

Meeting the legal needs of children and young people in Ireland and enhancing access to justice



Community
Law & Mediation

A children's rights analysis



Community
Foundation
Ireland



This Report was commissioned by Community Law & Mediation and authored by Róisín Webb. It was funded by the RTÉ Toy Show Appeal in partnership with Community Foundation Ireland.

Róisín is a lawyer with experience in advocacy, research, legislative drafting, policy and campaigns. She has practiced as barrister in criminal law and youth justice, child protection, disability, equality and human rights law. She has extensive experience in both legal and policy roles in the NGO sector, including in the Children's Rights Alliance, Free Legal Advice Centres, Amnesty International, Children's Mental Health Coalition and Disability Legal Resource. She has held senior policy and legislative roles in the Ombudsman for Children's Office, the Irish Youth Justice Service, Department of Children and Youth Affairs and the Department of Justice. Róisín has also worked as a legal and policy consultant in children's rights and as EU Commission external expert in Child Rights under the CERV programme. She is a former member of Community Legal Resource and former board member of FLAC. She was recently appointed as Research and Policy Manager with EPIC (Empowering People in Care).

Community Law & Mediation (CLM) is an independent community law centre and charity working since 1975 with communities impacted by disadvantage and inequality. It provides free legal, mediation and education services and works in partnership with a number of organisations to provide targeted outreach legal advice clinics. It operates out of two locations, Dublin and Limerick, but its services are available nationwide.

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INTRODUCTION

There are a variety of reasons and purposes for which children come into contact with legal and justice systems. It could be as a child accused of a crime or anti-social behaviour, as a victim or witness of crime, a child in need of care and protection, a refugee or migrant child or a child affected by their parents' disputes. A child may also wish to seek justice themselves, or an adult on their behalf, to pursue a remedy for a breach of their rights, such as in relation to housing or services. Equally, matters arising for children at school and in education can have a legal dimension that affects their daily lives.

There is growing recognition internationally that access to justice is essential for the protection of the rights of children. It is especially important for protection from discrimination, violence, abuse, and exploitation, and for ensuring children's best interests in all actions involving or having an impact on them.¹ Children living in poverty are particularly vulnerable to the denial of their rights.

Community Law & Mediation (CLM) commissioned this Report to assess the need for a specialised legal service for children and the role it could play in augmenting existing work to advance the rights of children in Ireland. While many children's organisations campaign for reform on a wide range of issues, there is currently no organisation in Ireland which focuses exclusively on the reform of the law and legal systems from a children's rights perspective. CLM would like to combine its knowledge and experience around the legal issues arising in the context of disadvantage and those living in poverty, with its expertise in children's rights and meaningful access to justice for children.

The main focus of this Report is the consultation with stakeholders about barriers in accessing services for children to meet their legal needs, and the input of a Youth Advisory Group (YAG). The Report seeks to ensure meaningful participation of children who have experience of a legal problem in their everyday lives. It reflects and is informed by the YAG's views on the help or advice children want, the difficulties they experience in looking for help, what works well and what doesn't work well for children, and how they would like to be listened to and treated in the context of getting help or advice. The idea to set up

a children's law centre is not new. A previous Law Centre for Children and Young People (LCCYP) was established in 2013, and emerged following extensive review, consultation, and planning by a wide range of stakeholders in the legal community, public interest, and child rights sectors. Substantial work was carried out during the existence of the LCCYP, including the establishment of a helpline and policy and advocacy work relating to pending legislation. The LCCYP established the first network of law centres for children across Ireland, Scotland and the UK, and developed partnerships with transnational partners for EU projects on key issues. The LCCYP commissioned significant pieces of research, namely a study on Unmet Legal Need of Children and Young People in Ireland² and Making Rights Real for Children, A Children's Rights Audit of Irish Law.³ The LCCYP illustrated the type of work that can be done by an organisation that has a specific lens on children's rights, and its approach underscored the importance of collaboration.

There were significant funding challenges and although some funding remained, it was determined that the LCCYP should be wound down given the absence of adequate resources to ensure that certain activities, in particular litigation, could be delivered on responsibly.⁴ This Report has benefitted from the learnings of the LCCYP: the considerable work undertaken in establishing its strategic direction and the research and analysis carried out during its existence.⁵ Since that time, commentary within children's rights, academic, legal and public interest sectors continues to raise concerns about the fact that children are regularly denied their rights and deprived of effective remedies.

A decade on from the winding down of the LCCYP, this Report analyses the current availability of and gaps in services meeting the legal needs of children and working to improve realisation of their rights. In this regard, the Report takes account of the infrastructure of both State and non-State services, the extent to which there are gaps in the provision of information and advice, and in effective and specialised advocacy and legal representation, including the use of strategic litigation. The main organisations providing services to the public on potential legal problems in Ireland were consulted and desk research was conducted on the services they provide.

There is considerable expertise in children's rights within academia in Ireland, providing a wealth of research assessing children's rights against domestic and international legal standards and norms. It is beyond the scope of this Report to provide comprehensive desk research on the literature in relation to unmet legal need and barriers to accessing justice and realising rights for children. The Report does however present a snapshot of some of the problems faced by children in Ireland which may benefit from enhanced legal support services with reference to existing research.

The Report considers the current review of civil legal aid in Ireland.⁶ Conferences held on access to justice and civil legal aid held in 2021 and 2023 have provided significant insights into access to justice and into the operation of models of civil legal aid both in Ireland and internationally.⁷ The Report takes account of these developments and of the current model of service provision in relation to civil legal aid in Ireland and the extent to which the current model can provide accessible legal services to children in a child-friendly manner.

The Report also takes account of key international developments in relation to child-friendly justice. It includes examples of good practice initiatives from other jurisdictions and how they may be relevant in the Irish context. These include specialist law centres or services, particularly models that use a children's rights framework. Examples of existing good practice in Ireland are included. In addition, the Report highlights the legal initiatives which use a partnership or collaborative approach to advance children's rights and improve access to justice for children.

AIMS

The aims of this Report are:

1. To map the provision of existing services as they relate to children's legal needs in Ireland; and
2. To consult with key stakeholders on their views in relation to the barriers in meeting the legal needs of children within existing services and structures.

A key component of the process was to establish and consult with a youth advisory group. The Report also aims to give an overview of relevant literature, children's rights standards and examples of relevant initiatives and specialist legal services in other jurisdictions.

DEFINITIONS

For the purposes of this Report, the definition of legal need corresponds with the approach used in the study carried out by UCC in 2016 on Unmet Legal Need of Children and Young People in Ireland.⁸ The study recognises the many aspects of everyday life in which children and young people can experience difficulties asserting or defending their rights, including in the areas of home and family life, education, housing, health, employment, criminal justice and immigration. The study included within its scope, legal needs that:

- are not recognised as "legal" by the child or young person;
- are not recognised as having the potential for legal resolution by the child or young person;
- can be resolved outside the formal justice system or by non-legal means;
- are ignored or remain unresolved.⁹

Both legal and non-legal pathways can be used in the resolution of legal needs.¹⁰ Comparative studies show that the concept of legal need, does not automatically require engagement with legal processes, but rather considers whether an individual has the capacity to assess their situation and the knowledge to act accordingly.¹¹

Professor Pascoe Pleasence points out that a consistent message from 'legal needs' surveys worldwide is that social disadvantage is a key determinant of how legal problems are experienced. This also creates additional barriers in which legal problems can compound each other, becoming more burdensome and difficult to solve.¹² Professor Luke Clements describes the concept of 'clustered injustice', the idea that there is an 'additive element' to legal problems, the greater the disadvantage the greater the number of legal issues.¹³ Certain populations can also experience legal problems unique to that population or age cohort.

OBJECTIVES

This Report reflects the studies and commentary above and focuses on the legal needs of underserved children - those affected by poverty and socio-economic disadvantage, as well as children who form part of other minority groups and are therefore especially vulnerable to violations of their rights. The objective of the Report is to assess the need for a specialised legal service for children and the role it could play in augmenting existing work to advance the rights of children in Ireland, and to make recommendations.

STRUCTURE OF THE REPORT

The Report is divided into seven chapters:

Chapter 1 sets out the approach to research and consultation adopted for the Report.

Chapter 2 establishes the background and context for the Report. It begins with a brief discussion of the legal and policy context in relation to the implementation of children's rights in Ireland. A brief overview of literature on the barriers to realisation of children's rights and unmet legal need of children and young people in Ireland is included. Finally, an overview of the key children's rights instruments relevant to access to justice for children is presented.

Chapter 3 presents the outcomes of the consultation with the Youth Advisory Group as well as a brief review of the relevant literature informing the consultation.

Chapter 4 presents the findings from the interviews with stakeholders. The stakeholders include State and non-State organisations who provide legal services and organisations who work directly with or on behalf of children who experience legal issues and may experience barriers to accessing services. A small number of additional stakeholders were consulted who have significant experience in children's rights law and public interest law.

Chapter 5 provides an analysis of existing services available to children with a legal need in Ireland; the services are described more fully in Appendix B. It includes State and non-State service providers, among them independent law centres, law clinics and pro bono services.

Chapter 6 analyses how to enhance access to justice for children and young people in Ireland based on key considerations emerging from the consultation with stakeholders and with the Youth Advisory Group with reference to the literature reviewed and examples of good practice in vindicating children's right.

Chapter 7 presents conclusions and recommendations in relation to the establishment of a specialist legal service for children.



Overview of Conclusions and Recommendations

Through stakeholder consultation, the Report finds there is broad consensus that there would be added value to having a specialised children's legal service in Ireland; a service working in a strategic and collaborative manner to enhance access to justice for children and the realisation of rights. It concludes that establishing a specialist service within an existing law centre with expertise working with children and in developing outreach with children's organisations would avoid previous challenges of setting up a children's law centre as an independent legal entity.

More particularly, the Report identifies four key ways in which a specialised service would add value in improving access to justice for children using a child rights-consistent approach:

THE IMPORTANCE OF TRUST: OUTREACH AND ADVOCACY AS KEY TO TRUST BUILDING

The Report highlights the central importance of trust in providing legal services to children. Listening to children about how they can best access help for their problems and the importance of trust building, it is clear the important role that outreach work plays. It is important for a specialist legal service for children to work with organisations young people feel comfortable with.

The importance of outreach for bridge-building and establishing trust also corresponds with the findings of the stakeholder consultations. A clear message is that working with organisations supporting hard-to-reach children and young people to provide outreach legal advice clinics and training is key. Child advocacy services can ensure children and young people can access legal advice through an organisation or professional they trust.

