her concerns through Tusla's complaint handling mechanism. When we spoke with Chidera, she was not happy to have to lodge a fresh complaint on what is for her a longstanding issue. Chidera indicated that she was going to seek legal advice with a view to formalising contact with her siblings through the court.

## James's Story

### A young person detained in Special Care for three years

#### **Complaint**

15-year-old James had been in voluntary care since 2022. In March 2024, we received a complaint from James' mother about Tusla's planning around his needs. James had been known to several services, including Tusla, since the age of five due to significant problems he and his family were experiencing. Since that time, he had received multiple diagnoses from mental health professionals and suffered with high levels of anxiety.

Between 2013 and 2022 up to 24 referrals were made to Tusla about James and his circumstances by the Gardaí, Child and Adolescent Mental Health Services (CAMHS), schools, and the family GP. Following an incident in 2022 Gardaí had to take James from the family home under Section 12 of the *Child Care Act 1991*. Over the following five months James was accommodated in 35 unregistered and unregulated Special Emergency Arrangements (SEAs). These included hotels, B&Bs, or privately leased properties across 5 different counties. James also spent several nights in social work offices, Garda stations and hospitals waiting for SEAs to be put in place.

In July 2022, James was placed in a Special Care Unit<sup>35</sup> for an initial period of three months.<sup>36</sup> However, no suitable step down placement was available, and James remained in Special Care for three years. James spent his final year living on his own in a unit on campus where he had 24-hour 2-1 staff ratio supported by security personnel. On his 18<sup>th</sup> birthday he was discharged from care to an apartment with an Aftercare Worker allocated to link in. This soon broke down and at the time of this report James is homeless.

## **OCO's Actions**

Following a preliminary examination we initiated a full statutory investigation into James's case. As part of that investigation, we met members of his family, representatives from Tusla and the Special Care Unit and therapists involved in his care.

We also met with James when he was still in special care, who told us he was *"really p\*\*\*ed off that he was still in this place"*. He went on to say they *"have nowhere for me to go, so I can get out"*. He had been detained since he was 15 years of age even though he had not been convicted of a criminal charge. That was a full three years of his life. James did acknowledge that he has been *"very difficult"* for staff to work with, but he suggested that his behaviour had, at times, been exacerbated by lack of certainty about the plans for him and his sense that his life was spiralling out of control. He also said he felt there were *"too many"* professionals involved in his care and this was difficult for him.

We spoke with James several months after he had left special care. At that time, he told us *"that Tusla had no plan for him, they just meet me but my meds (medication) have been stopped because doctors won't deal with me and I don't know what I'm going to do. Nobody cares."*

## **Outcome**

The investigation into James's case has recently concluded and the OCO are following up with James, his family and Tusla about the recommendations made.

## **Kate's Story**

### **A teenager put at serious risk without a secure placement**

#### **Complaint**

In June 2025, we received a complaint from a Guardian Ad Litem (GAL) on behalf of 15-year-old Kate, a child in Tusla's care, about her experiences in SEAs and concerns over Tusla's planning for her future care needs.

We were told that Kate was first received into care when she was two years old. She had been placed with a foster family but unfortunately that placement had broken down in 2024. Due to concerns about Kate's vulnerability and safety, a Special Care Order (SCO) was granted in December 2024, but no corresponding placement was available. As a result, that order lapsed in March 2025. In October 2025 a further application for a SCO was made and a placement has since been provided.

It was the GAL's view that the lack of a secure, long-term placement had a significant and detrimental impact on Kate's safety and welfare. Since her foster placement broke down and she was accommodated in SEAs Kate has been exposed to alcohol, drug taking and violent behavior. The GAL told us that Kate has reported that she was assaulted quite seriously on two occasions during this time. Those concerns have been referred to An Garda Síochana.

### **OCO's Actions**

We met with Kate where she described her experiences in different SEAs throughout the country. She described poor conditions in those settings and how her diet consisted mainly of fast food. Kate also told us that while in SEAs she had little or no supervision or indeed practical or emotional support. She told us that she was often "bored" and simply left the accommodation whenever she wanted to look for something to do with her time. She also said she had difficulties communicating with some staff as English was not their first language. Kate continued to tell us, *"If I was in government, I would get rid of SEAs, they are ruining kids' lives."* and *"They are the nastiest places, how can they place kids there,"* adding *"I don't know why they exist"*.

