

P4P COUNTRY INFORMATION ON CHILD PROTECTION SYSTEMS	
COUNTRY	Ireland
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1. GENERAL DESCRIPTION OF CHILD PROTECTION SYSTEM AND PARTICULAR RISK GROUPS

Note: This section should include a summary of the child protection system, reporting mechanisms, support services and information on the needs of specific groups. (Approx 10 pages)

Overview of the Child Protection System:

Tusla, the Irish national Child and Family Agency, was established in 2014, arising from the Child and Family Act, 2013, as part of a major reform of child protection, early intervention and family support services in Ireland. Tusla is responsible for the provision of child protection and welfare and family support services in Ireland, including foster care, residential care and special care. An Garda Síochána also have statutory responsibilities for the safety and welfare of children. Prior to the Child and Family Agency Act, child protection and welfare services was under the remit of the Health Service Executive as was legislated for in the Child Care Act 1991 ¹(fully enacted in 1996).

The child protection and welfare system in Ireland has undergone radical change over the past few decades. Prior to the early 1990s, laws providing protection and welfare to children and young people had remained mostly unchanged since 1908. The Irish Government ratified the United Nations Convention on the Rights of the Child and published its report to the Convention in 1996 (Buckley et al 1997, p.1). Legislative and policy changes were driven by ‘unprecedented public revelations of abuse of young children by their families, by the clergy and by other persons in positions of trust’ (Buckley et al 1997, p.2). In an EU led report of Child Protection Systems, Maria Corbett states that the completion of a series of ‘damning reports’ ²concerning Ireland’s policies and cultural attitudes towards children highlighted a common thread amongst the reports; ‘children were not listened to and when they spoke up they were not believed’ (2015, p.2 & p.45). The Report of the Commission to Inquire into Child Abuse (The Ryan Report) was published on 20th May, 2009. In response to the publications of these report, the Government developed the Ryan Report Implementation Plan and allocated funding of €24 million as a demonstration of its commitment to reform the Child Protection and Welfare System. Other developments of note include the Children Act 2001, the publication of the Child Protection Strategy by TUSLA in 2017 and the Children First Guidelines for the protection and welfare of children, published in 1999 and updated again in 2011 and 2017. The people of Ireland voted in favour of the 31st amendment to the Constitution to strengthen the rights of children in the Irish Constitution in 2012.

The Child and Family Agency recognise, as legislated for under the Childcare Act of 1991 and as set out in their guiding principles, that the best place for a child to be brought up is with their own family. However, if it is perceived by the agency that a child and his or her siblings cannot be protected from harm in their own homes, even with intensive family supports, the agency may apply to the courts for an order to ensure the safety of the child and their siblings. Tusla note that whilst consideration must be afforded to the rights of the parents, these rights will not prevail over the welfare of the child which is ‘paramount’. There are a number of options available to the Child and Family Agency allowing for statutory intervention where the child is not receiving adequate care pertaining to their protection and welfare. If the parents are in agreement, a Voluntary Care Order may also be an option.

¹ Further legislation, pertaining to the protection and welfare of children are included in Appendix 1.

² <http://www.childabusecommission.ie/rpt/pdfs/>

Reporting Mechanisms:

Any person who has a concern regarding the protection and welfare of a child, can contact their local social work office in person by phone, email or letter. Children can also refer themselves to Tusla.

The Children First Act, which was signed into law in November 2015, makes it mandatory, for persons providing a service to a child, to report their beliefs or suspicions to the Child and Family Agency. Furthermore, if a child has disclosed information that they believe they have, or are at risk to suffer ill treatment, the mandated person must report this information to the Child and Family Agency. This reporting mechanism will eventually be extended to include mandatory reporting for all members of society to report a child protection concern to the Child and Family Agency. Mandated persons are required to assess a disclosure or suspicion of a child protection and welfare concern. If unsure, the mandated person can contact a social worker to discuss their concerns and receive advice. However, the final decision must be taken by the mandated person to escalate the concern. If the mandated person decides that the information they have meets the threshold, they must inform the Child and Family Agency 'as soon as is practicable'. Extensive training has also been provided to all employees of the Health Service Executive. In addition, *any* person who has a concern regarding a child are encouraged to report their concern to Tusla and details on how to do this are available on the Tusla website. Guidelines for reporting a concern are outlined by Tusla as follows;

- An injury or behaviour, that is consistent with abuse and is unlikely to have been caused in any other way
- Any concern about possible sexual abuse
- Consistent signs that a child is suffering from emotional or physical neglect
- A child saying or indicating by other means that he or she has been abused
- Admission or indication by an adult or a child of an alleged abuse they committed
- An account from a person who saw the child being abused

Tusla advise that it is best practice to inform the family of the child that you will be reporting a concern regarding their child. Tusla state 'families have a right to know what is being reported about them. It also helps them understand the reasons for reporting and what information is being reported' (Tusla, No Date).

Tusla has two forms for reporting child protection and welfare concerns – the Child Protection and Welfare Report Form (CPWRF) and the Retrospective Abuse Report Form (RARF). The Child Protection and Welfare Report Form is to be completed and submitted to Tusla for concerns about children under the age of 18. These referral forms cannot be submitted anonymously. In addition to the submission of the CPWRF and the RARF, mandated persons can also submit their referrals through a newly developed web portal, available on the Tusla website. Tusla also advise that if there is an immediate danger to a child during out of hours' time that the Gardai should be contacted. In addition to mandatory reporting, each organisation is further obliged to incorporate a comprehensive risk assessment of their organisation and the development of a Child Safeguarding Statement.

Processes following referral:

Once a referral has been made to the Child and Family Agency, it is received within the organisation by the Duty Intake Team. All referrals received by the Child and Family Agency are screened on the same day they are received, irrespective of the source (HSE.44). There are two steps undertaken once the referral has been received;

- Screening – ensures the eligibility criteria for a referral has been met; that the referral made concerns a child or an adult who has experienced abuse as a child
- Preliminary Enquiry – clarifying the details made by the reporter and checking Child and Family Agency records and other internal HSE documents.

