



Submission to the consultation on Ireland's draft State Report to the UN Committee on the Rights of the Child

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1. Introduction

EPIC is the only independent organisation in Ireland which works with, and on behalf of, children and young people in care or with care experience. A core part of the work of EPIC is the provision of an individual advocacy and support service for children and young people in care and with care experience. The policy development undertaken by EPIC seeks to make positive change for children and young people in care and with care experience at a systemic level.¹

EPIC welcomes the opportunity to make this submission. The full Draft Combined Fifth and Sixth State Report of Ireland to the UN Committee on the Rights of the Child prepared by the Department of Children, Equality, Disability, Integration and Youth (DCEDIY) is noted by EPIC. For the purpose of this submission however, EPIC will only focus on sections 22 (a), (b), (c), (d) and (e) insofar as they are included under the 'alternative care' heading.

EPIC acknowledges the submissions of other organisations in the children's rights section, and notes the impact that so many other areas of the report have on the lives of children in alternative, such as:

- the impact of education, delayed access to, or lack of access to, appropriate educational supports;
- the ongoing housing crisis in Ireland;
- the detrimental impact of Covid-19 on the lives of all children in Ireland;
- the high numbers of young people living in poverty,
- the long waiting lists for access to and diagnosis of, and treatment for, mental health supports, as well as physical disabilities.

2. Section 22(a): Ensure the effective implementation of individual needs assessments, care planning, placement reviews and record keeping for all children in alternative care.

A child in alternative care's written care plan requires assessment of their needs and must be regularly reviewed. This requires ongoing engagement by the child's social worker and access to any necessary specialist supports determined in the plan. Due to a shortage of social workers there is an associated shortfall in terms of the standards set in legislation and the reality on the ground. This is compounded by difficulties in access to some specialist interventions, from mental health supports to speech and language therapists. The effective development and implementation of a care plan cannot occur when there are gaps in service provision and an undersupply of social workers.

¹ For more information see www.epiconline.ie

At the end of June 2021 there were 5851 children and young people in care.² It must be acknowledged that many improvements have been made by Tusla in the last number of years. Central to this has been the development and implementation of the Programme for Prevention, Partnership and Family Support.³ A key element within this has been the emphasis on the participation of children and young people in the “design and quality of services provided to them.”⁴ This is significant in terms of the effective implementation of individual needs assessments, care planning, placement reviews and record keeping for all children in alternative care and should be welcomed.

Tusla’s policy states that “[T]usla understands the term ‘participation’ to mean the involvement of children and young people in decision-making on issues that affect their lives”⁵ and Tusla has based its approach and implementation of participation on the Lundy Model.⁶ It is crucially important that in all aspects of the child and young person’s life that their views are taken into account. Tusla’s policy further states “The aim 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 (Child and Youth Participation Strategy 2019 - 2023).”⁷ Although in the main this model and introduction has been welcomed, there are areas of participation, and the amplification of the voice of the child and young person, that could be improved.

In a recent evaluation of how participation within Tusla has been embedded, several matters were highlighted. Positively, “[A]t the structural level, the baseline study found that Tusla had a strong legislative and policy framework mandating staff to take the views of children into account.”⁸ This acknowledgement and improvement must be seen as just a starting point, the foundation of which must be developed further as the report states, “weaknesses in the system emerged. There was limited evidence of children being provided with appropriate feedback and limited opportunities being created for the views of children to be heard by the relevant decision-makers.”⁹ While group meetings and fora had been developed to hear the voices of children and young people in care, on an individual basis improvements are necessary. The individual child and young person in care must be engaged at all times for full and proper participation. “Understanding the implementation of the child’s right to be heard requires a

² Tusla, *Monthly Service Performance and Activity Report*, June 2021. p.18.

https://www.tusla.ie/uploads/content/Monthly_Service_Performance_and_Activity_Report_Jun_2021_Final.pdf [accessed: 1 November 2021].

³ <https://www.tusla.ie/services/family-community-support/prevention-partnership-and-family-support/> [accessed: 3 November 2021].