### **Outcome**

Our Office has engaged with Tusla on the issues that Kate and her GAL have raised. We have received a detailed report which has set out how Tusla sought to address Kate's needs since her foster placement ended and pending the availability of a Special Care placement. The GAL continues to be concerned about the lack of certainty about an ongoing, or step-down placement for Kate, and expressed the need for a coordinated multidisciplinary and multi-agency response to Kate's complex needs. Kate remains in Special Care and our Office is considering how we can help Kate in ensuring her needs are met.

## **Luke and Arron's story**

### **Two young children in residential care with no foster placement available**

#### **Complaint**

In June 2025, we received a complaint from a GAL in relation to two brothers Luke and Arron, aged 4 and 5. The brothers were in Tusla care and had been placed in a residential setting as there was no foster placements available to Tusla at that time, which would have been the most appropriate option due to their young age.

The GAL advised that while the residential unit actively worked to address their ongoing needs, it was clear that this placement was not appropriate. The brothers had to share their placement with two older teenagers who they didn't know and had very different needs to them. The brothers also had a rotation of 30 different staff members involved in their care. The GAL was concerned that this arrangement doesn't provide the certainty and consistency of relationships that a foster placement could have provided to such young children. The concerns regarding this residential placement were further compounded by the fact that the brothers had 14 separate placements over their short lives, a mix of private residential, foster care and a period Arron was accommodated in an SEA.

### **OCO's Actions**

We spoke to the GAL and then engaged with Tusla to get further information on the concerns and the possible impact of the situation on Luke and Arron. We also asked Tusla about their efforts to address the issues raised in the complaint to us and sought details of the brothers' care plans.

### **Outcome**

In their response Tusla agreed that a foster placement where the brothers can form necessary long-term relationships, with parent figures, would be in their best interests but that there was no placement available at that time.

Tusla did inform us about the limited number of foster carers available to them nationally, which has reduced further in recent years. This, they explained, has resulted in significant challenges to meet the demand for foster care placements and a reliance on alternative care options. The brother's case has recently been subject of a High Court hearing and Tusla have made commitments withing specified timelines to identify appropriate foster placements for the children. The OCO has deferred further action presently on this case but will monitor developments.

# 4. A Children's Rights Assessment

The numerous reports referenced in section 2, the continuous stream of complaints the OCO receives, and the stories of children and young people outlined in the previous section shows a pattern of repeated failure of the current care system to uphold children's rights. The State has failed to fully discharge its obligation to protect children in need of care and promote their well-being.

When properly implemented, alternative care can safeguard children's rights, but inadequate systems risk violations. For any alternative care system to be fit for purpose, it must treat children in care as subjects of rights, and it must incorporate the following four general principles of the UNCRC.

## Non-discrimination

**Article 2** provides that all children must be able to enjoy their rights without discrimination of any kind, irrespective of their circumstances or those of their parents/guardians.<sup>37</sup>

Published investigations by the OCO highlight that a failure to recognise and meet the specific needs of a child, or a particular cohort of children, can exacerbate the disadvantage they may experience and act as a barrier to ensuring they have access to the services and supports they need. This can be seen in relation to children with disabilities. In 2020, the OCO published an investigation into a little boy in care called Jack who, despite having no medical requirement, was left in a hospital bed for over two and half years because the HSE and Tusla failed to properly work together to find a suitable placement for Jack when he couldn't be cared for at home. The OCO believes if the two agencies had worked together at an early-stage Jack may have had the opportunity, with adequate support, to grow up with his family.

Also related to the principle of non-discrimination, is for example, if Tusla are unable to provide culturally sensitive placements for Traveller children or other children from different ethnic minorities, it further weakens the commitment to respect for the child's background.<sup>38</sup>

## Best Interests

**Article 3** requires that the child's best interests are a primary consideration in all actions and decisions concerning them.

Complaints received by the OCO and the experiences of children presented in this report consistently show that the welfare and best interests of children in care are

not always treated as a primary consideration in practice. The most concerning in this regard is children experiencing multiple placements; children placed in unregulated settings; children not being facilitated contact with siblings, and children under 12 placed in residential care. Luke and Arron's experience shows how their best interests were not considered when placing them in residential care at such a young age.