If it has been decided that intervention is required to ensure the safety of a child and their siblings, an initial assessment is undertaken. The purpose of the initial assessment is to reach a preliminary conclusion about unmet needs and risk of harm in order to plan and provide an appropriate response. The time scale for an initial assessment is 20 days, although this time scale is not always adhered to due to the individual circumstances of each case. Key components of this initial assessment include establishing with the child (where appropriate) and their parents whether the concerns outlined exist and contacting other professionals who is known to the child to gain their insight on the concerns. Furthermore, an analysis of the strengths and potential protective factors available to the family such as support from extended family members or existing family support services is also undertaken. Tusla have adopted the Signs of Safety model, (discussed in greater detail under Good Practice Examples) which is the current method used for assessment purposes. Prior to the implementation of Signs of Safety, a range of assessment methods were used and this will model will now provide a uniform approach by all Tusla staff.

Once a referral is deemed to meet the threshold for a child protection response, a case conference is convened. Other responses may include a family support plan or a referral to another agency. A Child Protection Conference is an interagency and inter-professional meeting which is convened following a request from the Social Work Service as an outcome of initial assessment, child welfare, further assessment or children in care processes. The purpose of this meeting is to;

- Establish whether the child has suffered or is at risk of suffering significant harm
- Facilitate the sharing and evaluation of information between professionals and parents/carers; formulate a Child Protection Plan
- Identify tasks to be carried out as part of, or pending, a Child Protection Plan
- Specify the appropriate service to carry out the tasks
- Appoint a key worker for the purpose of coordinating the Child Protection Plan' (HSE, 2011, p.48)

The plan of action derived from the Child Protection Conference is the Child Protection Plan. Each child who is the subject of a Child Protection Plan, where there are unresolved issues, is placed on the Child Protection Network System (CPNS). The decision to place a child on the CPNS is made at the Child Protection Conference. There are currently 1,272 active cases on the CPNS.

At any time during the child protection and welfare case, a Strategy meeting may be convened by the Principal Social Worker or Social Work Team Leader. The purpose of the Strategy Meeting is to discuss any urgent child protection concerns, devise an initial plan and the next steps of the enquiry. The Strategy Meeting also facilitates the sharing of information and evaluation by professionals and further to develop a plan of action to ensure the protection of the child and their siblings (Health Service Executive, 2011, p.47).

The Child and Family Agency have produced best practice guidelines for social workers who will be seeking the involvement of the courts in regard to a Child Protection and Welfare case. Before applying to the courts for the orders outlined below, as legislated for under The Child Care Act 1991, 'a social worker must be satisfied and be able to give evidence to the Court that there is reasonable cause to believe that:

- (a) the child has been or is being assaulted, ill-treated, neglected or sexually abused;
- (b) the child's health, development or welfare has been or is being avoidably impaired or neglected;
or
- (c) the child's health, development or welfare is likely to be avoidably impaired or neglected' (Health Service Executive, 2013, p.7).

The range of court orders are as follows.

Supervision Order: A Supervision order allows the Child and Family Agency to periodically attend the home of the child to ensure the child's needs are being met and is usually the first application to the courts concerning a protection and welfare case (Health Service Executive, 2013, p.7). It can be granted for a period of 12 months and can be renewed after this period. Shannon discusses the duality of a Supervision Order and states that it 'allows a proactive approach permitting the Agency to give any necessary parenting advice to the child's custodians or carers' (Shannon, 2014, p.80).

Emergency Care Order: An Emergency Care Order allows for the immediate removal of a child and their siblings from their home. It will only be provided for a maximum period of 8 days, after which one of the following orders must be sought. The Child and Family Agency also have the authority to return the child to their parents or without any further applications to the court.

Interim Care Order: An Interim Care Order must not exceed 29 days unless the Child and Family Agency and the parents or guardian periods agree to a longer period. The Child and Family Agency can apply to the courts to have this order extended, if there are reasonable grounds for doing so (Health Service Executive, 2013, p.7).

Care Order: A Care Order can be granted for any period of time, until the child reaches 18 years of age. Coulter states that a Judge must be 'satisfied', with this being differentiated from a 'belief' for the other care orders to be granted, that considerable harm is likely to continue for the child unless a Care Order is granted (Coulter, 2015, p.7).

Children Act 2001, Special Care Order, Section 23: 'Where a child needs special care and protection, where the child's behaviour poses a risk to him/herself and he/she is unlikely to get the special care required unless such an order is made' (Family Law Information, No Date). Coulter advises that, such is the seriousness of (Interim) Special Care Order, the application is thus made to the High Court (2015, p.44).

Children in Ireland are usually placed in Foster Care and approximately one third of these placements are placed in Foster Care with relatives (Kinship Care). See Appendix 2 for exact figures.

Support Services:

In addition to social work services, Tusla advise that there are a range of services they can offer to families who are experiencing difficulties, which include social workers, family support workers, youth workers, family resource centres, support groups and counselling services (Tusla, No Date). Many of these services are provided on behalf of Tusla by voluntary organisations, such as Barnardos, Foróige, Extern, ISPCC and YAP. If the conclusion of the initial assessment advises that a child has unmet needs but not at risk of ongoing harm, a Family Support Plan is developed. The Family Support plan is developed in collaboration with the child and the family and the professionals involved. Tusla recognise that 'Providing help to children and families early in the stage of a difficulty can prevent situations escalating and becoming more entrenched' (Tusla, 2013, p.6 & p.7).

Connolly et al (2017) discusses the provision of parenting supports by Tusla and Tusla fuded agencies and notes that these supports are delivered both directly and indirectly. Direct supports 'include actions aimed exclusively at improving parental skills and capacities. These include support to meet particular needs (lone parents, minority parents, teenage parents, parents with a disability) and support for particular parenting relationships (foster parents, separated/divorced parents)'. Indirect supports 'include actions aimed at individual parents or families where the nature of the work supports parents or individual family members in improving their own life trajectory.' (p.12).

Parenting24seven is an online resource which provides 50 key messages for parents, which are evidenced based, on what works best to improve outcomes for children and their families. Information is divided into different age groups, from 0-17 years and provides guidance to parents on

nutrition, positive parenting and extending social support networks for parents and their children (Tusla, No Date).