While outreach work is well established within independent law centres in Ireland as a key component of providing early legal advice, there is a significant gap when it comes to children. The fact that CLM has commenced such an outreach approach and is building relationships with organisations in this way is positive. However, the need for structured and specialised legal supports for existing services providing advocacy to young people is evident. This type of partnership approach was also highlighted as a positive element of a child rights-consistent approach by the ACRI SL research.

CHILD PARTICIPATION

Child participation should inform the development and work of a specialised children's law service. The work with the YAG on this Report highlights how children and young people can be involved in decisions around how help is provided. A key message of the YAG is that the way they want to be helped for a problem depends on the situation. While sometimes young people want adults to take responsibility and act on their behalf, there are circumstances where they would like to act together with another adult they trust and other circumstances again where they would like to act on their own behalf, but with the support of an adult they trust.

The ACRI SL research found that child participation was one of the key gaps in current practice.¹⁴ The research acknowledges that child participation is not appropriate in all aspects of legal work relating to children or is sometimes not possible in practice and that legal practitioners may not be able to do everything needed to ensure their work is child rights-consistent on their own.

Broader participation was also identified as a key gap in current children's rights in strategic litigation practice. The Advancing Child Rights Strategic Litigation (ACRI SL) Project. highlights the opportunities for those using the law to enhance children's rights to work more collaboratively and in a cross-disciplinary way to learn new ways of integrating children's participation and engagement into how they work. A specialist legal service for children should explore ways in which this can be done, particularly using a partnership approach with other organisations. This could be a separate stream of funding but should be integrated into the strategic aims and approach of a new service, similar to the approach of the Children's Law Centre (CLC) in Belfast. The experience of recruiting a Youth Advisory Group for this research has pointed to the importance of collaboration with non-lawyers and participation experts for this work. This work could also complement the outreach work and clinics which the new service would provide.

CHILD-FRIENDLY JUSTICE AND A CHILD RIGHTS-BASED APPROACH TO LEGAL SERVICES

There is a growing importance afforded to child-friendly justice in international standards and obligations at European and OECD level. A specialised legal service for children could play a central role in campaigning for a child friendly justice system, pursuing practical and procedural mechanisms to give effect to children's rights within legal processes and systems. It will be important to collaborate with the Children's Rights Alliance to strengthen the policy work they do in this area. Importantly, a specialised children's legal service could model and share practices on adopting a child's rights-based approach to legal services for children. This could raise awareness of the impact of this approach, in relation to both the process itself as well as the outcomes of the legal work.

Such advocacy work should also take account of best practice in child rights-based approaches to legal work involving children, as addressed in ACRiSL project. Adapting legal processes to be more sensitive to children's needs and interests should include a focus on how lawyers and legal services can be more responsive to children's participation in formal and informal decision making concerning them. A child rights-based approach to how children interface with legal systems, as modelled by the ACRiSL project, requires training for lawyers in clear principles and processes to ensure that children's rights can be upheld in both procedural and substantive terms.

State funding to establish a specialised legal service for children would be significant step towards ensuring access to justice for children which is an important component of the realisation of children's rights. As part of the pursuit of a child-friendly justice system, a specialist legal service for children could play an important role in ensuring that legal practitioners working with children receive training in accordance with children's rights standards.

COLLABORATION AND PARTNERSHIPS AS KEY TO AN EFFECTIVE CHILD RIGHTS APPROACH

The Report emphasises the importance of partnership and collaboration to ensure the development of child rights consistent practices and especially in relation to outreach and participation. There is also a strong children's rights culture within the NGO sector in Ireland, due in large part to the work of the Children's Rights Alliance who have focused on rights-based approaches within its membership and as an integral part of the way it works. The sector is also augmented by the existence of the OCO and IHREC with regard to rights-based approaches.

Working together and building partnerships with the children's rights sector, including the Children's Rights Alliance, the OCO, IHREC, the Child Law Clinic in University College Cork and other relevant bodies will be crucial to ensure that existing work is supported rather than replicated. Collaboration with other specialist law centres to address issues of mutual concern and to carry out joint work where feasible and relevant will be important. Many well-established children's law centres, including examples referred to in this Report in Pretoria and Belfast, are built on models of collaboration and partnership with children's rights organisations and key stakeholders. Many such law centres have grown as partnerships with universities who have strong child law departments and expertise.

A challenge for any specialist service will be the tension between providing services directly to children and being strategic in enhancing children's rights and tackling systemic issues more broadly. It will require a strategic use of resources with a view to bringing about legal changes that have long-term benefits for children. The experience of specialist children's law centres, for example, the CLC in Belfast, is instructive in this regard, operating a strict case work policy with clear strategic goals in relation to casework.

It will be important that a specialist law service develops a strong youth advisory group and also consults widely

as to where the particular legal needs are in Ireland and where the service can add value, especially in relation to children who experience particular barriers in realising their rights. This should form an important part of the strategic planning process, to include a case work policy. Existing resources should be leveraged where possible. For example, the research and resources of the ACRiSL project provides particularly useful guidance in a rights-based approach to such decisions as well as being instructive on how to ensure a child participation approach. ACRiSL developed a Children's Rights Strategic Litigation Toolkit with the Office of the Children and Young People's Commissioner Scotland¹⁵ which provides a framework for those working on strategic litigation to assess the extent to which their work is child rights-consistent and outlines an approach to bring such work in line with children's rights.¹⁶

In short, the Report finds that at the heart of the concept of child friendly justice is the fact that access to justice looks different for children than for adults, particularly when viewed through the lens of children's rights standards. This Report reflects the ways this can be respected and realised in meeting the legal needs of children and young people in Ireland.

RECOMMENDATIONS

1. A specialist children's legal service in Ireland with a particular focus on outreach, participation and the practice and promotion of child friendly justice has the potential to enhance access to justice for children and young people, particularly for those impacted by disadvantage and inequality or lacking family supports.
2. Situating a specialist children's legal service within an existing independent law centre such as CLM, which has expertise working with children and who are developing an outreach model within communities impacted by disadvantage and inequality, would avoid previous difficulties of establishing a children's law centre as an independent legal entity.
3. Given the unique needs of children in relation to accessing justice and the current gaps in legal service provision for children outlined in this Report, consideration should be given to how the State can meet its obligations. Priorities in the National Policy Framework Young Ireland and within the Child Poverty Unit of the Department of the Taoiseach should be reviewed to ensure commitments in relation to children's rights include an access to justice component.





METHODOLOGY

DESK BASED REVIEW OF LITERATURE ON THE UNMET LEGAL NEED OF CHILDREN IN IRELAND AND THE BARRIERS TO ACCESSING JUSTICE AND REALISING THEIR RIGHTS.

The review of the literature on unmet legal need and barriers to accessing justice for children in Ireland includes relevant academic and policy documents, and reports on various areas of children's rights. This Report presents a sample of the existing expert research and analysis in Ireland on specific areas where children experience barriers to accessing justice and realising their rights.

DESK BASED REVIEW OF EXISTING SERVICES RELEVANT TO CHILDREN'S LEGAL NEEDS

Appendix B provides an outline of existing services available to children with a legal need in Ireland. It includes an overview of both State and non-State services, including independent law centres, law clinics, children's rights organisations, and pro bono services.

DESK BASED REVIEW OF RELEVANT CONSULTATIONS WITH CHILDREN AND YOUNG PEOPLE ¹⁷

A brief review of consultations with children and young people in Ireland relevant to their experience of interacting with the legal system was undertaken. To inform the consultation with children for the current Report, of relevance were periodic consultations with children and young people and their experience of interacting with legal processes.

YOUTH ADVISORY GROUP (YAG)

The methodology for the consultation of the YAG was developed by experienced child participation consultant Anne O'Donnell. Anne developed youth consultation approaches based on good practice guidance from the National Framework for Children and Young People's Participation in Decision-making¹⁸ and the Lundy Model of participation,¹⁹

which provides a pathway to help conceptualise Article 12 of the UNCRC.²⁰

The recruitment of the YAG was undertaken through organisations around the country that support young people with complex needs who are seldom heard in child participation processes. The criteria for involvement in the YAG included that the young people had experience of a legal difficulty or problem with which they had needed help and that they were not previously involved in similar advisory groups. Their experience was not the subject of the consultation but rather meant they had a perspective on the types of problems children face and what can help and what does not help.

A review of CLM's work with children shows that



prominent areas of unmet legal need for children and young people include access to health services, disability, education, housing and homelessness, mental health, membership of a minority group for example the Traveller or Roma community and issues relevant to migration. The legal needs arise in contexts of social exclusion or marginalisation and discrimination. We wanted to ensure that the children consulted in the YAG were representative of the communities CLM serves.²¹

An information sheet for organisations²² was prepared explaining what the project was about. Given that we wanted to involve children who had experienced a legal-type problem, it was considered important to have strong engagement with a liaison person within each organisation who would know the children involved. Concerns about wellbeing were discussed to ensure that the young people would feel safe and supported at the consultation.²³ As noted above, the young people were recruited for the consultations through organisations that support young people, which ensured that support was available both before and after consultations.²⁴ The YAG was composed of eight young people between the ages of 14 and 18 years. The young people were from Dublin City, County Dublin, Limerick City, County Cork and County Louth. The young people were asked to complete an assent form and parents/guardians were asked to complete consent forms.²⁵

The YAG informs and guides this Report through sharing their views about:

- The help or advice children and young people need and want;
- The difficulties for children and young people when looking for help or advice;
- The help or advice that works well;
- The help or advice that does not work well;
- How children and young people like to be listened to, treated, and spoken to.

The first meeting with the YAG took place on 3 July 2024 in the Office of the Ombudsman for Children (OCO).²⁶ A second meeting took place on 24 October 2024. The YAG also met to discuss their findings and how they would present them at the launch of this Report.

CONSULTATION WITH ADULT STAKEHOLDERS

A wide range of stakeholders were consulted in relation to current barriers to accessing legal services and vindicating children's rights in Ireland.

Semi-structured interviews were conducted with the OCO and the Irish Human Rights and Equality Commission (IHREC) as key public bodies and national human rights institutions. Specific questions were put to the Legal Aid Board (LAB) about the current services they provide to children, areas outside their statutory remit, practical barriers in the delivery of legal services for children and plans to expand services in relation to children in the context of the current review of civil legal aid by the Department of Justice.