The Committee recalls that it is indispensable to carry out the assessment and determination of the child's best interests in the context of potential separation of a child from his or her parents (Arts. 9, 18 and 20 of the UNCRC).<sup>39</sup> In these situations, the child's views, identity, the preservation of the family environment and maintaining relations, the care, protection and safety of the child, their situation of vulnerability and their rights to health and education are amongst the elements that need to be taken into account when assessing and determining the child's best interests.<sup>40</sup>

## Right to Life, Survival and Development

**Article 6** recognises the child's right to life, survival and development.

Children's right to development is at serious risk when they are deprived of family care or when they suffer long-term disruptions to key familial relationships.<sup>41</sup> This principle obliges states to provide optimal conditions for childhood and, according to the Committee, this can only be implemented in a holistic manner, by the enforcement of all other children's rights, as well as through respect for the responsibilities of parents and the provision of quality services. However, evidence from OCO investigations and the experience of the children in this report show that children's health and social and educational development is impaired by a lack of stability in their placements.<sup>42</sup> James, Kate and Jasmine's stories clearly demonstrate the impact this instability can have and the how the failure to provide appropriate placements exposed them to significant risks, impacting their well-being and development. The inability to access aftercare, especially in relation to unaccompanied children, also infringes on this right.

## Right to be Heard

**Article 12** enshrines children's right to freely express their views in all matters involving or affecting them, and for these views to be given due weight in line with their age and maturity. The child's capacity to form his/her own views must be assessed on a case by case basis.<sup>43</sup>

The OCO is concerned that children's right to express their views and to have due weight given to those views is not consistently implemented in all actions and decisions regarding their care. Complaints received by the OCO highlight children's lack of input in day-to-day decision-making are affecting them, including children not being systematically facilitated to express their views in care placement reviews

and in care planning.<sup>44</sup> Chidera's experience shows how she wasn't heard or included in decisions affecting her and her siblings.

The **UN Guidelines on the Alternative Care of Children**, endorsed by the General Assembly of the United Nations in 2009, include a wide range of recommendations and standards relevant to alternative care.<sup>45</sup> Reflecting on the experiences of Kate, Jasmine, James, Chidera, Luke and Arron, once again we conclude that the State has failed in its duty to these children when we consider the following international standards:

1. Place children as close as possible to their place of residence to minimise disruption to their lives (para 11).
2. Provide children with a stable home that meets their needs (para 12).
3. Provide sufficient safeguards of all other rights including protecting them from abuse or exploitation (para 13).
4. Every effort should be made to enable siblings to maintain contact with each other, unless this is against their wishes or interests (para 17).
5. Ensure the welfare and protection of children in informal care arrangements (i.e. kinship care) (para 18).
6. Residential care should be limited to cases where such a setting is specifically appropriate and alternative care for young children should be provided in family-based settings (para 21 and 22).
7. Establish care standards to ensure the quality and conditions that are conducive to the child's development and apply to those whether public or private (para 23).
8. Measures aimed at protecting children in care should be in conformity with the law and should not involve unreasonable constraints on their liberty (para 92).

## 5. A Rights-Based Vision for the Children in Care

The OCO believes that Ireland can create a system of alternative care that upholds children's rights and promotes their wellbeing. To achieve this, we must continue to provide and support family-based care, while ensuring the public provision of high-quality alternative care options with robust oversight. Much of this hinges on interagency cooperation and collaboration to support the delivery of holistic support to children. Above all, the reformed system and new Alternative Care Plan must include the meaningful participation of children and young people with care experience including its oversight and implementation.

The new National Alternative Care Plan must be comprehensive, rights-based and action oriented. It must focus on the full continuum of care from early intervention and support through to aftercare and be co-designed by children and young people with care experience. The framework should operate alongside a strategy to further strengthen the Child Care (Amendment) Bill 2025 to ensure children's rights are respected, protected, and fulfilled.

This is a pivotal moment for our care system and a once in a generation opportunity to get it right for children in care. While the Department of Children, Disability and Equality is taking the lead on this initiative, the new Plan will only be successful if all Government Departments and Agencies get behind it so every child in the care system can reach their potential.

### **In this section we make recommendations across eight key areas<sup>46</sup>:**

1. Make children in care a priority across Government and ensure Tusla is fully resourced to carry out the broad scope of its remit
2. Put children's rights at the centre of the system
3. Support and prioritise family-based care and early intervention
4. Invest in high quality publicly provided residential care and ban unregulated settings
5. Make special care fit for purpose and compliant with children's rights
6. Build in special protection measures for those at greatest risk of rights violations
7. Strengthen aftercare support
8. Realise a child's right to be heard across the continuum of care

## **Make children in care a priority across Government**

For far too long children in care have not been a priority. While it is welcome the Government is developing a National Alternative Care Plan, it is difficult to understand why it has taken so long. We need to see significant positive strides from all of Government, and across relevant agencies, to ensure that planned reforms are designed using evidence-based practices. Guaranteed long-term funding and action must be delivered within systems that have strong monitoring and evaluation. The shortfall in Tusla budgets must be addressed and children in care prioritised in the budget process. Introducing child rights budgeting will ensure all budgetary decisions and choices are child centred and compliant with obligations under the UNCRC.