The Family Resource Centre programme is Ireland's largest family support programme. There are currently 109 centres operating and 2 further Outreach Centres. Children and families can self-refer or can be referred by their local social work team. These resource centres play a fundamental role in the Child and Family Agency's Local Area Pathways model, conveying to families that "there is no wrong door" and further that all families in their locality 'receive easily accessible support, appropriate to meet their identified needs' (Tusla, 2013, p.14). It is further noted that a key feature of these resource centres is local people identifying needs and further developing needs-led responses. Family Resource Centres provide an array of services including information, advice, referral, education & training, counselling, community and support groups, childcare services and personal and group development.

A further component of the Family Support stream of Tusla is the Area Based Approach and **Meitheal**³ Model stream. Tusla define Meitheal as 'a national practice model to ensure that the needs and strengths of children and their families are effectively identified, understood and responded to in a timely way so that children and families get the help and support needed to improve children's outcomes and to realise their rights' (Gillen et. al., cited in Cassidy et al., 2016, p.13). This programme is targeted at children and families who require a lower level of family support. An evaluation study conducted by Devaney et al found that 'outcomes for families who participated appeared to have improved as a result of the process' (2018, p.8). In addition there were some positive unintended consequences as a result of the process which included the Meitheal 'acting as a catalyst for greater systemic emphasis on early intervention' (2018, p.9).

Whilst the Resource Centre Programme and the Meitheal may be considered as the lower scale of family support interventions for normative and universal life events, there are more intensive programmes funded by the Child and Family Agency. For example, **Springboard**, which was launched in 1998 starting with 15 projects nationwide. Locations for these projects was determined by certain factors such as high rates of unemployment, lower levels of educational attainment and high rates of lone parenthood. Specific attention is given to those families where child protection concerns exist, to families with ongoing health and welfare problems and/or families in once-off crisis situations. The projects target the most disadvantaged and vulnerable families in the area specifically focusing on improving parenting skills and child-parent relationships (cited in Haase et al., 2001, p.5). An evaluation of the Springboard project conducted by Haase et al., found that 'the proportion of children deemed to be at moderate-to-high risk of abuse or going into care was halved while attending Springboard' (2001, p.33) in addition to reduced parental stress and 44% of parents reporting that their children's challenging behaviour was easier to manage and stress levels among parents fell by 43% (2001, p.63).

Another intensive form of family support funded by Tusla is the **Youth Advocacy Programme (YAP)**. Devlin outlines the variation of programmes offered by YAP;

- *Intensive Support Programme* is provided to young people aged 10-18 years at high risk of placement in care, secure care and custody (Level 3 and 4 on the Hardiker Scale). It provides intensive support of up to 15 hours a week for 6 months for the young person and family
- *Family Support Programme* is provided to families in need of time limited, focused support (Level 3 and 4 on the Hardiker Scale). The service provides support of 8 hours a week for 4 months focusing on goals set with the family

³ Meitheal is an old Irish term that describes how neighbours would come together to assist in the saving of crops or other tasks.

- *Aftercare Support Programme* is provided to young people aged between 17 and 19 years who meet HSE criteria for Aftercare support. It provides support of 8 hours a week for 6 months to support the transition from care to independent living
- *Access Support Programme* facilitates transport and support for children and families who are involved in access arrangements as agreed with the HSE
- *Crisis Intervention Service* aims to provide a rapid response to a young person aged 8-18 years in crisis for a specific time period (Devlin, 2014, p.225 and p.226)

An evaluation of the YAP programme demonstrated a considerable impact for both the young people and their families; a decrease in emotional problems, a decrease in the perceived risk and a reduction in conduct issues (Devlin, 2014, p.72-76).

The **CARI Foundation** provides a range of services to children who have been victims of sexual abuse, including a helpline, therapy, parental support, training and advocacy.

Risk Groups:

The Childcare Law Reporting Project (CCLR) established in 2007, directed by Dr. Carol Coulter, sought 'to provide information to the public on the operation of the child protection system and to promote transparency and accountability'. Prior to the initiation of this project, all matters before the courts were prohibited from publication. This project has publicised the structures and procedures of the child protection system and has highlighted an over representativeness of particular risk groups and in some cases, gaps in current policy and legislation. The key groups found to be at risk are as follows:

Children in particular geographical areas: The data presented in the reports highlights great disparities pertaining to child protection and welfare applications in the courts being granted or refused, dependent on geographical location. For example, figures from 2015 indicate that a court order is less likely to be granted (struck out, refused or withdrawn) in Castlebar, Co. Mayo, where the number of court orders refused was 41 against 55 that were granted. In comparison, in Trim, Co. Meath, there were only six cases struck out, refused or withdrawn whilst 302 orders were granted.

Coulter advises that although this may be due to the varied practices of judges within these locations, further consideration must also be given to the practices of the Child and Family Agency. In addition, the resources available to Family Support mechanisms within these localities may also be factor with regard to the number of applications made (Court Statistics, 2015).

Children of Lone Parents: Of all the cases that were before the courts, where the parental marital or cohabitation status could be established, 74% of respondents in court applications were parenting alone. Coulter offers a range of variables that increases the susceptibility of child protection and welfare applications for children of lone parents such as social isolation, disabilities or addictions. In some cases before the courts, it was noted that parents can experience one or more of these contributing variables at any one time (2015, p.12). Further research notes that over 22% of lone parent families are living in consistent poverty. A study conducted by Millar and Crosse (2016), which was critical of the Activation Policy targeted at lone parents, did not dispute that maternal employment is one of the most effective measures at decreasing levels of consistent poverty within lone parent families. However, the report illuminated the deficiencies in the structural support mechanisms of lone parent employment, such as family friendly jobs (part-time and flexi time contracts), funded childcare and access to education. The Child Protection and Welfare Practice Handbook further highlights the child protection issues which may occur for lone parents that work. It states 'a mother may leave her child home alone when the childcare provider fails to show up. If the mother does not go to work, she can lose her job and will not be able to take care of her child. However, if she leaves the child alone, she may be guilty of neglect' (2011, p.18).