The existing independent law centres were consulted. They provide accessible, free legal advice and representation to the public, prioritising those who could not otherwise afford or access these services and engage in strategic litigation relating to issues affecting specific communities.²⁷ Some of these Law Centres provide direct services to children (particularly CLM, the Irish Refugee Council (IRC) and the Immigrant Council of Ireland (ICI) and all of the Law Centres provide services to families where children's rights are often at issue.

A small number of professionals from frontline organisations who work directly with children were also consulted. Focus was on children who are particularly vulnerable due to socio-economic disadvantage, or social marginalisation (e.g. members of the Traveller community, children with a disability, children with experience of the care or youth justice systems, and children who are homeless). Due to resource limitations, only a small sample of organisations were consulted. Organisations working with children were asked about legal supports they were aware of children or families are directed to; the barriers in meeting

children's legal needs; whether they have enough knowledge or training to identify legal needs of children and to help address them ; the impact of children not having access to legal supports; how a dedicated legal service for children could improve outcomes for the children they work with and what elements would make such a service child-centred.

The Children's Rights Alliance (the Alliance) was consulted as the main umbrella organisation within the children's sector in Ireland (comprising 156 member organisations). The Alliance operates a legal information helpline and clinics that offer children, young people and their families the opportunity to access one to one legal advice with a solicitor for free. This is provided on a pro bono basis by a solicitor in a Dublin law firm.

Additional stakeholders were consulted who have experience of the provision of legal services of public interest law in Ireland, some with considerable experience of litigation in relation to vulnerable children, professionals involved in the original LCCYP in Ireland (2013-2015) and the Director of the Children's Law Centre in Northern Ireland (CLC).

ADVISORY GROUP

The Advisory Group overseeing the consultative research is broad in terms of its members. It includes professionals with experience managing the delivery of civil legal aid services, lawyers with significant experience litigating children's rights matters; academics specialising in children's rights, social work and social policy, disability and human rights law; child participation experts; representatives from the non-profit sector including those who work with children and representatives from independent law centres, including CLM which commissioned this research. There is also expertise from other jurisdictions. The full list of Advisory Group members is included in Appendix E.

There was a meeting on 9 May 2024 at which there was a rich discussion around the main barriers to meeting the legal needs of children within existing services and structures, as well as how a new service could best address those barriers and how it could ensure it used a child-centred approach. A final meeting took place on 5 February 2025 to discuss the draft report and recommendations.



Stakeholder Consultation

STATE STAKEHOLDERS

- Irish Human Rights and Equality Commission
- Ombudsman for Children's Office
- Legal Aid Board

NON-STATE STAKEHOLDERS

- Children's Rights Alliance
- Children's Law Centre NI
- Irish Refugee Council
- Immigrant Council Of Ireland
- FLAC
- Ballymun Community Law Centre
- Community Law & Mediation
- TEJP
- Inclusion Ireland
- Focus Ireland
- Foroige
- Alan Brady BL
- Micheal Lynn SC
- Professor Gerry Whyte, Trinity College Dublin
- Noeline Blackwell, Former Director General, FLAC

YOUTH ADVISORY GROUP

Limerick Youth Service
Focus Ireland
Foróige
Youth Advocate Programme Ireland

ADVISORY GROUP MEMBERS

- Julie Ahern, Legal, Policy and Services Director, Children's Rights Alliance.
- Ruth Barry, Solicitor (Children's Law) Community Law & Mediation (CLM)
- Professor Bruce Adamson, Former Children and Young People's Commissioner of Scotland
- Noeline Blackwell, Human rights Lawyer, former Director of FLAC
- Teresa Blake Teresa is a Senior Counsel
- Alan D.P. Brady, BL and Adjunct Assistant Professor, Law School, TCD
- Dr Eavan Brady, Assistant Professor, School of Social Work and Social Policy, TCD
- Dr Maria Corbett, Chief Executive of the Child Law Project
- Catherine Cosgrave, Managing Solicitor, Immigrant Council of Ireland
- Dr. Cliona de Bháilís, Centre for Disability Law and Policy (CDLP).
- Paddy Kelly, Director, Children's Law Centre Belfast
- Professor Ursula Kilkelly, UCC
- Dr. Lindsey Liston, Lecturer TUS Midwest and Board Member CLM
- Sinéad Lucey, Managing Solicitor, FLAC
- Michael Lynn, Senior Counsel
- John McDaid, former Chief Executive, Legal Aid Board
- Gareth Noble Partner, KOD Lyons Solicitors
- Anne O'Donnell, independent child rights, training, and facilitation consultant
- Siobhán O'Dwyer, CEO Of YAP Ireland.
- Leo Ratledge, Co-Director of the Child Rights International Network (CRIN)
- Rose Wall, former CEO, Community Law & Mediation
- Yvonne Woods, Communications and Campaigns Manager with Dublin Rape Crisis Centre





BACKGROUND & CONTEXT

This chapter presents the background and context for the Report. It begins with a brief discussion of the legal and policy context of children's rights in Ireland. A short overview of literature relating to the barriers to the realisation of children's rights and unmet legal need of children in Ireland is included. Finally, an overview of the relevant children's rights instruments is included.

CHILDREN IN IRISH LAW AND POLICY

The last 15 years has seen a significant shift in the visibility of children's rights in law and policy in Ireland. The first National Children's Strategy: Our Children, Their Lives,²⁸ published in 2000, was a major initiative to progress implementation of the UNCRC. From this first strategy followed the establishment of the National Children's Office. The establishment of the Department of Children and Youth Affairs in 2011 (now the Department of Children, Disability and Equality) marked a significant shift in how children were viewed within Government policy. Another important development was the establishment of the OCO in 2004 which has an important role in promoting children's rights as well as advising government on law and policy.

The incorporation of a children's rights provision into the Constitution in 2012 has been described as a watershed.²⁹ Article 42A imposes a requirement on the State to ensure the protection of the best interests of the child and the right of the child to be heard in certain legal proceedings. Ireland is a dualist legal system which means ratified international conventions do not automatically have the force of law, they must be incorporated into domestic laws through implementing legislation. In Ireland, the UNCRC has persuasive rather than binding legal authority in Irish courts as it has not been incorporated by the Oireachtas. The UNCRC has been cited in court decisions by Irish courts. Cases concerning children's rights in the Supreme Court, High Court, and occasionally, the Circuit Courts, have discussed and made reference to the UNCRC and particularly to the general principles.³⁰

There have been important developments in the past two decades in terms of implementing the UNCRC in Irish policy. A significant milestone in this regard was the National Policy Framework for Children in 2014,³¹ followed by the National Youth Strategy in

2015. In addition, considerable progress has been made to improve children's participation in Ireland, in accordance with Article 12 of the UNCRC, most importantly the adoption of the National Strategy on Children and Young People's Participation in Decision Making in 2015.³²

Legal frameworks which compel the participation of children are preferable to policies to ensure structures will continue into the future.³³ However, Ireland is considered to have strong participation policies to guide how children can meaningfully participate.³⁴ Young Ireland – National Policy Framework for Children and Young People 2023-2028³⁵ commits to a culture of listening to and involving children and young people in government.³⁶ Of particular relevance to this Report is the commitment to “embed the voice of children and young people in decision-making in education, health and social services, legal processes, and online.”³⁷ Government departments in Ireland have made great improvements in carrying out consultations with children and young people who have experience of the legal system. However, as can be seen from the review of some of these consultations in Appendix A of this Report, children often do not feel heard, supported or believed as part of legal processes and the legal system generally has a long way to go towards being child friendly.

While there has been progress with legal incorporation of specific provisions of the UNCRC into Irish legislation, this has been described as piecemeal³⁸ and is not consistent or comprehensive. There has been important legislative reform in the areas of youth justice, domestic violence, child protection, child sexual offences and child trafficking. The most significant volume of legislative reform has been in relation to two key provisions of the UNCRC, namely Article 3 (best interests) and Article 12 (right to be heard), and legislative amendments enacted to give effect to the new Article 42A of the Constitution including in the areas of child protection, adoption and guardianship, custody and access. It is notable however that the ‘best interests’ principle has not yet been included in legislation outside of family law, for example in areas such as immigration, healthcare, or housing.

Many concerns have been raised about implementation of voice of the child provisions in practice.³⁹ Research has found that judges are often reluctant to speak to children directly even where this might be the preference of the child, highlighting the importance of guidelines and training.⁴⁰ A recently published Review of the Role of Expert Reports in the Family Law Process highlights a growing understanding of the importance of listening to children in these decisions. It is recognised that it is the child, more than anyone else, who will have to live with what a court decides.⁴¹

The review looked at the commissioning, availability, content, and use of expert reports in private family law and recommends options for reform which seek to address the challenges of the current system. The Report identifies that the current status quo cannot continue, and that radical change is required in relation to how the child's right to be heard is implemented. The implementation of this Report is being progressed. The Department of Justice has announced an allocation of €3 million to develop a children's Court Advocate Pilot Project, and a pilot scheme to fund welfare and voice of the child reports.⁴² A Voice of the Child working group has recently been established by the Department of Justice which will develop aspects of the Children's Court Advocate pilot project, a new court accompaniment for child defendants, which is being rolled out across youth diversion projects nationwide throughout 2025.⁴³

The Family Courts Act, passed in both houses of the Oireachtas in November 2024, provides for dedicated family court divisions and dedicated family law judges. The legislation will provide for the establishment of family court divisions within the existing court structures, a Family High Court, a Family Circuit Court, and a Family District Court. The Family Courts Act is a key component in the implementation of the Family Justice Strategy 2022-2025, which envisages a broad suite of services and supports to families engaged in family law. The Act includes provisions to ensure the voice of the child is heard in family law proceedings, in line with a child's constitutional right, and develop new ways to ensure that this right is upheld.

Other mechanisms for hearing the voice of the child are available under the Child Care Act 1991(as

amended), (the 1991 Act), in the context of child care proceedings. Under the current operational provisions of the 1991 Act, the power to appoint a solicitor and a guardian ad litem (GAL) are mutually exclusive. The new regulatory system for GALs under the Child Care (Amendment) Act 2022 is a welcome development in bringing clarity to the role of GALs, containing a presumption in favour of appointment of a GAL and empowering the Minister to develop a regulatory framework to hold GALs to high professional standards. However, the Child Care (Amendment) Act 2022 does not envisage a situation where it is appropriate to have both a GAL and a legal representative for a child. There appears to be a failure to appreciate the distinct roles of the solicitor for the child and the guardian ad litem. It is the role of the solicitor to act on the instructions of the child and advocate on their behalf at court. By contrast, the role of the GAL, having ascertained and considered the views of the child, is to make representations to the court in relation to the child's best interests.