Ensuring accountability requires continuous monitoring by Government and Civil Society. The UN Committee on the Rights of the Child has emphasised that national human rights institutions, including Children's Ombudsman Offices, have an important role to play in ensuring the realisation of children's rights, including by reviewing and promoting accountability and advocating systemic change.<sup>47</sup> In this regard, the OCO is committing to publish a shadow report every two years to monitor and track progress on the commitments in the National Alternative Care Plan.

### **1. Recommendations for making children in care a priority:**

- 1.1 Take all necessary budgetary measures to progress the full realisation of the children's rights principles enshrined in the UNCRC.
- 1.2 In light of the underfunding over the past five years, DCDE should carry out a review of funding to Tusla to ensure that the agency has sufficient resourcing to keep children safe and cared for and to carry out the broad scope of its remit.
- 1.3 As part of the new Alternative Care Plan, develop and implement a cross-departmental response to allocate adequate human, technical and financial resources to ensure adequate placements for children in care, an effective child protection and welfare system, implementation of individual needs assessments, appropriate care planning and review, and the holistic support of children's well-being.
- 1.4 Mandate that progress on key actions under the new Alternative Care Plan are reported to the Cabinet Sub-Committee on Children and the Oireachtas Committee on Children.
- 1.5 Respond and take any required actions outlined in OCO shadow reports on the progress of the Alternative Care Plan.

## Put children’s rights at the centre of the system

“Every child and young person should live in a supportive, protective, and caring environment that promotes their full potential.”

– Guidelines for the Alternative Care of Children, General Assembly, United Nations, 2010.

A child rights approach is an approach that respects all rights set out in the UNCRC, including the right to protection from harm as well as identity, liberty, special protections, education and healthcare. It treats children as rights holders rather than as objects that need assistance. A child rights approach would develop the capacity of policymakers and agencies as duty bearers to meet their obligations towards children. It is guided by the four general principles of the UNCRC and respects children’s evolving capacities in the exercise of their rights.

The powerful accounts from the young people who have shared their experiences of care in this report highlight the importance of the right of the child to have their views heard and taken into account. It is important the children with care experience are listened to and both the negative and positive effects this experience has had on their lives is properly considered by Government when formulating solutions. The participation of children and young people in the generation and implementation of policy is central to a children’s rights approach. In this regard the OCO welcomes the establishment of the Care Experiences Programme by the Department and the thorough consultation process with children as part of the development of the new Plan. Participation must be an ongoing process throughout delivery, oversight and implementation.

As well as the general principles of the UNCRC (non-discrimination, best interest, right to life, survival and development, and right to be heard), the following provisions should be included as a basis for the new National Alternative Care Plan:

- Article 7 recognising the right of children to know and be cared for by their parents;
- Article 8 recognising the right of children in care to preserve their identity, name and family relations;
- Article 9 recognising the state’s obligation to ensure that separation from parents occurs only when necessary for the best interests of the child;
- Article 20 giving children deprived of their family environment the right to special protection and requiring that alternative care solutions respect

the desirability of continuity in a child's upbringing, and the child's ethnic, religious, cultural and linguistic background;

- Article 39 recognising the right of children in care to be protected from harm; and
- Article 37 conferring children in care the right not to be deprived of their liberty unlawfully or arbitrarily.

**The UN Guidelines for the Alternative Care of Children** further reinforce these rights, emphasising the need for protective, culturally sensitive care.<sup>48</sup> In addition, according to the Committee, the effective implementation of children's rights requires states to adopt a range of general measures such as:

- the provision of training for those working with and for children;
- raising awareness of rights among children and their parents/ guardians;
- collecting disaggregated data;
- and making effective remedies available where the rights of children have been breached.<sup>49</sup>

The State must undertake all appropriate legislative, budgetary and other measures, to the maximum extent of its available resources, to progress the full realisation of the children's rights principles enshrined in the UNCRC. Policy, programmes and services related to children in care must be planned, designed, financed and implemented in a sustainable manner. Taking into account children's best interests as a primary consideration is also crucial when weighing up competing budget allocation and spending priorities.

Full and direct incorporation of the UNCRC into domestic law, a strategic objective of the OCO, would create the culture change and legal landscape needed to ensure children's rights are fully respected, protected and fulfilled. This is the fundamental change we need to ensure children's rights are central to all decision making.