Minority Groups: Coulter found that minority groups have a higher rate of representation of child protection and welfare cases before the courts than the general population (p.13). Irish Travellers,

who represent 0.04% of the general population, represented 4.4% of all cases but this figure may be underestimated as ethnicity was not identified where a Traveller family was settled. Statistics, excluding Travellers, show that 26.5% of cases included at least one parent from an ethnic minority group. African families made up 7.6% of cases, Eastern European, namely Poland, Latvia and Lithuania, made up 5%, whilst Roma families made up 1.4% of all cases. Coulter draws on statistics for the year 2011 from the Central Statistics Office and which shows that the African population accounts for less than 1% of the whole population, indicating that African families are about seven times more likely to face child protection proceedings than are Irish people' (p.13).

Children Living in Direct Provision: In 19 cases that involved an African parent, many were living in Direct Provision. Coulter reflects on previous cases where children had been born into the Direct Provision system in 2007. In 2015, these children were still living there with the exception of being taken into foster care while their mother was admitted to a psychiatric unit (p.45). Coulter's concerns for children residing in Direct Provision centres are echoed by Shannon who states that 'the treatment of asylum seeker children was noted, with the Committee on the Rights of the Child urging Ireland to ensure to such children the same standards of (and access to) support services as Irish children, in particular in their living arrangements, child protection standards and child allowance' (2017, p.35). A report from the Irish Refugee Council further compounds the deficiencies of Direct Provision Centres, which impedes on the protection and welfare of children. The report states children residing at these centres are subjected to malnutrition, gastroenteritis and live in cramped and unsafe living conditions. They are further exposed to high stress levels as a direct result from being placed in these centres (Arnold, 2012, p.16 and p.20).

Children with Special / Additional Needs: Coulter highlights an increased prevalence of children and young people with special needs, where figures coming before the courts show that one in four children had additional needs. The report refers to waiting lists for resources available to children with additional needs such as speech and language therapists, assessments and further advises on the difficulties faced by the agency in allocating a suitable foster home. 'In one case, a five-year-old boy with complex needs had had five placements in three years' (2015, p.26). Children and young people who require therapeutic placements in a residential setting are in some cases placed in centres outside of the jurisdiction, although this was in a minority of cases. As the number of places are constrained within this jurisdiction, places are allocated on an assessment of need. However, awaiting this placement can place the child at further risk;

In one case before the District Court where a very troubled boy required a secure bed, the court was told none was available, he needed to be even worse before he could advance up the waiting list. In another case a child committed a Section 4 assault while waiting for a secure bed (2015, p.27).

Where suitable places were allocated for children and young people, no suitable stepdown had been found for them and they were often left languishing (2015, p.26). One young person had been passed from 'pillar to post' after spending three years in a specialist facility in the UK and had even spent time in a holiday home on his return to Ireland.

Homelessness: Coulter notes that homelessness began to crop up with increasing frequency, although it has never been the sole reason that an order has been sought through the courts (2015, p.11). Since 2015, Ireland's homeless crisis has deepened. With demand outstripping supply in the rental market, resulting in spiralling costs, many families are priced out of the market. The former, coupled with the stagnancy of new social housing developments, has led to over 3,000 children and their families being homed in temporary accommodation in bed and breakfasts and hotels. Shannon advises that the Committee on the Rights of the Child is "deeply concerned" by the crisis (2017, p.41). A report conducted on behalf of Focus Ireland illuminated not only the imminent stresses placed on children and their families but the secondary stresses associated with becoming homeless.

For example, children included in the study on average had to travel 8.75kms to school via public transport daily, with one child commuting 34.1kms, which means that speculation must arise regarding the impact on education (Connolly, 2016). It may be further suggested that parental stresses are increased through the processes of becoming homeless and perhaps the diminished social support network.

Analysis of the child protection system according to the 10 principles of Integrated Child Protection Systems

■ Is the existing model rights-based?

The Child and Family Agency, as is legislated for both in the constitution and in law, is committed to ensuring children's rights are upheld. The Children First Act enhances the promotion of an integrated child protection system, ensuring all organisations providing a service to children are trained to firstly, recognise the signs of abuse and secondly are equipped with the knowledge to respond appropriately to ensure the safety and well-being of a child. However, the effects of this piece of legislation has yet to make an impact as it is still in its infancy.

In order to embed participation as an organisational culture and further, to promote the Agency towards a right's based model of professional intervention, Tusla committed to a programme of action in 2015 under the Development and Main Streaming Programme of Prevention, Partnership and Family Support (PPFS). This programme of action has five distinct, yet interlinked, key components, which include supporting the participation of children and young people on matters that affect them.

The Children's Rights Alliance in Ireland, releases an Annual Report Card, allocating a grade pertaining to the various rights of children. The 2018 Report Card ⁴has been scored a 'C-', an improvement on 2017's Report Card score of 'D+'. The highest individual grade in Report Card 2018 is a 'B' for 'Child Protection'. Positive approaches undertaken by the Government which have contributed to this grade include placing the Children First National Guidance on a statutory footing, enhancing vetting procedures for those working with children and young people and progress taken to ensure children are protected from harm online. However, children are still left vulnerable to abuse as the report advises that there is no agreement or process in place to 'seek information from policing authorities abroad when a vetting applicant has lived outside of Ireland. This gap has been previously highlighted by Shannon in 2014 where recommendations were made that 'protocols or administrative arrangements with police authorities in foreign jurisdictions could address this issue' (2017, p.80). Further gaps within this vetting system are the lengthy times in the turnaround of vetting applications, further contributing to children and young people being susceptible to harm. A report compiled by the Health Information and Quality Authority (HIQA), who are authorised to inspect foster care services provided by the Child and Family Agency, found that 'there was no record of Garda Síochána (police) vetting for a number of foster carers and a substantial number of household members aged 16 years and over did not have Garda vetting' (HIQA, 2017).

The report further notes an improvement in the Guardian *Ad Litum* (GAL) Service, from a 'D' to a 'C'. Improvements from the 2017 report card include a commitment by the Government to appoint a new Executive Office in the Department of Children and Youth Affairs in addition to holding consultations in collaboration with children and young people to design the GAL service (p.73). The report

⁴ Explanation of Grades:

A Excellent, making a real difference to children's lives

B Good effort, positive results for children

C Satisfactory attempt, but children still left wanting

D Barely acceptable performance, little or no positive impact on children

E Unacceptable, taking steps in the wrong direction, no positive impact on children

F Fail, taking steps that undermine children's wellbeing

N/A Not applicable, due to vague nature of Government commitment

welcomed the proposed reforms to the GAL service noting it has been an unregulated area 'since the commencement of section 26 of the Child Care Act 1991, which provided for a child's views to be heard through a GAL in child care proceedings' (p.74). This legislation will ameliorate disparities on the appointment of a GAL to a child, which varies from judge to judge. This legislation will further enhance the voice of the child in court proceedings through formalising the credentials and role of the GAL. Coulter's findings in the GAL service within the court system are aligned with those of the report card and found that in just over a half (53%) of cases inspected GAL's were appointed to a child.