⁴ <https://www.tusla.ie/services/family-community-support/prevention-partnership-and-family-support-programme/participation/> [accessed: 3 November 2021].

⁵ E. Tierney, et al. *Children’s participation work package final report: Tusla’s programme for prevention, partnership and family support*. Galway: UNESCO Child and Family Research Centre, National University of Ireland Galway. 2018. p. 1.

⁶ L. Lundy, “‘Voice’ is not enough: Conceptualising Article 12 of the United Nations Convention on the Rights of the Child”, *British Educational Research Journal*, 2007. 33, 927-42.

⁷ <https://www.tusla.ie/services/family-community-support/prevention-partnership-and-family-support-programme/participation/> [accessed: 3 November 2021].

⁸ D. Kennan, et al. *Developing, Implementing and Critiquing an Evaluation Framework to Assess the Extent to Which a Child’s Right to be Heard is Embedded at an Organisational Level in Child Indicators Research, 2021 14: 1931-1948* at p. 1942.

⁹ *Ibid.* p.1943.

focus on the right of the individual child to have their views heard on personal matters directly affecting their lives as well as the right of children collectively to have their views heard in public decision-making.”¹⁰

A very significant area which warrants improvement and affects all children and young people in care are the Child in Care Reviews (CICR). Unfortunately, there is no data available for the numbers of children and young people attending their reviews, but anecdotally a Principal Social Worker has noted to EPIC that in their area it was lower than 10%. If this is replicated across the country, then less than 600 children and young people could be attending their reviews. This is deeply concerning as this is the most important meeting in the child or young person’s life in care. Immediate steps must be taken to ensure that more children and young people are encouraged and supported to attend their reviews. This belief is supported by a recent HIQA report published in September 2021 which stated that “levels of attendance and support for children and young people at their reviews remained an area for further improvement in almost all service areas.”¹¹

Another issue raised by HIQA regarding child in care reviews, is the lack of feedback given to children and young people on decisions made at their reviews. They have asked for immediate improvements “to ensure changes made to care plans are routinely shared with children, their families and foster carers in a timely manner.”¹² The child in care review is a great opportunity for all adults involved to engage constructively with the young person to ensure that they are heard and that their rights are validated. Unfortunately, as there is no data published by Tusla on engagement levels of young people in their Child in Care Reviews, it is difficult to fully ascertain their levels of participation. This has led to “a dearth of literature in this area, underscoring the importance of future research and indicator sets to also measure such outcomes, beyond assessing the extent to which a child’s right to be heard is embedded at an organisational level.”¹³

The United Nations Convention on the Rights of the Child (UNCRC) has made it clear that all efforts must be made to “[E]nsure appropriate conditions for supporting and encouraging children to express their views, and make sure that these views are given due weight, by regulations and arrangements which are firmly anchored in laws and institutional codes and are regularly evaluated with regard to their effectiveness.”¹⁴ EPIC cannot overemphasise the importance of data and information in the drive to improve care. Data must be recorded and tracked for the benefit of all children and young people in care. It is only through data such as this that participation levels on an individual basis can be measured.

¹⁰ *Ibid.* p.1944.

¹¹ HIQA, *Overview Report. Inspection of Statutory Foster Care Services 2019-2020*. September 2021. p.23 & 24.

¹² *Ibid.* p.24.

¹³ D. Kennan, et al. *Developing, Implementing and Critiquing an Evaluation Framework to Assess the Extent to Which a Child’s Right to be Heard is Embedded at an Organisational Level in Child Indicators Research*, 2021 14: 1931-1948 at p.1946.

¹⁴ UNCRC, *General Comment No.12 (2009) The Right of the Child to be Heard*. Geneva, 25 May-12 June 2009.

On a systematic level, Tusla's figures show that at the end of June 2021 a "total of 201 children did not have an up-to-date care plan"¹⁵ and a lack of social workers, coupled with difficulties in retention, is having a significant impact on children in care and the effective implementation of individual needs assessments, care planning, placement reviews and record keeping for all children in alternative care.

3. Section 22(b): Monitor the use of voluntary care arrangements and ensure periodic reviews of children placed in voluntary alternative care.