## **2. Recommendations to put children's rights at the centre:**

- 2.1 Fully and directly incorporate the UNCRC into domestic legislation.
- 2.2 Ensure that the new National Alternative Care Plan and the Child Care (Amendment) Bill 2025 is rights based and recognises children in care as rights holders as is required by the UNCRC.
- 2.3 Ensure that the new National Alternative Care Plan and the Child Care (Amendment) Bill 2025 fully incorporates the four general principles of the UNCRC.
- 2.4 Commit to ongoing consultation with children as part of the development and implementation of the new National Alternative

Care Plan and including young people with care experience in the steering group to oversee the implementation of the plan.

- 2.5 Include child rights impact assessments in the framework for integrated social impact assessments, to ensure that fiscal and budgetary decisions are compliant with obligations under the Convention.
- 2.6 Collect and analyse comprehensive and disaggregated data on children in alternative care to provide an evidence-based approach to policy development and service delivery as required by the Committee in its Concluding Observations to Ireland in 2023.<sup>50</sup>
- 2.7 Raise awareness of children's rights in general and more specifically on the right to participate among children living in alternative care and among practitioners working in this field through appropriate and continuous training programmes as required by the Committee in its Concluding Observations to Ireland in 2023. This should include guidance to all relevant persons in authority for determining the best interests of the child and for giving those interests due weight as a primary consideration.<sup>51</sup>
- 2.8 Provide children with age-appropriate and child-friendly information and materials about their rights and the right to participate, enabling them to express informed views as required by the Committee in its Concluding Observations to Ireland in 2023.<sup>52</sup>

## **Support and prioritise family-based care and early intervention**

As provided by the UN Guidelines for the Alternative Care of Children, the primary objective should be supporting efforts to keep children in, or return them to, the care of their family, when it is in the best interests of the child. Comprehensive family support programmes need to be sufficiently resourced across the spectrum of need, to ensure that all children have the opportunity to reach their full potential through a safe and supportive home environment.<sup>53</sup> The OCO note the commitment in the Child Poverty and Well-Being Programme Office to develop a framework from existing data to map both service needs and service availability at local level (working with Central Statistics Office).<sup>54</sup> Work undertaken in this area should inform a gap analysis and service delivery plan for early intervention and family support services as part of the alternative care framework.

In regard to child protection services, it is important to implement adequate means and processes to ensure early identification of children in particularly vulnerable situations, including regular health and well-being assessments of children through

the Public Health Nurse. A recent HIQA report identified significant issues with the current system including the fact that children prioritised as at medium and low risk did not always receive the right support at the right time.<sup>55</sup> The report also found some children who made allegations of abuse or where there were concerns in relation to their welfare, had not been met with or had an adequate safety plan put in place by the time of the inspections.<sup>56</sup> Many children did not have an allocated social worker, and were not receiving a timely and consistent service.<sup>57</sup> The OCO is therefore not confident that sufficient resources and processes are in place to keep children safe.

Family based care is the gold standard for alternative care. Ireland stands out from most European countries in the high proportion of children in alternative care living with foster families.<sup>58</sup> However, the proportion of foster care places is falling year on year, from 93% to 86% in recent years,<sup>59</sup> at a time when the number of referrals to Tusla are growing, making the drop even more serious. OCO is concerned that the shortage of foster carers has led to delays in placement, instability, and a lack of choice for children, contravening the principle of prioritising the best interests of the child and ensuring the voice of the child is heard. Financial difficulties are continually highlighted as an issue for foster carers, and this is best exemplified by the lack of increase on their allowance for 15 years (2009-2022). Nevertheless, it is welcome to see there were 213 foster carers approved in 2023, an increase from 182 in 2022, which indicates that recent recruitment campaigns for foster carers and an increase in financial support is proving effective.<sup>60</sup>

Finally, the OCO has significant concerns about the lack of legal clarity and oversight in informal, kinship and private fostering arrangements which leaves some children without adequate safeguards, eroding their right to protection under the law. Children in informal kinship care face significant disadvantages compared to those in state-supported care. They often lack access to essential services such as medical cards, therapeutic supports, educational grants and aftercare support.<sup>61</sup> Unlike children in formal foster care, they do not have the right to have their care arrangements reviewed or have their voices heard in decisions affecting them. Additionally, kinship carers frequently struggle with legal insecurity, as they may not have guardianship rights, making it difficult to make medical or educational decisions for the child. Financial hardship is another major concern, as informal kinship families receive far less financial support than foster carers, increasing the risk of poverty. The OCO welcomes the commitment in the Programme for Government to develop a policy to help address the legal and financial gaps for kinship carers in Ireland and wants to see this progressed as soon as possible. This policy must be grounded on the rights of children in informal kinship care as recommended by the Committee in its Concluding Observations to Ireland in 2023.<sup>62</sup>