Comment [c1]: Could add point re impact of child poverty and conditions like direct provision which are cause for concern re rights violation
Could add further reference to report of the UNCRC to Ireland 2016 also – e.g it raises religious rights too re school admissions (and lots more!)

Prior to 2017, children residing in Direct Provision centres could not report their complaints to the Ombudsman for Children as there was no legislation to allow for these complaints to fall under the remit of the Ombudsman for Children. The publication of the McMahon Report in 2015 recommended that this legislation be introduced with a matter of urgency to enhance protection for children living in Direct Provision. A report conducted by the Department of Children and Youth Affairs, held consultations with 110 children living in Direct Provision centres. The report asked the children and young people who participated to outline their likes and dislikes. Whilst there were some positive examples given, such as being close to a beach and liking the community they were living in, there were many negative examples, particularly those impinging on children's rights. For example, one young person reported that 'there is so many men, and coz they look creepy look at you' (2017, p.20). Other children and young people reported worrying about their mothers and the impact of living in consistent poverty such as not being able to do things and not being able to afford new clothes (2017, p.8). Previous recommendations made by the UNCRC to improve the conditions for children living in Direct Provision include;

'Adequate child protection services, education for children, and appropriate clothing and food for children at these centres; this should include food which is of adequate quality, and that is culturally appropriate for children of minority faiths, and also address the needs of children with dietary requirements; to the extent possible, these centres should also allow for residents to store and cook their own food' (2016, p.15).

Data from the Central Statistic's Office reveal that there were 11.1% (n=138,949) of children aged 0-17 years living in consistent poverty. Referring to these statistics Barnardos notes that these statistics translate as 1 in every 9 children in Ireland living in consistent poverty. Barnardos further note that children living in one parent households are at an increased likelihood to live in consistent poverty and state that 'half (50.1%) of lone parent households with one or more children experienced deprivation. Worryingly this is almost three times the level of deprivation experienced by families with two adults with children (17.8%)' (2017). It may be suggested that both the direct and indirect experiences of those living in consistent poverty lead to an increased susceptibility to be the subject of a child protection and welfare case. Coulter notes that one in four respondents to cases before the courts pertaining to the protection and welfare of children are of those who are parenting alone (2015, p.12).

Are children enabled to participate?

A baseline study of children's participation in Tusla, prior to the implementation of the Tusla Participation Strategy, conducted by Kennan *et al* (2017) identified that 'there was much good practice to support children and young people's participation in decisions concerning their personal welfare, protection and care, and pockets of good practice in supporting children's participation in service planning and review' (p.41). However, the study also found that not all elements of the Lundy Model, Space, Voice, Audience and Influence, were mainstreamed in the Child and Family Agency's culture and operations (p.41), as is aimed for in the National Strategy on Children and Young People's Participation in Decision-Making 2015-2020. A follow up study conducted by Tierney ⁵*et al* (2018) found that whilst improvements had been made, namely, children being provided with information

⁵ Due for Publication in June 2018

pertaining to their rights and children's and young people's views and opinions being sought in matters concerning them, particularly within child protection and welfare services, 'there are some further steps needed to be fully compliant with the Lundy Model of participation' (p.22). For example, the majority of children reported being informed of their rights, however, additional processes are needed to ensure children understand their rights. Where children had demonstrated a good understanding of their rights, additional work such as workshops or artwork, appeared to enhance their understanding.

Under the Child and Family Agency's plan of action to embed participation as an organisational culture, a plan of action to include the views of children and young people, both on an individual and collective level has been initiated, under a plan of actions outlined in Towards a Participation Strategy⁶. The aim of this strategy is to ensure that 'every time a decision is taken that directly affects a child or young person (or children and young people collectively), their views are taken into consideration in the decision-making process'. A programme of works to enhance participation practices within Tusla and Tusla funded agencies includes;

- Child and Youth Participation Conferences
- National Child and Youth Participation Training
- The National Children's Charter⁷
- Seed funding for Participatory Practice Initiatives
- Investing in Children Awards
- National Children's Day
- Research and Evaluation

Analysing the extent to which children's views may impact court proceedings in child protection and welfare cases, Coulter notes that 'the attitude of social workers vary greatly and further states that 'there is no consistency in the reference to the views of the child from social workers and in the weight given to them, which should be related to their age and maturity' (2015, p.35). Shannon outlines recommendations to provide an appropriate platform for the views and opinions for children and young people to be heard such as the provision of training to judges and a choice in how children and young people may wish to express their views. Increased resources is advocated for within the report for children with English as a second language and for children with disabilities (p.64 and 65).

To what extent has feedback from children been collated as part of any monitoring systems?

HIQA is assigned with the duty of 'reporting to the Minister for Health and the Minister for Children and Youth Affairs, HIQA's role is to develop standards, inspect and review health and social care services and support informed decisions on how services are delivered' (HIQA, 2017). Thus, under the remit of HIQA are services which are provided to children in out of home care and children in families in need of supportive services. HIQA have a specific Children's Team to 'promote the safety and quality of some of children's social care services in Ireland'. As part of these inspections, the Children's Team meets with children to hear their views and opinions on the provision of services from Tusla. Tierney et al note that approximately 310 children and young people were consulted with in the development of HIQA Inspection Reports during the period of 2016 and 2017 (2018, p.22).

The Child and Family agency has developed a leaflet, informing children and young people on how to make a complaint as part of Tell Us at Tusla. In line with the principles of the Tusla National Quality Framework, the Tusla Quality Assurance Directorate will produce an annual report in relation to complaints, identifying any trends and sharing the learning that emerges from complaints received

⁶ Child and Youth Participation Strategy currently in development, due for release in April 2018

⁷ Provides guidelines for practitioners working with children and young people. Developed in collaboration with children and young people.