In Ireland, children and young people can come into care either by the granting of a care order through the courts,¹⁶ or by the parent(s) signing a voluntary care agreement.¹⁷ At the end of December 2019, according to the last available figures, there were "1,532 (26%) children and young people in care under a voluntary arrangement."¹⁸ It must be acknowledged that the number of voluntary admissions has decreased year on year since 2016 and is down 21% (121) overall,¹⁹ and that this issue is currently under review as part of the overall review of the Child Care Act 1991, which is welcome.

A recent study from University College Cork (UCC) on the rights of children and young people in care under a voluntary arrangement stated that there are "numerous risks to the rights of children and parents involved in voluntary care agreements."²⁰ These risks included "the absence of independent oversight; the potentially unlimited duration of placements; potential instability; weak mechanisms for ascertaining the views of the child; and inferior resource allocation by comparison to children who are subject to care orders."²¹ There is also a lack of data relating to voluntary arrangements and the issues outlined.

Another area of concern affecting children and young people under voluntary arrangements, is draft legislation: the General Scheme of the Child Care (Amendment) Bill 2021²² which is currently before the Dáil and would ensure that all children under a court order have access to a *Guardian ad Litem* whereas children under a voluntary care order will not. This legislation "is driven in part by the need to comply with the strengthening of the constitutional obligation to ascertain the views of children in court proceedings on foot of the enactment of Article 42A,

¹⁵ Tusla, *Monthly Service Performance and Activity Report*, June 2021. p.18.

https://www.tusla.ie/uploads/content/Monthly_Service_Performance_and_Activity_Report_Jun_2021_Final.pdf [accessed: 1 November 2021].

¹⁶ Sections 13, 17 and 18. *Child Care Act 1991*. <https://revisedacts.lawreform.ie/eli/1991/act/17/revised/en/html> [accessed: 3 November 2021].

¹⁷ Section 4. *Child Care Act 1991*. <https://revisedacts.lawreform.ie/eli/1991/act/17/revised/en/html> [accessed: 3 November 2021].

¹⁸ Tusla, *Annual Review on the Adequacy of Child Care and Family Support Services Available 2019*. p.62.

¹⁹ *Ibid.* p.14.

²⁰ R. Brennan, et. al. *The rights of the child in voluntary care in Ireland: A call for reform in law, policy and practice*. Children and Youth Services Review 125. 2021. p.9.

²¹ *Ibid.*

²² www.gov.ie/pdf/?=https://assets.gov.ie/201467/ed401501-530c-4b65-8309-39b6b28233a0.pdf (www.gov.ie) [accessed: 11 November 2021]

which was approved by referendum in 2012.²³ If these constitutional rights are not extended to children and young people under a voluntary agreement, it will lead to a two-tier system of rights within the care system.

A previous report from UCC *The right of the child to be heard?*²⁴ “has shown that the views of children are often not ascertained in court-based proceedings, notwithstanding the presence of specific statutory mechanisms.²⁵ The danger therefore arises that the absence of such mechanisms will make this tendency more pronounced in voluntary care agreements.”²⁶

Data and research, along with statutory measures, must be undertaken to ensure that children and young people in care under voluntary care arrangements have the structures in place to be heard, and to have their rights upheld. It is also necessary that the length of time under which a child is on a voluntary arrangement is tracked, and reviewed, and that where it extends beyond a short set period, a full care order must be sought.

4. Section 22(c) Address the gap in the availability of appropriate placement to meet the diverse needs of children in care, including children who are in need of secure services and are placed in institutions outside the State party.

The State Report references foster care and the fact that the vast majority of children in care in Ireland are in foster care. This is true, but in relation to children with diverse needs, there is a lack of options available. The lack of foster care placements for children and young people with disabilities is a multifaceted issue and is not addressed in the Government response. In order for the current situation to improve, specialist training for Tusla foster carers must be increased. At present, it is recognised that private foster carers receive better supports and training, which results in potential foster carers going through private foster care agencies rather than through Tusla, creating a difficulty in recruitment for Tusla.²⁷ This is relevant for all foster care placements, but is particularly important for the recruitment and retention of foster carers who are willing to take in children and young people with disabilities. This current disparity has been recognised by Tusla and is being addressed through recruitment campaigns and designated foster care support leaders.²⁸ Regular supports and ongoing specialist training for foster carers dealing with challenging cases is also required.