### **3. Recommendations for family-based care and early intervention:**

- 3.1 Utilise the work undertaken by the Child Poverty and Well-Being Programme Office on service mapping to identify any gaps in the provision of early intervention and family support programmes. Develop a two-year action plan with the requisite resources to ensure services meet families at highest risk and in need of targeted supports.
- 3.2 Expressly require Tusla to have a system in place to identify and support teenagers at risk of being sexually or criminally exploited. Criminal exploitation of children should be seen as a form of abuse, and this should be reflected in any revision of Children First.
- 3.3 Increase the number and strengthen the capacity of professionals working with children to ensure prompt access to social workers and individualised care responses.
- 3.4 Amend the Child Care Act to establish a maximum duration for the placement or continued placement of children in “voluntary” care in line with the UN Committee on the Rights of the Child Concluding Observations 2023.
- 3.5 Ensure sufficient family-based care options for children who cannot stay with their families in line with the UN Committee on the Rights of the Child Concluding observations 2023.
- 3.6 Continue to invest in the recruitment of foster carers as a priority and ensure a wide range of ethnic backgrounds/cultures to provide for culturally sensitive placements.
- 3.7 Increase the foster care allowance and provide ease of access to secondary supports to provide better financial stability for children in these families.
- 3.8 Similar to the approach adopted in England and Wales, provision should be made to require that alternative care placements are in proximity to children’s former homes and schools, facilitate the joint placement of siblings and are suitable for the additional needs that children may have.
- 3.9 Undertake research on the number of children in care separated from their siblings and develop procedures to minimise disruption with their sibling relationships.
- 3.10 Develop a clear rights-based policy on kinship care so that children in these arrangements have access to the same protections and support in regard to accessing medical, financial, educational and aftercare services as those in foster care arrangements. Recognise that kinship care is usually in the child’s best interest and provide equitable financial and practical support to kinship families.

## **Invest in high quality, publicly provided, residential care and ban unregulated settings**

The OCO is concerned that Tusla's reliance on private providers for alternative care placements is becoming mainstream, and the problems associated with these placements have not been adequately recognised.<sup>63</sup> Children can be placed at further risk in private settings due to high staff turnover which could lead to a lack of proper oversight, and inappropriate supports and services.<sup>64</sup> In its strategic plan for residential care 2022 to 2025, Tusla's strategy aimed "to incrementally reverse our disproportionate dependency on private residential care" from 60% to 50% but has not achieved this.<sup>65</sup> In fact, figures presented in Table 1 of this report show that 69% of residential care is privately provided.

Private providers of placements operate at a massive cost to the state, and these resources could be best used elsewhere. A shortage of foster care places also means that increasingly younger children are being placed in residential care which is totally inappropriate for their needs.

The OCO has also called for prohibiting the placement of children in unregulated accommodation and imposing a statutory duty for Tusla to ensure that there are sufficient appropriate placements for children within each administrative area, including for children in need of emergency accommodation. Alternative care placements should be close to a child's former home and school, and children should be placed with their siblings wherever possible.

### **4. Recommendations for residential care:**

- 4.1 Increase investment in publicly provided residential care and develop a funded 5-year action plan to increase State and voluntary provision.
- 4.2 Reduce the reliance on private providers of alternative care, with the long-term goal of reducing private provision to less than 30%. Consider introducing similar rules as the UK to cap profits of providers and mandate greater financial transparency and oversight.<sup>66</sup>
- 4.3 Mandate and fund HIQA to inspect all non-statutory residential care homes so that independent oversight and monitoring is guaranteed.
- 4.4 Prohibit the placement of children in unregulated accommodation and end the use of Special Emergency Arrangements (SEA) which violate children's rights and have a weak legal basis for their use.
- 4.5 Prohibit the placement of children under 12 in residential care unless explicitly planned in order to keep families together.

## **Make special care fit for purpose and compliant with children’s rights**

The special care system in Ireland is facing a critical and multifaceted crisis, as highlighted by the judiciary, oversight agencies, in the media and by NGOs. The impact of this crisis on the young people affected is starkly illustrated in James’s story presented in this report. A central issue is the chronic shortage of appropriate step-down placements, which has led to special care being misused as a long-term “holding facility” rather than a short-term, therapeutic intervention.<sup>67</sup> Judges have warned against this misuse and expressed concern over children being detained beyond the legal limit due to a lack of transitional options.<sup>68</sup> This results in children experiencing institutionalised behaviours and developmental regression. The increased privatisation of residential care exacerbates this, as private providers are frequently reluctant to accommodate children with complex and challenging behaviours.