(2017, p.16). Thus, although not explicitly sought, the complaints received by children will inform service planning and review.

To what extent is data on violence⁸ against children available and is it disaggregated and are children's opinions documented?

The Child and Family Agency maintain a database outlining the reasons for referrals to the social work department and provides quarterly performance data since 2014. Recent statistics obtained for the Child and Family Agency, pertaining to emotional abuse, neglect, physical abuse and sexual abuse are outlined in Appendix 2. Ethnic minority status is not noted amongst the data logged by the Child and Family Agency.

The CARI Foundation, which provides support to children who have experienced sexual abuse, have gathered data in relation to sexual violence against children. Due to CARI offering a unique service which provides support from the initial disclosure right through to the court case, they have been able to collate and disseminate data. This has helped to inform a new policy directed by the then Minister for Justice titled 'Responding to Child Sexual Abuse'. This policy was commissioned as a result of the findings of Ireland's history with sexual abuse, which highlighted the failings of An Garda Síochána (2016).

There is much data available which captures the effect of domestic violence on children, in the broader context of their parent who is experiencing the violence and research which has been developed with children. For example, a report compiled by Hogan *et al* documents the experiences of children who have experienced living in a household experiencing domestic violence. Children and young people describe how if they intervened to protect the victim, the abuse would turn on them. Another child noted how once her mother left the family home to live in a refuge, she herself became the victim of violence (2007, p.37).

Are there gaps and weaknesses in the system?

The Office of the Ombudsman for Children investigates complaints about services provided to children by public organisations. The Annual Report of 2106 advises that 25% of all complaints received were in relation to child protection and welfare, with the vast majority being targeted at the Child and Family Agency. The report outlines the nature of the complaints and states 'services for children in care, including the availability and suitability of placements, aftercare and education, as well as a lack of inter-agency working and issues in relation to complaints handling, continued to be of particular concern in the complaints we received' (2017, p.28).

As discussed in previous sections, a number of gaps still exist within the child protection and system, in particular pertaining to children's views and the weight they are given. The allocation of a GAL to children is carried out on an ad hoc basis and a robust policy is needed to ensure each child has the option to have their voice heard in court matters concerning them. In addition, children need to be given an option as to how they wish to express their views.

Children with additional needs who require placements in specialist units are often left without the required supports whilst awaiting an available place. Children who have received the therapeutic supports they require are often left in limbo as there is no step-down facility available to them. The UN Committee on the Rights of the Child remains concerned of this practice and recommends that 'the State party ensure that adequate human, technical and financial resources are allocated to alternative care centres and relevant child protection services, in order to facilitate the rehabilitation and social reintegration of children resident there in to the greatest extent possible' (2016, p.10)

⁸ Query regarding "violence against children"

Since the enactment of the Children First Act in 2017, there have been concerns with regard to the capacity of the Child and Family Agency to deal with the anticipated increase of reports of Child Protection and Welfare concerns coupled with the difficulty of recruitment and retention of social workers within the agency. Recent statistics available on the Tusla website by The Irish Times noted there were 25,387 cases of child protection and welfare concerns in June 2017. Of this 23% of children (5,720) had yet to be allocated a social worker and further that over 1,000 of these cases were deemed as high priority (Power, 2017). Tusla had planned to recruit an additional 140 social workers in 2017, however due to issues attracting social care graduates, Minister for Children, Katherine Zappone estimated a recruitment of 40 candidates. State social workers are noted to have an average of 30 caseloads per social worker, noting the international average was closer to 15. (Forsyth in Power, 2017). Considering that embedding children's participation as an organisational culture within Tusla is a key objective of the organisation, one must question who can obtain and listen to the views of these children whilst at risk children and families await a professional intervention.

As previously discussed, Coulter has noted that the disparities in the granting of court orders evidenced in the statistics, may highlight the lack of early intervention and resources provided to families who are in need of support. Contributing factors to the gaps in early intervention include lack of resources and funding, lack of staff and staff retention issues. The establishment of Tusla as a separate agency created an entity separated from public health and mental health services which are key provisions in early intervention and prevention. Whilst there are explicit efforts by Tusla to move towards a preventative approach through the implementation of PPFS, the prior issues may still exist, such as staff turnover, and hamper the efforts of the agency.

Repeated failure by the Government to meaningfully tackle the issues of children living in consistent poverty and the secondary issues such as access to nutritional food, warm clothing and the provision of affordable and social housing are leaving children at a continuous risk. The Children's Rights Alliance has highlighted the deficits prevalent within these socioeconomic issues. The number of children who are now homeless has doubled from 2015 where there were 1,500 to over 3,000 in 2017 (2018, 32).

The Report Card further highlights the shortcomings in the protection afforded to children who are seeking asylum in Ireland. When children first arrive in Ireland, they are housed in the Emergency Reception and Orientation Centres (EROC's). At these centres, children and their families are given medical care, language training, cultural orientation and social integration training. Children and their families should only stay at these EROC's for no longer than four months, however, due to the difficulty in finding spaces for children and their families in Direct Provision Centres, some children are left there for over nine months. This has a direct impact on their education and social integration (2018, p.123).

Are there particular groups that are not adequately provided for?

As highlighted by Coulter in the previous section, there is a disproportionate amount of child protection and welfare cases concerning children from ethnic minority backgrounds. The Children's Rights Alliance Report Card scored a 'D+' on the area of Traveller and Roma populations, making a slight improvement from the previous year due to the Government now recognising Travellers as an ethnic minority and the National Traveller and Roma Inclusion Strategy (2017, p.3). The Committee on the Rights of the Child is concerned at the lack of disaggregated data on Traveller and Roma children, including their socioeconomic situation' (2016, p.4). This assertion is echoed by the Children's Rights Alliance who note that there is limited data on the Roma population in Ireland. However, the data that has been collated and disseminated, reveals some unsettling statistics. For example, a needs assessment commissioned by the Department of Justice has revealed that members of the Roma community live in 'extreme poverty'⁹. The report found that many children are

⁹ Awaiting publication of Report from Department of Justice

malnourished, a quarter of pregnant Roma women don't receive antenatal care due to a fear of costs and many had no access to state benefits thus were reliant on a humanitarian response (Holland, 2018).