²³ R. Brennan, et. al. *The rights of the child in voluntary care in Ireland: A call for reform in law, policy and practice*. Children and Youth Services Review 125. 2021. p.3.

²⁴ A. Parkes, et al. *The right of the child to be heard? Professional experiences of child care proceedings in the Irish District Court*, Child and Family Law Quarterly, 27(4), 2015.

²⁵ *Ibid*. Pgs. 423–444.

²⁶ R. Brennan, et. al. *The rights of the child in voluntary care in Ireland: A call for reform in law, policy and practice*. Children and Youth Services Review 125. 2021. p.3.

²⁷ Discussed in a meeting with EPIC 6.11.21 and in a CRA members meeting 8.11.21.

²⁸ *Ibid*

Duration of a Placement in Special Care

The duration for a Special Care Order is specified for the time it will have effect and that period “shall not exceed 3 months from the day on which the order is made.”²⁹ However, this period can be extended if Tusla has sufficient cause to believe that the benefits of a special care placement provided to the child are continuing³⁰ or that the harm and risk presented by the child are still prevalent.³¹ Also, if Tusla has reasonable cause to believe that the child still “requires the continuation of the provision to him or her of special care to adequately address that behaviour and risk of harm, and his or her care requirements which Tusla cannot continue to provide to the child unless the period for which that Special Care Order has effect is extended.”³² If Tusla can satisfy the High Court that there remains a risk still posed by the child, that their behaviour will be harmful unless the child remains in the special care facility as no other service would meet their current needs,³³ or that treatment under the Mental Health Act 2001 would still be insufficient for the child,³⁴ then an extension can be granted.

Finally, with regards to an extension of the placement, if “the continuation of the detention of the child in a special care unit, is required to protect his or her life, health, safety, development or welfare,”³⁵ Tusla may apply to the High Court to extend the order to continue their placement for the child in the Special Care facility.

There is a limit of two applicants for extensions under the legislation,³⁶ and each extension must not exceed three months.³⁷ However, it must be noted that “there is no indication that the maximum duration of Special Care Orders or Interim Special Care Orders is limited by the fact that the child was previously detained under the inherent jurisdiction.”³⁸ Therefore the time limit of three months is virtually irrelevant as “a child may be detained in Special Care for periods over nine months by means of back-to-back Special Care orders.”³⁹ Due to the fragile and complex needs of young people in Special Care, the issue of “[D]etaining minors for longer than necessary, or past the point where they are receiving a therapeutic benefit, will surely only create further problems where such a person becomes institutionalised and frustrated with his/her own lack of progress.”⁴⁰

Unfortunately, it now seems that the length of time that young people are spending in Special Care is increasing. The UNCRC emphasises that when any child is deprived of their liberty it should only be a measure of last resort and for the shortest time possible.⁴¹ One reason for this is the lack of ongoing placements. A legal case in 2018 stated that “In the course of (and)

²⁹ *Child Care Act 1991*. Section 23(H)(2).

³⁰ *Ibid.* Section 23(J)(1)(a).

³¹ *Ibid.* Section 23(J)(1)(b).

³² *Ibid.* Section 23(J)(1)(c).

³³ *Ibid.* Section 23(J)(1)(d)(i).

³⁴ *Ibid.* Section 23(J)(1)(d)(ii).

³⁵ *Ibid.* Section 23(J)(1)(e).

³⁶ *Ibid.* Section 23(J)(2).

³⁷ *Ibid.* Section 23(J)(8).