### **5. Recommendations for special care:**

- 5.1 Fully implement the recommendations of the report of the External Group on Special Care with adequate funding and resources provided by the Department.
- 5.2 Place a statutory duty on Tusla to ensure sufficient availability of special care placements to comply with court orders so that no child is placed on a waiting list once an order is made.
- 5.3 Make a statutory provision that special care is not to be used as a long-term holding facility for children with complex needs.
- 5.4 The HSE and Department of Health must engage with DCED to establish the need for the in-patient CAMHS forensic beds in Portrane so that children requiring specialised care do not need to be placed in care outside of the State.
- 5.5 Ensure sufficient and appropriate step-down placements for children leaving special care.
- 5.6 Establish an independent appeal process in circumstances where a high court order for special care is refused by Tusla.

## **Build in special protection measures for those at greatest risk of rights violations**

Published investigations by the OCO highlight that a failure to recognise and meet the specific needs of a child, or a particular cohort of children, can exacerbate the disadvantage they may experience and act as a barrier to ensuring they have access to the services and supports they need. In this section we refer to the rights and needs of children with disabilities and children who arrive unaccompanied to Ireland.

In an investigation into the care of a child with a disability in foster care, the OCO found that the standardised approach to service provision adopted by Tusla and the HSE did not take sufficient account of the child's additional needs, as neither agency viewed the child as a child who was both disabled and in care.<sup>69</sup> Children with a diagnosed moderate to severe disability made up approximately 8% of the foster care population. In 2015, we found that neither Tusla nor the HSE had an adequate system in place to ensure adequate supports are provided to such children and their carers.

Separated children seeking international protection are often highly vulnerable, having experienced trauma, loss, social isolation, violence, language barriers, mental health challenges, discrimination, and uncertainty about their future. While Tusla is responsible for the care of unaccompanied and separated children (approximately 550 children as of November 2025),<sup>70</sup> there is no national policy or framework setting out Tusla's responsibilities in respect of such children. We have continually called for the inclusion of specific provisions for these children in the current review of the Child Care Act 1991 but have been left out of the Child Care (Amendment) Bill 2025.

We understand that DCDE will not make specific provision for unaccompanied children because it wants to protect the equity of care principle, whereby unaccompanied children get exactly the same level of care and are taken into care under the same thresholds as Irish-resident children. However, the application of children's right to non-discrimination does not mean identical treatment. The principle of non-discrimination requires States to actively identify individual children and groups of children, the recognition and realisation of whose rights, may demand special measures. The Committee stresses that the application of this principle may indeed call for differentiation on the basis of the diverse protection needs of unaccompanied children.

As the OCO has reiterated in previous submissions, unaccompanied children are recognised by the UNCRC as being in a particularly vulnerable situation as they are outside their country of origin, under traumatic circumstances (e.g. fleeing war, persecution), having lost connection with their family and often on a long-term basis. In addition, the entry route into the care system, by virtue of arriving to Ireland on their own, is distinct from other children and requires a special legal framework to ensure that necessary safeguards are in place for children arriving unaccompanied

into our immigration and childcare system. The invisibility of unaccompanied children in Irish law has led to the use of certain sections of the 1991 Act that do not adequately respond to the unique circumstances and needs of unaccompanied children. This includes sections 4 and 5 which leave children without access to a social worker and aftercare. This provides for accommodation of children who present as homeless, and it continues to be used inappropriately to accommodate unaccompanied children.

This issue is even more pressing now because the OCO has significant concerns about the potential breaches of children's rights when Ireland implements the EU Migration Pact. We highlighted that it does not provide significant safeguards for these children and indeed, as it is currently drafted, unaccompanied children who are applying for international protection are at greater risk of having their rights violated, especially in relation to the risk of arrest and detention.<sup>71</sup>

## **6. Recommendations for the most vulnerable children:**

- 6.1 Address the current gap in the provision and coordination of supports and services to children with a diagnosed moderate to severe disability in foster care through legislative, regulatory, policy and/or budgetary means.
- 6.2 Review the supports and services being offered to children with a moderate or severe disability in foster care in the State. The output of this review should inform the development of the local case management model, the development of specific performance metrics and improve wider interagency and departmental engagement.
- 6.3 Devise a respite action plan for children with a disability in the care of the State, as well as children with a disability in the community at large.
- 6.4 Specific training on working with neurodiverse children should be provided to practitioners working in child protection, welfare and alternative care.
- 6.5 Make provision for specific regulations on unaccompanied children in the Child Care Amendment Bill 2025 having regard to the circumstances and best interests of each child concerned.
- 6.6 Make provision for the appointment of an appropriately trained, independent guardian to each unaccompanied child. The role of an independent guardian should be separate from Tusla and support the child to have their needs and best interests met, including as regards education, health and immigration.