Statistics contained within the Department of Justice Inclusion Strategy reveal further stark findings in relation to members of the Traveller community. Infant mortality rates are three times higher than the general population and life expectancy rates are 10 years lower for women than the general population. Decreased educational attainment is also prevalent within the Traveller community where 55% of young people have left second level by the age of 15 with only 13% completing second level, with just 1% reaching third level education (Department of Justice, p.11 and p.12).

Children with disabilities are overrepresented within child protection and welfare cases, appearing in 1 in 4 cases analysed by the CCLR. These children are left more exposed to becoming victims of abuse due to being reliant on help with intimate care and in some cases, an inability to report and social isolation (HSE, p.78). A report commissioned by the Minister for Social Protection, after it was discovered that a young woman, "Grace" had been left in an abusive foster home, even after concerns were reported by Graces mother. Ireland's National advocacy organisation for children and young people in care, Empowering People In Care (EPIC) discuss the report's findings;

The fact that the HSE failed to adequately investigate the allegations of sexual and physical abuse of over 40 children placed in this foster care home must prompt us to re-examine how we ensure that every child in Ireland is protected and safeguarded, in particular, children in the care of the state and children who are often without a voice.

Coulter highlights the instability experienced by children with disabilities and notes one child, whose mother described home as 'being kicked around like a football'. This child had lived in three different foster homes, and was aged five years (2015, p.26).

Examples of Best Participation Practice

The National Children's Charter and The National Young People's Charter

The National Children's Charter / National Young People's Charter was launched in June 2017 (See Appendix 3 and 4). This was developed in collaborative consultations with 50 children and young people aged between 9 and 17. The charters follow the development of Tusla's 'Toward the Development of a Participation Strategy for Children and Young People: National Guidance and Local Implementation' which identified the development of a Children's Charter as a priority action' (Tusla, 2017)

The aim of the charter is to;

- 'Give children/ young people and their families' greater clarity about the quality of services they can expect from all Tusla staff members, how Tusla staff will interact with them to find solutions, and the principles that underpin this work.
- Provide all staff with a clear guide and reminder of what is important to children and young people with whom they work.

These consultations were built on the Lundy model of participation and carried out under the four themes as advised by Lundy.

Space – Children were met in their own projects groups which provided a safe space to enhance participation. The Children were then given enough information to decide if they wanted to participate

Voice – At the consultations children were provided additional information to help them form a view. The consultations were facilitated by the project group leaders so that the children were comfortable. The children's and young peoples views were recorded exactly as they were spoken

Audience – After the children's and young people's views and preferences were recorded, the team checked back with them again to ensure they were correct. It was then discussed with the children and young people where their views would fit into their charter

Influence – Children and young people then helped design the charters and decide on how they would be distributed (Tusla, p.2).

In addition, a checklist was developed for practitioners based on comments by the children and young people during the consultations (See Appendix 5).

Seed Funding Projects for Children and Young People's Participation (2016 – 2018)

The Child and Family Agency have begun working with a number of partners to enhance change in children and young people's participatory practice through the provision of funding to projects where children and young people had an active role in the development of the project. Projects are required to demonstrate how the project encapsulated the four principles of the Lundy model.

In the first year, there were 38 projects in operation across all Tusla regions. Many children and young people who participated in these projects made presentations at the 'On Our Way' participation conference.

Projects to date include;

- Youth Leadership Programmes
- Domestic Violence Peer Education Programmes
- Children in Care Focus Groups
- Support Groups for Birth Children of Foster Parents
- The creation of a Child Friendly Tusla Website (Tusla, 2018)

Investing in Children Membership Awards

‘Investing in Children has been commissioned to introduce and develop a Quality Assurance process across Tusla to ensure that the collective voice of children and young people is embedded in rights based practice’ (Tusla, No Date). If a project would like to apply for a membership, they must be able to demonstrate that;

- There is a dialogue within the project with children and young people
- There has been a tangible change as a result of children and young people voice
- Children and young people who attend the project will confirm the above two conditions are met

Another element of these membership awards are ‘Agenda Days’. Children are invited to attend ‘Agenda Days™’ to come together and discuss a particular idea or issue. Some important characteristics of these days include;

- It’s an adult-free environment
- It can be used with any age group
- It works best when seen as a start of a process, not an end (Tusla, 2018, p.2)

Signs of Safety

Signs of Safety has been adopted as new the National Framework for Child Protection and Welfare and Ireland as part of Tusla’s broader Child Protection and Welfare Strategy. ‘The Signs of Safety is an innovative, strengths-based, safety-organised approach to child protection casework grounded in partnership and collaboration with children, families and their wider networks of support’. Tusla further advise ‘It also recognises from a rights perspective that children and families should be active participants in the development and delivery of our services’ (Tusla, p.2). This approach will not only improve outcomes for children and their families, but will further provide a uniform approach, clear responsive pathways, a positive learning environment, proactive relationships with partners, empowered people and defined measurable outcomes. A key goal of this approach is to reduce the number of children in care. Key principles from the Children First have been embedded within the approach to Signs of Safety include the recognition that the best place for children is with their own families, an interagency approach and supportive mechanisms to enhance the safety and welfare of the child (Tusla, p.3).

Comment [c2]: Should be mentioned also earlier.