³⁸ B. Barrington and M. MacMahon, *Update to the Law on Special Care in Ireland*, [2018] 2 I.J.F.L. 21(2), 42-47, p. 45

³⁹ *Ibid.*

⁴⁰ M. MacMahon, *Secure Care of Children in Ireland*. [2018] 21(1), 3-8, p. 7

⁴¹ *UNCRC*. Article 37(b).

within proceedings, difficulties arose in securing an onward placement for the minor who was transitioning out of Special Care. This was a feature which was becoming increasingly common place in the Minors List and of grave concern to all parties. As a result, the period of detention of minors in Special Care was being unnecessarily extended due to the lack of onward placements.”⁴² Although this observation was made several years ago, it is unfortunately still relevant and highlights the concern that has been present for several years in relation to the lack of onward placements. Indeed, to emphasise the issue of young people being locked away without any crime being committed, “[I]n an affidavit sworn on the 23rd April 2019, Mr. Donal McCormack, the national service director of residential childcare services, state[ed] that at the core of the special care regime is the deprivation of liberty consequent upon the detention of a child in a secure unit. The statutory regime provides that special care should be a last resort when no other form of care is sufficient to meet the needs of the child.”⁴³ The period spent in special care is increasing and the numbers awaiting a placement is growing. Tusla’s senior management have acknowledged in a number of meetings, that special care places are longer in length than necessary at times due to a lack, in part, of onward placements, as well as insufficient step down or semi supported accommodation options. With no onward placement available the child is obliged to remain in secure care for longer than the agreed period, causing frustration and difficulties and impinging on the child’s liberty.⁴⁴ This issue must be addressed in more detail within the Governments report.

Out of State Care

“For the years 2016 to Q1 2020, an average of 5 young people were placed in overseas residential placements annually, all in the UK.”⁴⁵ This is the figure stated in the consultation document from the Department of Children, Equality, Disability, Integration and Youth. However, according to Tusla’s reports, “15 (0.25%) children were in Out of State placements at the end of Q1 2021; two fewer than Q1 2020 (17) .”⁴⁶ In fact the lowest number in the years stated was “15 (0.23%) children were in out of state placements at the end of Q2 2016; two fewer than Q1 2016.”⁴⁷ The statement in the consultation document must be amended.

Case Study

This is the case study of a 15-year-old male, in care since the age of 13, and under a full care order for 15 months. The child is currently living in a private residential, single occupancy placement and has been out of formal or any other kind of education for over 2 years. The child has a complex presentation including trauma, self-harm, disordered eating, purging,

⁴² *Child and Family Agency v T.N. & Anor.* 2018 IEHC 651. at Para. 1.

⁴³ *C.K. v Child and Family Agency & Anor.* 2019 IEHC 635. at Para. 30.

⁴⁴ EPIC meeting with Tusla 6/11/21 and CRA meeting with Tusla 8/11/21

⁴⁵ DCEDIY, *Draft Combined Fifth and Sixth State Report of Ireland to the UN Committee on the Rights of the Child*, October 2021. p. 47.

⁴⁶ Tusla, *Quarterly Performance and Service Report*, Quarter 2 2021. p.33.

https://www.tusla.ie/uploads/content/Q2_2021_Service_Performance_and_Activity_Report_Final_V2.0.pdf [accessed: 1 November 2021].

⁴⁷ Tusla, *Quarterly Performance and Service Report*, Quarter 2 2016. p.27.

https://www.tusla.ie/uploads/content/Q2_2016_Integrated_Performance_and_Activity_Report_Final.pdf [accessed: 3 November 2021].

substance abuse/misuse, violence and aggression. Recommendations were made in an overall mental health assessment, conducted by an out of state, independent psychologist, who is a consultant with an ongoing oversight role in relation to the child's case. In this report the psychologist identified specific areas where this child required specialist therapeutic interventions. Few of these interventions have been implemented through either public or private supports despite CAMHS being involved on an ongoing basis. It is EPIC's opinion that the CAMHS approach is not ideal, and demonstrates a lack of flexibility on the part of CAMHS to adapt to suit the needs of a child with a disability. There has been a lack of willingness from CAMHS to conduct meetings for example at a location where the child may feel more comfortable. Communication between CAMHS and the other professionals supporting the child has been ad-hoc and CAMHS, in this instance, have not been appropriately responsive to the concerns being expressed by the staff that are working with the child daily. Out of state options are now being considered in this case in part due to a failure by the state to initiate and implement supports that are in keeping with the complexity of this child's needs.