Considerable progress is underway at Government level with the Family Justice Strategy as particularly with the recent passing of the Family Courts Bill. The implementation of the current programme of reform in relation to family law should be complemented by improvements in access to justice more generally.



IMPROVING ACCESS TO JUSTICE AS PART OF NATIONAL POLICY COMMITMENTS

Young Ireland: The National Policy Framework for Children and Young People 2023-2028 outlines a vision of an Ireland that fully respects and realises the rights of all children and young people. It sets out various initiatives including children's rights training and assessing the impact of policy and budget decisions on children and young people. This includes child rights impact assessment in policy making. The framework document clearly identifies that across consultations, and in recent data and evidence, children and young people can face acute challenges in areas such as child poverty and mental health and well-being and disability services, and these are the key "spotlight" areas in the framework.

A clear message from the consultation process from professionals and policymakers was that despite many good policy commitments and strategies serving children and young people in Ireland, implementation can be more difficult and fragmented. The framework emphasises that:

The governance structures established with Young Ireland will ensure that positive actions do not remain on the page but are fully implemented across departments and agencies.⁴⁴



One of the areas identified in this national strategy as being of pressing concern is child poverty, with the Programme Office on Child Poverty and Well-being in the Department of the Taoiseach leading this work.⁴⁵ The purpose of this initiative is to bring together a wide range of actors across government departments, their agencies and local authorities who are responsible for implementing actions and policies which impact on the objective to end child poverty and enhance child well-being. A multi-dimensional view of poverty and disadvantage is evident in the approach of the Programme Office, and an understanding that it operates across domains: family, neighbourhood, school.⁴⁶ There is an emphasis on children's rights within the national policy framework, and an acknowledgment of difficulties around fragmentation of services and implementation across key departments and agencies affecting children. It is therefore important that access to justice for children should be a component of implementation structures in relation to commitments and priorities in Young Ireland.

STRUCTURAL AND PROCEDURAL BARRIERS

While children have specific barriers in accessing legal remedies for a variety of reasons and often due to their dependent status, there is a danger that this dependency can also augment unhelpful stereotypes about children. Often legal systems and practices do not adequately engage with the capacity of younger children, nor take account of children's evolving capacity, acknowledge the child's agency nor promote their capacity for autonomy.⁴⁷

Due to their dependent status, children experience a range of barriers when they seek to vindicate their rights in various contexts. Furthermore, it is easy for children to be overlooked when they are involved in legal or justice processes. Children are not always recognised as individual rights-holders and are

therefore denied legal capacity. They may lack or have limited access to specialised legal advice or assistance, which in turn limits their ability to participate and to be heard.⁴⁸ The implementation of children's rights standards in judicial proceedings across EU member states has been found to be selective and inconsistent. Research has found that the position of especially vulnerable children, including children with disabilities, Roma children and children at risk of or in poverty require additional measures to remove the inequalities faced when these children come into contact with the justice system.⁴⁹

The ability of children to engage with the legal system is severely hampered by provisions requiring all people under a certain age to approach the courts through a litigation guardian or similar person are common. A child rights-based approach would include more nuanced rules that consider the capacity of each individual child involved in legal proceedings. Studies have found that a lack of independence and legal status is likely to amount to a serious barrier to children accessing justice. There is a lack of focus on children's capacity rights in legal systems and legal practice. While it often makes sense for legal systems to promote the involvement of parents in protecting their children's rights, restrictive parental consent rules can stymie children's access to the courts.⁵⁰

In the Irish courts, children are permitted to bring civil cases with certain limitations under the Rules of Court. Judicial review proceedings may be brought on behalf of a child if it can be shown that the child has 'sufficient interest' in the case. Under Irish law, while a child who is considered competent can instruct a solicitor, a child cannot bring civil proceedings in his or her own name.⁵¹ Children are required to have a 'next friend' to conduct civil or judicial review proceedings on their behalf.⁵² There are no guidelines in relation to those acting as 'next friend' and no requirement that they must act in the best interests of the child. Issues in relation to the evolving capacity of a child under Article 5 of the UNCRC and how these interplay with both the right to be heard under Article 12 and the evolving capacity of the child in decision making need to be addressed in practice. Dr. Aoife Daly argues that

to ensure that children's capacity rights are met, and that adults have a rounded understanding of capacity, medical professionals, lawyers, and others working with children should be trained in children's rights and child development, requiring significant investment from the State.⁵³

As well as developments and legal discourse in relation to how to realise the right of the child to be heard and participation rights in legal systems, there have been significant legal developments in the area of capacity and assisted decision making in Ireland. While the legislation in this area does not apply to children, it shows that the challenges in relation to complex issues such as capacity and decision making are not insurmountable.

There is currently no statutory instrument in Irish law allowing for class actions in Ireland. Group litigation can be initiated by a single plaintiff as a 'representative action,' or a test case.

The absence of a class action mechanism in the context of children's rights means that key protections and benefits are limited, for example anonymity and privacy for children involved in a case, and avoidance of children being placed at the forefront of litigation. Additionally, the benefits to children's rights which can arise from the creation of links between children and organisations, specifically those which specialise in youth work, are forfeited.

LITERATURE ON LEGAL NEEDS OF CHILDREN AND YOUNG PEOPLE IN IRELAND INCLUDING UNMET LEGAL NEED

While comprehensive analysis of current unmet legal need is beyond the scope of this Report, the below sections give an indication of the types of legal issues which are affecting children and young people in Ireland. The information in Appendix B also provides a snapshot of issues presenting to current services.

The unpublished 2016 Report, Unmet Legal Need of Children and Young People in Ireland, presents data on the use of information, advice, advocacy and representation services by children and young people, and others advocating on their behalf.⁵⁴

The review of this data found that children and young people can directly and indirectly experience a wide range of legal issues.⁵⁵ Legal issues related to the education system, mental health services, crime and victimisation, parental separation and divorce, and the international protection system. The Report notes that children often rely on their parent/guardian or other adult to take action to resolve their legal needs.

The study also consulted a youth advisory group who identified legal issues across different areas of life. Issues include bullying, school exclusions, lack of support for educational needs, issues relating to custody in family law matters, not being listened to by social workers, difficulties accessing health services and mental health supports, a frightening and intimidating criminal justice system, being exploited at work and issues relating to homelessness and lack of available housing.⁵⁶

Adult stakeholders primarily focused on education, criminal justice, health, family law and the care system. Education issues include bullying, school transport, special educational need, school exclusion and discrimination within the education system, particularly for Traveller children. Other legal issues include the lack of protections for child victims of domestic violence; difficulties accessing health services and disability supports; issues in relation to the care system, particularly secure care, and aftercare; and access to housing and to social welfare supports.⁵⁷

A comprehensive study of the legal needs of children and young people in Northern Ireland sought the views of children and young people and of adult stakeholders and was published in 2014.⁵⁸ Children and young people highlighted the need to be treated with respect and to have their views sought, listened to and acted upon in legal issues they may have. They also wanted honesty from lawyers about potential outcomes and to be kept informed about proceedings and decisions made. The findings highlight that children and young people expect adults working in the legal system on their behalf to have not only the necessary legal qualifications, but also experience of working with young people, a caring personality, respect for young people's rights and to treat them accordingly. The study found that young people did not always feel their needs and concerns are

prioritised by adults working for them, emphasising a lack of confidence in relation to safely exercising their legal rights without repercussions, as well as a lack of willingness to exercise rights, as they feared it would not make a difference.⁵⁹

BARRIERS FACED BY CHILDREN AND YOUNG PEOPLE IN ACCESSING JUSTICE AND HAVING THEIR LEGAL NEEDS MET – AN OVERVIEW OF RELEVANT REPORTS

Extensive research undertaken by Dr. Ursula Kilkelly has identified general barriers to the realisation of these rights in law, policy, and practice in Ireland. A study on the unmet legal needs of children and young people in Ireland reviewed this work and literature, identifying five specific barriers from the research that children and young people face in accessing justice and having their legal needs met. The specific barriers identified in this study are firstly, the absence of adapted proceedings and child-specific procedures; secondly, the lack of recognition of children as rights holders; thirdly, the absence of independent representation and advocacy; fourthly, delay; and fifthly, limited effective redress mechanisms.⁶⁰

These barriers have also emerged in the stakeholder consultation for this Report. Dr. Ursula Kilkelly highlighted in further research⁶¹ that certain groups of children encounter multiple barriers in realising their rights and are often particularly marginalised and voiceless in seeking to have their rights vindicated. This includes children in the care system, children in the criminal justice system, homeless children, immigrant and asylum-seeking children and Traveller children. The report also highlighted the multiple problems that children living in poverty experience in realising their rights, particularly children at risk of abuse and neglect.

There are a number of reports in Ireland which also highlight legal and judicial processes in Ireland that are not child-centred.⁶² This is of particular concern in relation to children in the criminal justice system where young people often have various vulnerabilities and have limited family support.⁶³ Academic studies, as well as data published by Oberstown Children Detention Campus, give an insight into the level of adversity and trauma young

people who come in contact with the law have experienced, including neglect and abuse, high levels of substance misuse, disengagement with the education system and many have addiction, mental health and learning needs.⁶⁴ Many reports and studies⁶⁵ have raised concerns about the adversarial nature of child protection and family law proceedings.

A recent comprehensive study conducted by the School of Law at University College Cork,⁶⁶ funded by the Policing Authority, explores the experiences of children questioned by members of the Garda Síochána. The study highlighted areas of good practice and areas where practice could be improved. Key concerns raised included: access to information and legal advice; children's treatment during questioning; the nature of the environment; children's capacity and understanding; and the role of parents and others who support children during the process.