- 6.7 Ensure that the national legislative and policy frameworks are reviewed to incorporate a rights-based age assessment and vulnerability assessment process, which complies with European and international children's rights standards.
- 6.8 Develop a comprehensive and rights-based model of care for unaccompanied children.

## **Strengthen aftercare support**

The OCO is concerned that not all care leavers are receiving appropriate aftercare support, and aftercare supports and services are not being provided to all young people who need them. Given the risks that young people leaving care can face, including homelessness, unemployment, addiction and/or mental health difficulties, the OCO is concerned about the discretionary nature of Tusla's obligation to provide aftercare services. We are also concerned that children who have not been in the care of the State for a continuous period of 12 months and children who have experienced homelessness and received services under Section 5 of the 1991 Act, but who have not been formally placed in care, are excluded from receiving aftercare supports and services. Issues of concern that have come to the OCO's attention through our complaints work include: delays in, and inadequate levels of, aftercare planning; failures to allocate aftercare workers; inappropriate onward placements; considerable variation in aftercare service provision nationally and deficits in interagency cooperation in the provision of aftercare supports for children with disabilities.<sup>72</sup>

## **7. Recommendations for aftercare:**

- 7.1 Place aftercare on a statutory footing for every child leaving State care.
- 7.2 Extend aftercare supports to 26 years of age based on an assessment of need.
- 7.3 Remove the discrimination in the allocation of aftercare services based on progression in further and higher education.
- 7.4 Widen eligibility criteria for aftercare to allow flexibility for consideration of individual circumstances and the impact of these on a young person's need for aftercare.
- 7.5 Provide bespoke aftercare to neurodiverse children and children with disabilities and the Child and Family Agency-HSE Joint Protocol for Interagency Collaboration should be updated in this respect.

- 7.6 Ensure a pathway for foster care involvement in aftercare, where appropriate.
- 7.7 Disaggregate data covering the different aspects of young care leavers lives should be collected and disseminated systematically. Consideration should be given to undertaking an independent audit to evaluate the quality of aftercare service provision.

## **Realise a child’s right to be heard across the continuum of care**

The OCO is concerned that children’s right to express their views and have due weight given to their views is not consistently implemented in all actions and decisions regarding their care. Complaints to the OCO highlight children’s lack of input in day-to-day decision-making affecting them, including not being systematically facilitated to express their views in care placement reviews and in care planning.<sup>73</sup> We are also aware of the additional barriers for neurodiverse children and children with disabilities to express their views.

The Child Care (Amendment) Act 2022 gives statutory effect to the provision of Article 42A of the Constitution on hearing the views of the child, however Section 5 of the Act has not yet been commenced. We welcome that the Guardian ad litem (GAL) National Service will provide for a standardised and regulated national service which should help ensure consistency in the level of support available to children who need a GAL across the country. Currently, as outlined by the Child Law Reporting Project the current legal position remains that it is at the judge’s discretion if the child will be appointed a Guardian ad litem (GAL) under section 26 of the 1991 Act and there is little clarity on how and if a child may be heard directly.<sup>74</sup> They highlight that of the 380 cases documented in the District Court survey, only a handful of instances were observed where the child directly participated in the proceedings with a number of different methods employed.<sup>75</sup>

In our engagement with the Child Care (Amendment) Bill 2025 the OCO have also called for the statutory right to an independent advocate. This would be distinct from the GAL as it would support a child through all stages of the care process, not just the courts. This would ensure that the State is providing for a child’s right to be heard in matters that affect all aspects of their care.

## **8. Recommendations:**

- 8.1 Commence section 5 of the Child Care (Amendment) Act 2022 to give statutory effect to the provision of Article 42A of the Constitution on hearing the views of the child.
- 8.2 Ensure that the courts and legal professionals are given adequate information, support and training on how to implement this requirement.
- 8.3 Provide a statutory right to an independent advocate and child friendly information in the Child Care (Amendment) Bill 2025.
- 8.4 Continue to invest in research on children's experiences of the care system.

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