5. 22(d) Address the needs of children in alternative care who have disabilities or mental health needs in an integrated and comprehensive manner, and through adequate coordination mechanisms between the Child and Family Agency and other relevant agencies and departments.

It is very difficult to comment on an area when there is no research or data available. A major issue relating to disability and mental health issues for children and young people in care is that both services are run by the Health Service Executive (HSE), and not Tusla. Children in care need to have a designated pathway to disability and mental health services and to be prioritised accordingly. Coordination of service provision, dual diagnosis, and joint oversight must be established between the HSE and Tusla, and the shortfall in service provision must be addressed.

Research is overdue on the joint protocol between Tusla and the HSE in relation to children and young people in care with disabilities. This research must concentrate on whether the joint protocol is effective, and how it could be strengthened and improved. Such research should also examine the situation in aftercare whereby a young person in care with a disability turns 18 but warrants services and support.

In relation to mental health issues, a full review of CAMHS needs to be conducted as the service varies significantly throughout the country, with long waiting lists in many areas. A priority access route for children in care must be provided to ensure that help and support is provided for them. Due to lack of services, many young people, especially those in the care system, are ending up in adult services, despite a commitment to end this practice. EPIC has recently worked with a teenager who had been placed in an adult psychiatric ward, and who was kept there due to lack of an appropriate onward placement.

It is not EPIC's experience that the care status of a child is taken into consideration when determining a child's vulnerability relative to those children not in care, and no data is available in this regard. The escalation process within the protocol is often made redundant by the fact

that the HSE will wait for litigation to occur and to be directed by a Judge to provide supports. This results in long delays and sometimes the children age out of services before supports are provided.

Case Study

In recent weeks, a sixteen-year-old was taken into care under an interim care order. While in care the young person has been accommodated in numerous different placements including, emergency care, supported accommodation, a hotel with the support of social care staff and a treatment centre. Suicidal ideation and ongoing drug misuse have been reoccurring issues for this young person.

While residing in a treatment centre, the young person started to self-harm and have thoughts of suicide. The young person was then admitted to an adult acute mental health service. Within two days of being in the service, the medical staff recommended that the young person be discharged as they believed that the young person did not have any underlying mental health issues, rather their situation had been prompted by behavioural issues relating to substance misuse. The medical staff also noted that an adult psychiatric ward was not a suitable place for the young person.

The social work department struggled to find a suitable forward placement for this young person and had a number of discussions with hospital management in an effort to prolong the young person's stay in the hospital until an appropriate placement could be identified. It was acknowledged by the social work department that the young person's stay in an adult acute mental health service was not appropriate, however it was the safest place for the young person until another service could be identified lest the young person end up in homeless services. The young person remained in the adult mental health service for fifteen days before transitioning onto a new placement.

6. 22(e) Ensure that all children in care are allocated a social worker and, when leaving care, receive aftercare support and services, including homeless children.

A major issue for Tusla presently is the number of children and young people in care who are awaiting allocation of a social worker. The latest figures show that "89% (5,233) of children in care at the end of June 2021 had an allocated social worker; down one percentage point from May 2021. A total of 618 children were awaiting an allocated social worker."⁴⁸ It is imperative that all children and young people in care are allocated a social worker, and that a relationship is able to develop between the social worker and the child or young person. Continuity and regular contact is necessary for the stability of the child or young person in care. This must be embedded in Tusla to ensure the safety and wellbeing of all the children and young people in

⁴⁸ *Ibid.*

their care, as well as to avoid frustration and disillusionment on the part of the child or young person which can result due to continuous changes in social workers.

Unfortunately, and by Tusla's own admission, there are difficulties in recruiting and retaining social workers at present. Recently, it was stated that "89 social workers left the agency between January and July this year."⁴⁹ Resulting in the fact that Tusla "are significantly challenged in our ability to allocate social workers."⁵⁰ It must be acknowledged that significant efforts are currently being made by Tusla to increase recruitment and retain social work staff, however this must be a whole of Government approach, and be supported by other departments such as the Department of Education, the Department of further and Higher Education and the Department of Public Expenditure and Reform. To ensure that needs assessments are taking place in a timely manner, that care planning is occurring, and children and young people are encouraged to attend, and that placements and all records are up to date, it is imperative that there are the necessary number of social workers to carry out this work for these children and young people in care.