Research in Ireland on access to justice for children with cognitive disabilities highlighted the invisibility of children with cognitive disabilities in many of the laws, literature and research on both children, and people with disabilities. It identifies barriers that such children experience as a result. It reports a lack of data to accurately assess barriers; nevertheless, the report found that children with cognitive disabilities in Ireland still seemed to depend on the good will of individuals to access justice rather than an awareness that it should be available as a fundamental human right.⁶⁷

Moreover, a recent report on access to justice published by IHREC,⁶⁸ based on a baseline study of Article 13 of the UN Convention on the Rights of Persons with Disabilities by Dr. Charles O'Mahony,⁶⁹ found that multifaceted challenges and barriers persist in improving access to justice for disabled people in Ireland.⁷⁰ The report finds significant disparities and challenges exist for disabled children in particular, with limited support available, inconsistent judicial training, and inadequate data collection. The baseline study and accompanying report highlight that legislative change is required to align legislation with children's evolving capacity, promote mandatory consultation, and ensure independent advocacy.⁷¹ The report highlights the need for specific support and accessible resources

for children with intellectual disabilities, finding that communication barriers pose significant obstacles for these children in accessing justice.⁷²

SPECIFIC AREAS WHERE CHILDREN'S LEGAL RIGHTS FAIL TO BE RESPECTED – AN OVERVIEW OF REPORTS

There is a significant body of academic research and reports in Ireland on specific children's rights issues. This includes research highlighting areas in need of law reform; groups of children experiencing repeat breaches of statutory duties; and specific contexts where children's rights remain ignored. As outlined below, it is evident from reports of the OCO, IHREC, the Special Rapporteur on Child Reporting, the Child Law Reporting Project, the Children's Rights Alliance and the significant work of children's rights academic experts as well as reports and research published by the NGO sector in Ireland that children's rights are regularly denied or unimplemented in practice, without access to effective remedies.⁷³

The Law Centre for Children and Young People and the Alliance published a Children's Rights Audit of Irish Law in 2015. This combined research provides a solid picture of the legal protections existing for children in Ireland at that time as well as the gaps remaining in the recognition of their rights.⁷⁴

A 2011 report by Dr. Ursula Kilkelly conducted a Children's Rights Analysis of OCO investigations.⁷⁵ The report highlights a lack of awareness about the impact of public administrative decision-making on the lives and rights of children and their families. There were failures to ensure the implementation of national law and policy and a frequent failure to consider the child's best interests and the child's right to be heard. A recurring theme in the investigations was a disconnect between administrative decision-makers and those affected by those decisions. The audit found that procedures were not sensitive to the needs or rights of children, or their families and individual children appeared to be largely invisible in the decision-making process.

In her foreword to the report, the then Ombudsman for Children, Emily Logan, noted that:

“The absence from the decision-making process of an awareness of how quickly harm can be done to children (by depriving them of education, separating them from parents, providing for their care etc) is very stark as is the apparent failure to appreciate the relationship between timely decision-making and good administration.”

The OCO have published reports documenting difficulties of particular groups of children in realising their rights.⁷⁶ Recent Annual Reports of the OCO highlight the need for inclusive education and timely support for autistic children. The OCO also express concerns about provision for unaccompanied asylum-seeking children, the use of commercial hotels for children in direct provision, the need for timely vulnerability assessments for children seeking international protection as well as the lack of robust systems to identify and support teenagers at risk of criminal and sexual exploitation.⁷⁷

Many reports and submissions highlighting the detrimental impact of child homelessness have been published.⁷⁸ Recommendations in these reports include the need to implement child-centred and rights-based legislative frameworks to guarantee that emergency accommodation meets the needs of homeless families with children, as well as the inclusion of a positive statutory duty on local authorities to prioritise the provision of appropriate accommodation and support to homeless families with children.

Through their court reports and a series of published research papers, the Child Law Project (CLP)⁷⁹ provides detailed accounts and analysis of child protection proceedings. The Project's reports provide numerous examples of the lack of provision of appropriate services to vulnerable children in the care of the State or at risk of being taken into care.⁸⁰ More recently, the CLP has been raising concerns about the capacity of services to respond to increased need which is compounding issues such as the recruitment and retention crisis in the care system, the continued inappropriate use of emergency placements for extended periods of time and the inadequate number of special care places.

A theme repeated in many reports of the Special Rapporteur on Child Protection is the need to improve inter-agency collaboration,⁸¹ with a

key issue for children in care who have complex needs.⁸² The OCO has highlighted that particular groups of children are disproportionately affected by failures in inter-agency and inter-departmental cooperation, namely children in care, children in the justice system, children with disabilities, children in poverty, LGBTQ+ children, homeless children, Traveller and Roma children and children seeking refuge in Ireland.⁸³

Recent reports have also highlighted the fact that the focus on children and young people came too late during the Covid pandemic, impacting their mental wellbeing, with the impact exacerbated for those already in vulnerable and disadvantaged situations. In his final 2022 report, Dr. Conor O'Mahony acknowledges where concrete progress has been made⁸⁴ but also highlights other areas that had disimproved or where progress was stagnated.⁸⁵ Dr. O'Mahony highlights in particular the need for more urgency in progressing and completing law and policy reform processes, giving the Education for Persons with Special Educational Needs Act 2004 as a particular example. The law exists, but in the main has not been commenced, with the effect that the children rights contained in it have no effect. He concludes that:

“It is not enough for Government to say that it is committed to children's rights; it must demonstrate this through its laws, policies and actions.”⁸⁶

RELEVANT CHILDREN'S RIGHTS FRAMEWORKS AND STANDARDS

The importance of access to justice for children as a right in itself and to enable the enjoyment of other rights is clearly established in international human rights instruments.⁸⁷ The UN Committee on the Rights of the Child (CRC) has affirmed that the right to a remedy, which is explicitly referred to in several other international treaties, is implicit in the Convention on the Rights of the Child.⁸⁸ As the CRC explains:

“Children's special and dependent status creates real difficulties for them in pursuing remedies for breaches of their rights. So, States need to give particular attention to ensuring that there are effective, child-sensitive procedures available to

children and their representatives. These should include the provision of child-friendly information, advice, advocacy, including support for self-advocacy, and access to independent complaints procedures and to the courts with necessary legal and other assistance.”⁸⁹

Article 12, one of the key principles of the UNCRC contains both a substantive right and a procedural right.⁹⁰ It states that children have the right to be heard in judicial and administrative proceedings affecting them; and further, that children who are capable of forming a view have the right to express these views freely and that these views must be given due consideration, according to the age and understanding of the child. Other key aspects of the UNCRC which are relevant to access to justice include Article 3,⁹¹ Article 37,⁹² Article 39,⁹³ and Article 40.⁹⁴

The CRC notes that Article 12 is a fundamental value and a procedural right, and that it should be considered in the interpretation and implementation of all other rights. It stresses that it is not enough to simply listen to the child, the views of the child must be seriously considered once the child is capable of forming her or his own views.

While the UNCRC is silent on access to justice, the CRC, which monitors the implementation of the UNCRC, makes clear that children are entitled to remedies for breaches of their rights,⁹⁵ and consistently raises its concerns about the inadequacy of access to justice pathways for children. This has been a recurring theme in several general comments of the CRC and is frequently referenced in days of general discussion, concluding observations and through the growing number of individual communications and inquiry requests the CRC receives under the Optional Protocol on a Communications Procedure.⁹⁶ The CRC has provided guidance on how to interpret and apply the substantive provisions relevant to access to justice and child friendly justice in its General Comments.⁹⁷ UNCRC General Comment 27 - Children’s Rights to Access to Justice and Effective Remedies - is in the drafting process.⁹⁸ It will address access to justice as a procedural right of children.⁹⁹

At European level, children are recognised as rights-holders by a number of instruments. Despite the absence of express provision for children’s rights in the European Convention on Human Rights

(ECHR), the jurisprudence of the European Court of Human Rights (ECtHR) confirms its relevance to children. In particular, a number of precedents under Article 6 (fair trial) and Article 8 (family life) of the ECHR have established both substantive and procedural rights which recognise the right of the child to participate in proceedings, including a duty to take steps to promote the child’s ability to understand proceedings and what is at stake.¹⁰⁰ The ECtHR has found a violation of Article 8 of the Convention where there was failure to hear the child in Court and there was an absence of complete and accurate information on the child’s wishes.¹⁰¹

Article 24 of the European Charter of Fundamental Rights recognises the rights of the child to express their views freely and to have such views taken into consideration on matters which concern them in accordance with their age and maturity.

Article 13(2) of the Hague Convention on the Civil Aspects of International Child Abduction provides discretion to a judicial or administrative authority to refuse to order the return of a child it finds that the child objects to being returned and has attained an age and degree of maturity at which it is appropriate to take account of its views.¹⁰²

Ireland has not ratified the European Convention on the Exercise of Children’s Rights, signed in 1996, under which children with sufficient understanding have the rights to receive all relevant information about family proceedings in relation to them and have the right to be consulted and express their views, as well as the right to be informed of the possible consequences if their views are complied with and the possible consequences of any decision.¹⁰³

The concept of child-friendly justice is grounded in international human rights law and acknowledges not only children’s particular vulnerabilities but also their capability to exercise their rights in a manner consistent with their evolving capacities. Several international covenants and standards guide governments on the treatment of children, including on children’s access to justice.

The Council of Europe has developed specialised instruments to enhance children’s access to and treatment in the legal process and amalgamate all the international provisions into a single document, including the provisions of the UNCRC. The

Guidelines of the Council of Europe on Child-friendly justice (COE Guidelines), published by the Committee of Ministers of the COE are particularly relevant.¹⁰⁴ The priorities identified in the COE Guidelines are also based on consultation with over 4,000 children across Europe who had experience with legal processes.¹⁰⁵

The COE Guidelines apply to a range of judicial contexts, including family, immigration, criminal justice, public administration, and civil proceedings. They provide detailed guidance on how children's rights should be upheld before, during and after legal proceedings.

To implement child-friendly justice, key issues emphasised in the COE Guidelines include:

- Access to information and advice in a manner adapted to the age and maturity of the child and in a language they can understand;
- Training for professionals in communicating with children at all stages of their development, to include children in situations of particular vulnerability;
- The right to legal representation and legal aid under the same or more lenient conditions than adults; and
- Proceedings conducted in child-friendly environments and in child-friendly language.

The EU Agenda on the Rights of the Child (2011) recognised the promotion of child-friendly justice as one of the key priorities under the strategy. The EU Strategy on the Rights of the Child (2021-2024) contains a chapter on Child-Friendly Justice (Chapter 4).

The OECD Child-Friendly Justice Framework 2023¹⁰⁶ identifies principles and themes from international covenants and standards concerning the protection of children and ensuring their ability to be heard and to exercise their rights effectively. The OECD highlights that legal frameworks must be accompanied by supporting policy, institutional frameworks, and adequate resourcing to create a sustainable environment of child-friendly justice.