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Appendix 1: Legislation pertaining to the Protection and Welfare of Children

- Adoption Act (2010)
- Child Abduction and Enforcement of Custody Orders Acts (1992)
- Child Care (Placement of Children in Foster Care) Regulations (1995)
- Child Care (Placement of Children in Residential Care) Regulations (1995)
- Child Care (Placement of Children with Relatives) Regulations (1995)
- Child Care (Special Care) Regulations (2004)
- Child Care Amendment Act (2007)
- Child Care Amendment Act (2001)
- Child Care Act (1991)
- Children (Family Welfare Conference) Regulations (2004)
- Children Act (2001)
- Criminal Evidence Act (1992)
- Criminal Justice Act (2006) (Section 176 Reckless Endangerment of Children)
- Criminal Law Amendment (Sexual Offences) Act (2006)
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- Data Protection Act (1988)
- Data Protection Amendment Act (2003)
- Domestic Violence Act (1999) Draft National Children's Standards (February 2010)
- Education Act (1998)
- Freedom of Information Act (1997)
- Freedom of Information Amendment Act (2003)
- Guardianship of Infants Acts (1964)
- Health and Social Care Professionals Act (2005)
- Human Rights Act (2003)
- National Standards for Children's Foster Care (2003)
- National Standards for Children's Residential Centres (2001)
- Non-Fatal Offences against the Person Act (1997)
- Protection for Persons Reporting Child Abuse Act (1998)
- Sex Offender's Act (2001)

Appendix 2: Figures pertaining to Child Protection and Welfare (Year Ending 2017¹⁰)


Total Number of Referrals	47,399
Actions After Assessment	4,836
Actions Pursued	
No Further Action	2,539
Child Protection	612
Child Welfare / Family Support	466
Further Assessment	1,130
Family Welfare Conference	27
Admission to Care	65
Referrals by Abuse Type	
Emotional Abuse	6,871
Neglect	4,724
Physical Abuse	4,450
Emotional Abuse	3,042
Total Number of Children in Care	6,267
Number of Children in Foster Care	4,111
Number of Children in Relative Foster Care	1,715
Number of Children in Residential Care	319
Number of Children in Other Placements	122
Children in Care by Order	
Voluntary Care	2,026
Emergency Care Order	107
Interim Care Order	606
Care Order	3,508
Special Care of the High Court	12
Another Care Order	8
Children in Care with a Care Plan / Allocated Social Worker	
Care Plan	5,861
Allocated Social Worker	5,810 ¹¹

Comment [c3]: It would be very interesting and useful to extend this table to include data for year ending 2016/2015/2014 also to show the changing trends

Comment [c4]: Can you capture breakdown of child welfare/child protection ?

¹⁰ Some figures have been obtained through personal communication with Tusla Data Manager


¹¹ 93% of Total Number of Children in Care (6,267)



NATIONAL CHILDREN'S CHARTER


This Charter says how all children will be treated by all Tusla staff.
These are the key messages from children who took part in writing this Charter.

As CHILDREN we want Tusla workers to:



Tusla workers will:

<ul style="list-style-type: none"> Be suitable for their job. Respect children and put their best interests first. Listen to and involve children in plans and decisions. Give clear information about who they are, what they do, what will happen and when things will happen. 	<ul style="list-style-type: none"> Understand children and their situation. Build positive, caring and trusting relationships with children. Meet children where they are comfortable and have privacy. Help families to care for children. 	<ul style="list-style-type: none"> Respect children's privacy and confidentiality as far as possible. Get children other services when needed. Be realistic and honest about what Tusla can do.
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An Ombudsman for
Local Authorities in Ireland
(Children's Family Agency)

The
ATLANTIC
Philanthropies



NATIONAL YOUNG PEOPLE'S CHARTER

This Charter says how all young people will be treated by all Tusla staff.
These are the key messages from young people who took part in writing this Charter.



Tusla workers will:

- Be suitable for their job.
- Respect young people and put their best interests first.
- Listen to and involve young people in plans and decisions.
- Give clear information about who they are, what they do, what will happen and when things will happen.
- Understand young people and their situation.
- Build positive, caring and trusting relationships with young people.
- Meet young people where they are comfortable and have privacy.
- Help families to care for young people.
- Respect young people's privacy and confidentiality as far as possible.
- Get young people other services when needed.
- Be realistic and honest about what Tusla can do.



The ATLANTIC Philanthropies

Appendix 5: Checklist for Practitioners

<p>Am I respectful towards the child/young person? <i>For example, have I been on time for appointments? Have I been appropriately dressed? Have I spoken in an appropriate tone of voice? Did I give them sufficient time to think about what I am saying and what may be happening?</i></p>	
<p>Have I considered their best interest first and foremost? <i>For example, have I thought about the child/young person's whole life? Have I thought about a range of solutions? Are they as safe as possible?</i></p>	
<p>Am I listening to the child/young person? <i>For example, did I give the child/young person enough time to speak? Am I clear that I fully understood what they told me? Did I check my understanding with the child/young person? Did I get their views on the plans for them?</i></p>	
<p>Do I give the child/young person clear and sufficient information? <i>For example, do I explain who I am, what my role is and why I am here? Do I clearly explain the next steps? Do I tell them when I will see them again?</i></p>	
<p>Do I fully understand the child/young person's life and views? <i>For example, do I check my understanding with the child/young person? Do I ask about their lives outside the 'problem'? Do I have enough information on the child/young person's whole life?</i></p>	
<p>Am I positive towards the child/young person? <i>For example, is my body language, facial expression and tone of voice positive and open? Have I identified the positives in the child/young person's life? Am I focussed on positive and helpful interventions? Am I positive about the child/young person's future?</i></p>	
<p>Am I building a caring and trusting relationship with the child/young person? <i>For example, have I told or shown the child/young person that I care about them and their situation? Do I give the child/young person enough time to trust me? Do I show a genuine interest in the child/young person's well-being and life? Do I keep to the arrangements I make with the child/young person?</i></p>	
<p>Do I meet the child/young person where they are comfortable and have privacy? <i>For example, do I give the child/young person a say in where we meet? Do I offer them breaks, drinks or snacks in meetings? Do I make sure we are not interrupted or overheard when discussing sensitive matters?</i></p>	
<p>Do I help families to care for their children/young people? <i>For example, am I respectful towards the child/young person's family? Do I consider additional services that might help? Do I give families enough information on supports and options? Am I as accessible as possible to families?</i></p>	
<p>Do I respect children/young people's privacy and confidentiality as far as possible? <i>For example, do I explain when I need to share information and who with? Do I ensure that I only share information when necessary?</i></p>	
<p>Do I think about services children/young people need outside of Tusla? <i>For example, do I consider the physical and mental health needs of children/young people? Do I have and share sufficient information about other services? Do I have links with other services that I can refer children/young people and families to?</i></p>	
<p>Am I realistic and honest with children/young people and families about what Tusla can do? <i>For example, do I clearly explain what Tusla can and cannot do? Can I answer questions in a child friendly way about Tusla's role and responsibilities?</i></p>	