Aftercare

The Child Care Act 1991 (as amended by the Child Care Amendment Act 2015) states that young people leaving care in education will be supported up to the age of 21.⁵¹ Continuing support will be provided up to the age of 23 should the young person remain in education.⁵² The aftercare policy also "requires that person to have spent 12 months in the care of the State (with the Child and Family Agency or the HSE) between the ages of 13 and 18."⁵³ Both of these requirements lead to some of the most vulnerable young people missing out on a service. It is especially important that those who are not in education have the support of the aftercare service. Also, on many occasions young people who have been known to social workers, and then brought in late to care, are not eligible for aftercare due to being in care for less than 12 months.

Another cohort of young people who are also missing out on aftercare provision are those who are taken into care under section 5 of the Child Care Act 1991.⁵⁴ This part of the Act states that "[W]here it appears to the Child and Family Agency that a child is homeless, the Agency shall enquire into the child's circumstances, and [if it] is satisfied that there is no accommodation available to him which he can reasonably occupy, then, unless the child is received into the care of the Agency under the provisions of this Act, the Agency shall take such steps as are reasonable to make available suitable accommodation for him."⁵⁵

⁴⁹ K. Duggan, *Oireachtas Joint and Select Committees Thursday, 21 October 2021*, Public Accounts Committee 2020 Annual Report of the Comptroller and Auditor General Tusla, the Child and Family Agency - Financial Statements 2020. [2020 Annual Report of the...: 21 Oct 2021: Oireachtas Joint and Select Committees \(KildareStreet.com\)](#) [accessed: 1 November 2021].

⁵⁰ *Ibid.*

⁵¹ *Child Care Act 1991*. Section 45(3)(b).

⁵² *Ibid.* Section 45(4)(b).

⁵³ Tusla, *National Aftercare Policy for Alternative Care*, 2017. p.8.

⁵⁴ *Child Care Act 1991*, Section 5.

⁵⁵ *Ibid.*

Unfortunately, many of these young people stay under this piece of legislation, rather than being taken in under a care order. This means that they are then deemed not eligible for aftercare. Aftercare must be provided for all those who have been in care.

Data Collecting

In order to better support young people leaving care there needs to be adequate data collated on outcomes in the short and longer term. There is currently a lack of data on children and young people in care and those availing of aftercare in Ireland. For example, within the sphere of education there is no published data on how care-experienced children and young people fare in national exams. There is no data on special educational needs among children and young people in state care. There is no data on school attendance rates or exclusion from school for children and young people in care. There is also no data on the literacy levels among children and young people in care.⁵⁶ All this data should be collated and cross compared to those in the general population. In other areas of care, there is no data published on how many children and young people in care have disabilities. There is also a lack of data on the cultural backgrounds and ethnicity of children and young people in care. There are no figures for how many children and young people from the travelling community are in care. There is also no data on how many children and young people in care end up homeless and have mental health and or addiction issues. The collection of the above data is necessary to ensure that the needs of all children and young people in care are being met, and to allow for evidence based policy making and practice. This is not happening at present and must be addressed as a matter of priority.

7. Conclusion

EPIC welcomes the opportunity to reflect on the Government Draft State Report to the United Nations Committee on the Rights of the Child. EPIC has highlighted a number of issues in this submission where the draft report could, respectfully, include and expand on many issues. There are many issues in terms of alternative care, that still require attention and improvement. Policies, legislation and strategies will of course only bring about real change to children's lives if they are fully resourced and implemented, and if there is overarching Governmental coordination and oversight. EPIC would welcome any further involvement with the Department going forward.

⁵⁶ E. Brady, et al. *Care-experienced Young People Accessing Higher Education in Ireland*, Irish Journal of Applied Social Studies. 2019. Vol. 19: Issue. 1, Article 5. pgs. 52 & 53.