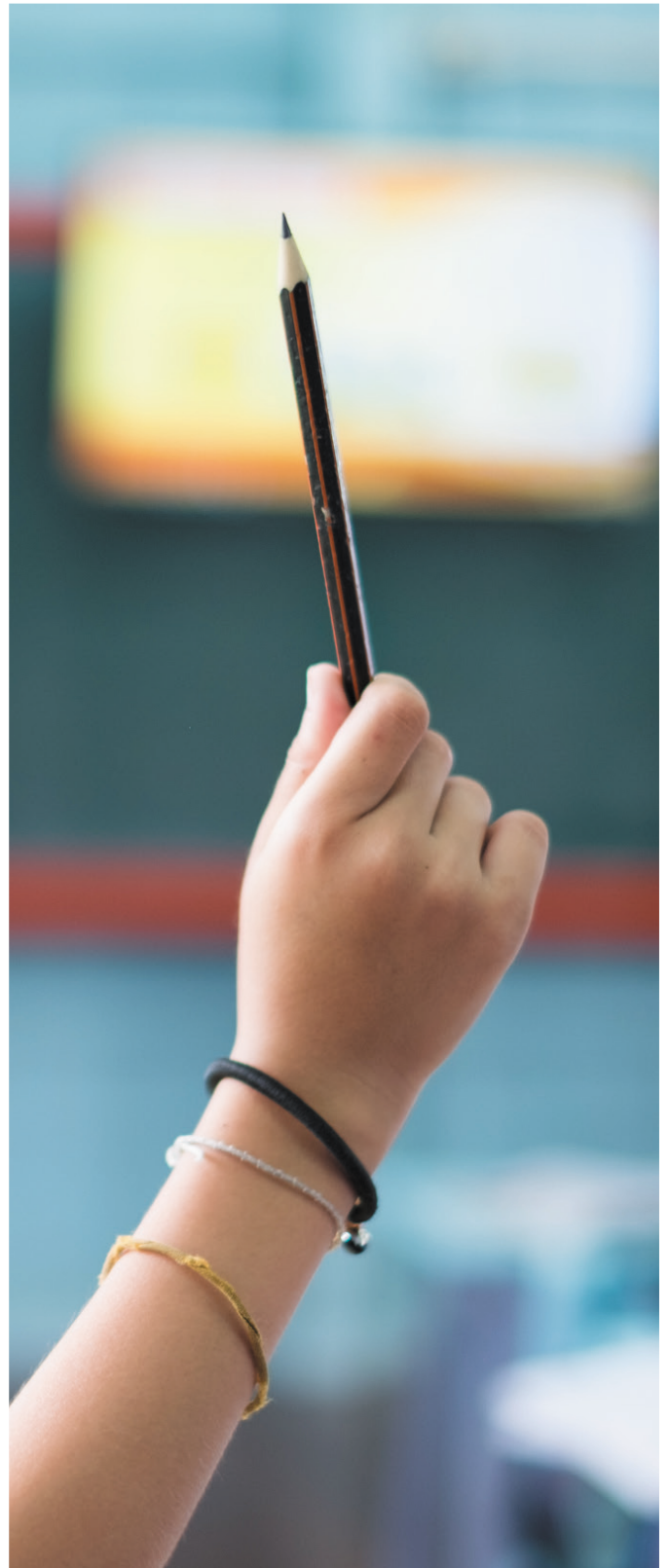
The Framework is comprised of a foundation and four main pillars.¹⁰⁷ The first pillar outlines strategies to design and deliver child-friendly justice services and to ensure that they are tailored to, inclusive, appropriate, and grounded in a comprehensive understanding of children's legal needs from their own perspectives. The second pillar identifies elements of a sound governance and infrastructure environment to foster the implementation of child-friendly justice services. The third pillar focuses on the empowerment of children and justice system employees to ensure that children's input is meaningfully considered, and their legal needs adequately addressed. The fourth pillar provides guidance on strengthening planning, monitoring and accountability mechanisms as part of a child-friendly justice system to ensure reforms are effective and sustained.

Further, access to justice for all is incorporated as one of the seventeen stand-alone goals in the Sustainable Development Agenda in Sustainable Development Goal 16.¹⁰⁸ The 2030 Agenda for Sustainable Development was adopted by all United Nations Member States in 2015 and the seventeen goals represent an urgent call for action by all countries, providing a shared blueprint for peace and prosperity for people and the planet.¹⁰⁹ The 2030 Agenda recognises that justice systems can be a tool in breaking cycles of poverty by empowering vulnerable groups and individuals.

The OECD Council adopted a Recommendation on Access to Justice and People-Centred Justice Systems.¹¹⁰ As part of its commitment to improve access to justice, Ireland is taking part in the EU multi-country project: "Enhancing Access to Justice through People-Centred Justice", which aims to enhance effectiveness of justice in resolving people's justice problems. The project is due to run until June 2027 and a key element of the project for



Ireland will be the development and administration of a national legal needs survey, expected to conclude in late 2025. This is a positive development and should be followed by an unmet legal needs study specific to children, particularly in the context of the review of the Civil Legal Aid Scheme currently being undertaken by the Department of Justice.







YOUTH ADVISORY GROUP CONSULTATIONS

This chapter presents findings from the Youth Advisory Group (YAG). As detailed above, child participation in matters that affect them is a cornerstone of international children's rights standards and child-friendly justice. It is also a commitment of the Irish government under Young Ireland – National Policy Framework for Children and Young People 2023-2028. Thus, child participation in developing and running a specialised children's law service in Ireland is essential to respect international standards and national policy.

To inform the consultation with children for the current research, a brief review of consultations with children and young people in Ireland on their experience of interacting with our legal systems was undertaken. See Appendix A.

The consultation with the YAG was guided and informed by the young people themselves. They gave their views on children generally and:

1. The help or advice they want;
2. Difficulties they experience in looking for help;
3. What works well and what does not work well; and
4. How they would like to be listened to and treated in the context of getting help or advice.

A lot of the issues raised by the YAG had a legal aspect. We heard about where children go to get help and support, and it was clear that they seek out people they are comfortable with and have a relationship of trust with.

It was clear from the consultation that children and young people are experts in their own lives, and adults do not always know how children feel, what they think or what they like. What matters to children is not necessarily the same as what matters to their parents or the responsible adults in their lives, and it is therefore important to give due weight to children and young people's views in decision-making processes. Participation involves providing opportunities for children to freely express their views in a supported environment, listening to their views and opinions, and considering these when making decisions on issues that affect their lives, including in everyday settings.

FINDINGS FROM YAG CONSULTATIONS

WHO LISTENS TO CHILDREN AND YOUNG PEOPLE WHEN THEY HAVE A PROBLEM?

The young people mentioned parents, grandparents, aunts/uncles, siblings, good friends, youth workers, nice teachers, guidance counsellors (with mixed experience), therapist or counsellor, boxing coach, addiction services for adolescents (e.g. SASSY).

WHAT DIFFICULTIES AND PROBLEMS DO CHILDREN AND YOUNG PEOPLE HAVE?

The young people described a wide range of issues, many of which have a legal component, such as issues accessing services, issues around school such as bullying, school exclusion and education supports, issues around discrimination, family issues such as divorce, abuse and addiction, anti-social behaviour, addiction and mental health issues and access to mental health services. They talked about issues with trust, both in trusting Gardaí and the lack of trust Gardaí sometimes have in young people.

The two issues the young people had identified for further discussion at the second meeting in October 2024 were school problems and family problems. Many potential legal issues were among the school and family problems that the young people raised.

At school, the issues raised included a lack of supports for children with learning disabilities and circumstances in which learning accommodations were ignored. Issues around discipline were also raised, including students being disciplined rather than being assisted, young people's side of the story being disregarded and schools attempting to mediate a situation but making it worse. Bullying, discrimination and the failure of schools to adequately address these issues were also highlighted by young people.

Family problems raised included parental mental health problems and drug addiction, separation or divorce and young people having their voice heard or wishes shared with the judge when they want to express them in court proceedings.

Some comments that stood out from the consultation were:

Young people don't always know how to express themselves or how to open up. Some teachers notice if you're upset or sad and will come up to you and ask if you're ok or if you've something going on.

WHERE CAN CHILDREN AND YOUNG PEOPLE GET HELP OR SUPPORT?

There was a detailed discussion about the physical spaces and people who children can ask for help, with a broad range including family members, youth workers, youth organisations (including clubs, cafes and projects), social workers/respite, mental health services and organisations and addiction services.

In the discussions around guidance counsellors, there were some good experiences but mostly negative and the type of guidance counselling provided in schools varied greatly within the group. The young people discussed the importance of feeling safe and having trust in the person who seek help from:

- *The most important thing is a person you feel most safe with and trust and who really listens to you.*
- *It's really important to create the safe place where young people can open up and talk to people, where they feel comfortable and safe.*
- *I can talk to my boxing coach about anything and can go there just to hang out – it's a safe place.*

Young people were aware that there is a difficulty seeking help and support once you turn eighteen. However, they did mention that the youth worker or organisations still try to look out for young people and connect them to other services; the engagement is just less formal. Sometimes young people end up working for the organisation once they have turned eighteen.

It's hard when you know you are going to lose the supports when you turn eighteen.

WHAT STOPS CHILDREN AND YOUNG PEOPLE GETTING HELP AND SUPPORT?

There was a lot of discussion in both consultation sessions about what stops young people getting help and support. They spoke about peer pressure and being judged, especially for boys, being embarrassed, scared, or uncomfortable and not knowing how to communicate problems. Some participants talked about having difficulties with trust due to having bad experiences at school or with the Gardaí. Some also talked about teachers not wanting to talk about problems a young person is having at school.

The YAG described how seeking help can result in parents knowing what is going on and parents might be scared that the young person will say something about problems at home. The fact that parental consent is needed to access services, including youth services, was raised as a problem when seeking help about something you do not want your parent to know. Stubbornness and trouble communicating on the part of young people was mentioned – sometimes young people just want to sort the problem themselves or think it would be a waste of time to seek help. The YAG were aware that a lot of services had waiting lists and others were too expensive.

It's really hard to find support for family issues.

The young people talked about the positive and negative aspects of social media.

It either has a massive focus on mental health on the one hand, or makes you feel like you shouldn't talk about your problems on the other hand.

The young people talked about how there is not enough knowledge about the services available and that children in school do not know where to turn for support or services.

It's hard to find information unless you are already involved with a service or organisation.

The difficulties and problems young people have



School problems

Pressure, learning difficulties, being suspended or kicked out of school



Family Problems



Supports cut off after age 18



Place-based Stigma

Being from a place that everyone thinks the worst of



Bullying

Online, physical, verbal



Friend group problems



Mental Health



Addiction

Drugs, vaping, alcohol. Using drugs to deal with mental health problems



Discrimination



Peer Pressure

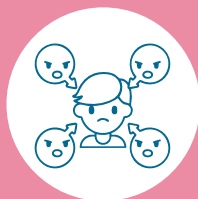
Drugs, illegal activity



Anti-social Behaviour

And lack of trust in Gardaí

What stops us getting help?



Peer Pressure

Being judged or embarrassed. Bullied into not getting help



Self Doubt

Downplaying your problems or doubting yourself



Wary of Gardaí

Trust issues because of bad experiences at school or with the Gardaí



Communication Trouble

Scared, uncomfortable and not knowing how to communicate problems



Too Stubbon

Might want to help yourself, think you're wasting your time)



Parent Issues

Including needing parental consent for things you don't want them to know, or parents being scared young people will say something about problems at home



Motivation

Lack of motivation or thinking you can help yourself



Lack of Knowledge

Or education about how or where to get help



Bad Teachers

Teachers not wanting to talk about it



Waiting & Costs

Waiting lists and cost of getting help

What kind of help works or would work?



Counselling

Free teen counselling that meets young people's needs



Getting The Right Help

Students getting help and proper accommodations with learning disabilities and difficulties



No To Bullying

Principals and teachers who take bullying seriously and act immediately



Youth Workers

Being able to talk to youth workers



Attentive Family

Parents and other family members who listen to and help young people



Mental Health Training

Teachers who are trained to deal with mental health issues and how to listen to and understand young people



Guidance Counsellors

Guidance counsellors helping students



SNA Help

Help from SNAs – such as time out from classes



Nice teachers

Who listens as a friend, take their time, are non-judgemental and help students with learning



Youth Advice Centre

A youth advice centre (e.g. a child version of Citizens Information)

How we want people to help us

Depending on the problem and situation, we want to be able to choose from the following options:

1



For an adult helper to take responsibility to act on behalf of a young person

2



For the young person and an adult helper to act together

3



For the young person to act on their own behalf with the support of an adult helper

There was a feeling of adults not really caring or wanting to know:

The schools say they want to help but then if you ask for help, they don't care or don't want to know.

I was having trouble with school attendance because of illness, and it was really hard but the guidance counsellor didn't even ask me how that was for me. They just kept saying I have to attend.

It depends on who you surround yourself with. Sometimes the older generation just expect you to get on with things and not make a fuss – they say stuff like “build a bridge and get over it.”

This resulted in downplaying the problem:

You just think what is happening is normal.

Before getting help from CAMHS I didn't want to get help, I was downplaying the problem – just thought it wasn't a big deal.

The Youth Advisory Group discussed what might help in terms of encouraging children and young people to seek help. Some of the comments were:

What might have helped? Hearing other young people who have gotten help.

Advertising from different organisations to raise awareness helps. Young people are not taught how to deal with their mental health in school. SPHE curriculum could be improved.

The young people also talked about how important it is to be able to feel safe and to have a place to go where you feel safe:

- If the youth services are in a good space where you feel safe – Limerick Youth Services feels good, safe.
- Young people in Cork wanted to set up a new Foróige but it didn't have a home. Had to meet in a different hall each time.
- A space that is accommodating for everyone makes a difference – somewhere you can be loud and space for those who want a quieter time.

Finally, the young people were asked:

HOW DO YOUNG PEOPLE FEEL WHEN THEY CAN'T GET HELP OR SUPPORT?

The YAG shared its views on what is like when children or young people cannot get help or support.

They described feeling lost, isolated, depressed, anxious, nervous. They spoke about a feeling of being under pressure and overthinking things, feeling brushed aside or not paid attention to when struggling in class, feeling like there is nobody there or just always feeling the same way about the problem. The YAG described how young people can distance themselves from friends and family or sometimes start acting out at friends and family.

The young people talked about being angry about the way mental health services are run, and about the fact that children with additional needs are being treated unfairly and do not have enough support.

For mental health issues, if you can't get help and support it's just really hard.

If you don't get the supports you need in education you're just struggling all the time and finding it hard to learn.

I got suspended too many times and now I'm on my last chance. I had to talk to the Board of Management with my Mam to be let back in.

FINDINGS FROM SECOND MEETING WITH THE YAG

A second meeting of the YAG was held on 24 October 2024. The young people went through the main issues they discussed and key findings from their YAG meeting in July 2024. A printed copy of the report of the July meeting was given to each young person explaining how their views would form part of the research.

As mentioned above, the two issues the young people identified for further discussion at the second meeting in October 2024 were school problems and family problems. Many potential legal issues were among the school and family problems identified by the young people.

In discussing what works well to help young people with school problems, the YAG listed helpful interventions. These include:

- “Nice” teachers, who listen as a friend, take their time, are non-judgemental and help students with learning;
- Principals and teachers who take bullying seriously and act immediately or who help students to get help;
- Proper accommodations with learning disabilities and difficulties were also listed;
- Guidance counsellors who help with problems at school;
- SNAs who facilitate time out from classes.

With problems in the home, young people talked about the following who may be able to listen and help:

- Parents;
- Grandparents;
- Other family members who listen and help;
- Youth workers

The YAG also suggested other important ways that young people could be helped with school and family problems, including:

- Free teen counselling that meets young people’s needs;
- Youth advice centres, like a child version of a Citizen’s Information Centre;
- Teachers trained to deal with mental health issues and how to listen to and understand young people.

The YAG were consulted on how children and young may want to be supported by an adult when they experience a problem at school or in their family. The young people felt different approaches needed to be available. Depending on the problem and situation, the following options should be available:

- a) For an adult helper to take responsibility to act on behalf of a young person;
- b) For the young person and an adult helper to act together;
- c) For the young person to act on their own behalf with the support of an adult helper.

The YAG had different options on how to be helped with school problems and family problems.

Regarding problems that occur in school, the majority of the YAG chose the option of a young person and a trusted adult helper acting together. On family problems, the majority of the YAG chose the option of a young person acting on their own behalf with support from a trusted adult. On both issues, some YAG members made minority choices. The young people worked to prepare key messages for an infographic or an animation to accompany this Report to communicate their input.

CONSULTATION WITH CHILDREN AND YOUNG PEOPLE – DISCUSSION

Focusing on the importance of child participation in a child-friendly justice system, this Report documents the process of recruiting a youth advisory group for the purposes of this research, and the methodology and findings of the consultation with these young people. When we asked “seldom-heard” young people about the kinds of difficulties and problems they have, a lot of the issues raised had a legal aspect. We heard about where they go to get help and support, and it was clear that they seek out people they are comfortable with and have a relationship of trust with.

The process of going about setting up a youth advisory group for the purpose for this research was hugely valuable. It gave the project team a unique insight into understanding the level of expertise and preparation required when consulting with children and young people and the multidisciplinary nature of this work when it comes to improving access to justice.

The experience of working with the young people on the YAG for this research was extremely worthwhile and rewarding. The young people came from diverse backgrounds and had experienced diverse challenges. They were all very engaged with the activities, willing to participate, respond to each other’s views and articulate their experiences so. It presented a unique insight into how legal services for what are considered seldom-heard children could be shaped to have most impact for them.

Conclusions in desk research of relevant consultations with children and young people about their experience of legal processes and access to justice illustrate just how valuable it is to seek the views of children and young people around their



legal needs. As highlighted in the study in Northern Ireland:

“What was apparent from analysis of the views of both adults and young people, was that while the adults interviewed, who were professionals attuned to the legal needs of young people, provided extensive insight into both positive and negative systemic issues within the legal system, the children and young people provided rich illustrations and examples of how these issues impact upon their lives”

The experience of setting up the YAG and the views of the young people have already started to inform and direct CLM’s child focused services and policy work. It informs their thinking about how they might best engage with young people and indicates that working together with those they trust to provide legal advice is key. Furthermore, CLM has benefitted from first-hand experience of why child participation is essential in the development and delivery of a specialised children’s legal service.



ADULT STAKEHOLDER CONSULTATIONS

This chapter presents the findings from the interviews with stakeholders. The findings from the stakeholder consultations are key considerations in the development and delivery of a specialised children's legal service. The need for partnership and collaboration to build on expertise and existing services and to bridge the gaps that are preventing the full implementation of children's rights in Ireland is evident in the findings.

The stakeholders include State and non-State organisations that provide legal services and organisations that work directly with or on behalf of children, particularly those who experience additional barriers in accessing services or exercising their rights. A small number of stakeholders were consulted for their experience in children's rights law and public interest law. The findings below also reflect discussions from the Advisory Group meeting.¹¹¹

The findings are presented under various themes to reflect the key issues which emerged from the interviews and discussions. These themes highlight both the need for a specialised children's law service and the barriers to implementation of children's rights that such a service would prioritise in its work.

Through the consultations it was recognised that in general terms children face many of the same barriers faced by adults in accessing justice and legal remedies. Children usually rely on their parents or guardians to access justice and remedies on their behalf and therefore these general barriers are also barriers to the realisation of children's rights.¹¹²



Nevertheless, the barriers that particularly affect the implementation of children's rights were also addressed in depth through the consultations. The following themes and barriers emerged:

1. Lack of knowledge and awareness of rights;
2. Lack of implementation of children's rights;
3. Lack of accessible child-friendly information in relation to legal rights and processes;
4. Lack of awareness of children's rights frameworks among duty bearers;
5. Lack of knowledge among professionals and the need for training;
6. Lack of specialist knowledge and training within the legal profession;
7. The absence of advocacy services for children;
8. Need for legal supports for organisations working directly with children;
9. Structural and procedural barriers;
10. Challenges in conducting strategic litigation work and funding challenges;
11. Practical challenges of working with children as individual rights holders.

Finally, views from stakeholders as to whether a dedicated legal service for children would add value were sought. There was broad consensus among stakeholders that there would be added value to having a dedicated children's legal service that would work with children and act strategically in enhancing the implementation of children's rights in Ireland.

LACK OF KNOWLEDGE AND AWARENESS OF RIGHTS

In consultations it emerged that in general terms children face many of the same barriers faced by adults in accessing justice and legal remedies. Children usually rely on their parents or guardians to access justice and remedies on their behalf and therefore these general barriers are also barriers to the realisation of children's rights. Such general barriers include poverty, costs or fees, lack of knowledge and inability to understand complex or technical laws and procedures. Low-income families may often be unaware that their issue could have a legal remedy.¹¹³

*There are also cultural barriers by virtue of the fact that the law can be an intimidating environment and particularly in communities where there is already a distrust of authorities. Low-income families are often not aware that they could have a legal claim or even access to an appeal or complaints mechanism such as the Ombudsman for Children's Office. There is a need for legal education, training and outreach in hard-to-reach communities and through organisations who work within those communities.*¹¹⁴

Nevertheless, the barriers that particularly affect the implementation of children's rights were also addressed in depth through the consultations.

A lack of awareness or understanding of children's rights among children and their families was raised consistently in interviews with all stakeholders. In addition, there is a gap in the communication of children's rights in an accessible way.

*There is a lack of accessible information on rights. Young people involved in YAP, even in the youth advisory groups, don't know what their rights are and they don't see how they can access the legal system.*¹¹⁵

This has also been expressed by young people in educational outreach work undertaken by a stakeholder organisation consulted:

*There is an information/knowledge gap for children in terms of understanding what rights they have and how these can be enforced or protected as has been vocally expressed on many occasions in the law centres educational work with local young people.*¹¹⁶

LACK OF IMPLEMENTATION OF CHILDREN'S RIGHTS

Many spoke about the problem of rights only being there in rhetoric and not in reality. This is a recurring theme in accessing health, education, and disability services for children, as well as accessing housing or appropriate accommodation, including for children in the care system.

Even when there is some awareness of rights, many children cannot vindicate these rights which leads

*to a lack of belief that you can access rights. Those who have been working in this area for a long time recognise this repetitive cycle: the talk that rights exist, against the reality of delays in accessing services due to long waiting lists or an inadequate service.*¹¹⁷

*The situation for vulnerable children under section 5 of the Child Care Act is worse than it has ever been in the 30 years I have been working in this area. Their legal rights are not being vindicated.*¹¹⁸

LACK OF ACCESSIBLE CHILD-FRIENDLY INFORMATION IN RELATION TO LEGAL RIGHTS AND PROCESSES

Many stakeholders pointed out the lack of child-friendly, age-appropriate information about legal processes, with one stakeholder pointing out that there is a lack of awareness or understanding among children and their families that they may be entitled to legal advice in some circumstances.

Others spoke about how children and parents are also unaware of how they can assert their rights. There is a lack of knowledge about how existing rights can be claimed.¹¹⁹

*Many young people experience a lack of access to services or barriers and discrimination in accessing services but don't see that they may have a right to access services.*¹²⁰

*Navigating the healthcare and education systems is almost a full-time job for parents, and families require significant support to manage this. Even understanding what rights they have and securing a school place for their child can be an almost impossible task for many families.*¹²¹

There is a need for specialist advice for children who are particularly vulnerable when their basic rights are not met.

*Children are not aware of their rights. There is a need for specialist advice services around access to education, information and advocacy services to help children address issues arising in direct provision, particularly given the fact that many of children and young people have additional vulnerabilities and literacy or language difficulties.*¹²²

*Legal jargon and the complexity of the law and legal processes make it difficult for you to know where to seek help.*¹²³

Lack of information for children in relation to their interactions with An Garda Síochána was raised by stakeholders as an unmet legal need, particularly in relation to extensive powers when it comes to dealing with children. In the experience of one stakeholder, it would be extremely rare for children to have access to adequate information in respect of the processes to be followed by An Garda Síochána, where children are suspected of engaging in anti-social or criminal behaviour and even more exceptional for children to have been informed of their rights by a legal professional in this context.¹²⁴

*This raises a question as to whether there is a power imbalance at this point in the criminal justice system. Young people would have expressed their concerns about local policing and the manner in which they feel treated by members of An Garda Síochána.*¹²⁵

One stakeholder pointed out that observed that this is particularly an issue with children who are in the youth justice system.

*Child defendants do not always understand the process, and did not have intermediaries there to help. For example, some have learning difficulties/problems communicating. They do not always fully understand the conditions of their bail and often could not communicate this to the Court or to legal representatives. These difficulties may result in increased rates of recidivism for these young people.*¹²⁶

Lack of accessible information was raised as a particular barrier to meeting the legal needs of children with disabilities and it was pointed out that accessible information is a reasonable accommodation for people with an intellectual disability in accessing State services.

Public organisations are failing to provide accessible information which is the cornerstone of access to rights and is not adequately addressed. The use of acronyms and obscure language marginalises vulnerable communities. That said, accessibility goes much deeper than “easy to read” guides. The way we communicate is such an important part of

*accessibility – speaking with plain English, slowing the pace down and allowing space and time for decision making is key.*¹²⁷

LACK OF AWARENESS OF CHILDREN’S RIGHTS FRAMEWORKS AMONG DUTY BEARERS

Despite recent developments in law and policy,¹²⁸ many stakeholders were of the view that there is generally a limited awareness of using a children’s rights framework in shaping legal practices related to children’s rights across Ireland. One stakeholder noted that there is no widespread, systematic application of such a framework within public bodies, and that there is often a lack of clarity and consistency in how children’s rights are understood and applied, even where public bodies engage directly with children. This results in varying levels of awareness and practice, depending on the individual or organisation involved.

Several stakeholders see the lack of full incorporation of the UNCRC into domestic legislation as a significant barrier in meeting the legal needs of children. One stakeholder observed that while there is increasing awareness of some parts of the children’s rights framework, the weak legal standing of the UNCRC meant that EU legislation and, in some instances, jurisprudence of the ECHR, have a stronger legal standing than the UNCRC and the CRC’s General Comments and jurisprudence.¹²⁹

Stakeholders also pointed to the absence of Children’s Rights Impact Assessments (CRIA) within government which results in the lack of systemic consideration of children’s rights in the development of law, policy and decisions that impact on children.¹³⁰ Two stakeholders welcomed the commitment in the new Government policy framework for children, Young Ireland, to developing and rolling out CRIA.¹³¹

One stakeholder pointed out that while there are services such as Child and Family Agency (Tusla) and the HSE that use children’s rights language in some of their policies and procedures, this often does not translate into better practice in their child-related work. This stakeholder was of the view that this is largely due to a lack of investment in and

training on what the implementation of children's rights standards means or should look like in practice, e.g. how to carry out an assessment of best interests.¹³²

Increased recognition of the need for a rights-based framework at a policy level within government, was welcomed, although it was also noted that implementation will be the key challenge, noting that while there is a move towards reform in areas of family law and child care law, children are still not having their rights upheld adequately in practice.¹³³

One stakeholder has found that unless a public body's remit is directly related to children, (e.g. Education, Health) there is little focus on children, even though children's rights issues may exist

Even when a public body has a remit related directly to children, there can be a lack of focus on the specific needs and rights of children from protected groups, such as Traveller children and disabled children.

A key area for improvement highlighted by one stakeholder is the need for public bodies is to move away from the approach that treats children as a homogenous group in society towards a lens that ensures that all children can access and engage with public services/programmes.¹³⁴

LACK OF KNOWLEDGE AMONG PROFESSIONALS AND THE NEED FOR TRAINING

Many stakeholders interviewed have found that frontline workers often lack the necessary knowledge to support children's legal needs effectively. This was a significant theme with organisations working directly with children and young people.

One stakeholder highlighted that there is insufficient training on children's rights and the law, including public administration and equality law, for organisations working directly with children and with families, for example youth clubs, youth diversion projects, social workers, school-home liaison officers, school guidance counsellors, homeless services, family resource centres.¹³⁵

There is huge scope for youth workers to be trained in children's rights and the law. There is no clear

*point of contact for youth workers in relation to legal issues, even though many issues arise with the young people they work with that they struggle to deal with, and which consume a lot of their time.*¹³⁶

*A lot of people who work in this area do not understand the legal frameworks within which they are working.*¹³⁷

Several stakeholders pointed to a lack of specialist knowledge in relation to particularly vulnerable children, such as unaccompanied minors with many pointing to the need for specialist children's rights training being more readily available, including cultural competence, trauma-informed and anti-discrimination training.

Stakeholders pointed to the lack of information or understanding of legal frameworks and legal services and highlight the need for public organisations to do more outreach work in this regard particularly with harder to reach communities.

LACK OF SPECIALIST KNOWLEDGE AND TRAINING WITHIN THE LEGAL PROFESSION

One stakeholder pointed out that many legal practitioners do not consistently integrate children's rights into their legal strategies, often due to a lack of specific training or awareness. The legal profession has yet to fully embed children's rights into its foundational training, leading to a situation where these considerations are not routinely at the forefront of legal arguments or case planning.¹³⁸

*There is a significant need for increased education and resources to ensure that a children's rights framework becomes a standard aspect of legal work. Enhanced training and clearer guidelines would greatly improve the consistency and effectiveness of children's rights protections within the legal system in Ireland.*¹³⁹

Another stakeholder pointed to the need for mandatory children's rights training in the core curriculum for legal practitioners to broaden the pool of skilled practitioners.

Without embedding this training early on, widespread knowledge and engagement in children's rights advocacy will remain insufficient.¹⁴⁰

Other stakeholders pointed out that Ireland is weak when it comes to specialist children's rights legal training. There is no formalised mandatory training that is skills-based and no requirement to have specialised training as a lawyer representing children. There is also no formal training for judges and quasi-judicial decision makers on children's rights issues or on how to talk to children who are involved in legal processes.

*There is a training gap in relation to international protection both for accompanied minors and unaccompanied minors. There is a need for very specialist knowledge with international practice and then additional training dealing with children as clients and trauma informed practice and expertise on age-disputed minors.*¹⁴¹

ABSENCE OF ADVOCACY SERVICES FOR CHILDREN

The absence of representative advocacy for children was a theme among many stakeholders.,

Some organisations talk about the exhaustion of fighting for basic services that children are supposed to have a legal right to access.

*There is a "whirlpool" effect where families are stuck fighting for basic services every single day leaving them exhausted and unable to seek to address any systemic issues.*¹⁴²

There is also a fear sometimes in bringing a complaint or challenging a service when trying to access a right.¹⁴³ These parents and children need considerable support, and trust building is important.

There is a particular dynamic when someone is making a complaint in relation to services provided by the State, particularly for those who are living on poverty or are from a social minority group. Anywhere someone is dependent on a service for the roof over their head, they won't rock the boat. Those parents are particularly disempowered.¹⁴⁴

While many organisations can provide advice and signposting, stakeholders point to a lack of legal supports to clarify the law.

Issues frequently arise relating to schooling and expulsion, leading to significant advocacy efforts.



In many cases, there is uncertainty about whether there is a legal aspect involved and there is no support provided to clarify these issues.¹⁴⁵

Many stakeholders highlighted the value of legal advocacy where there is specialist knowledge. Parents may not be looking for a legal solution but want someone to guide them around how to access services, such as in relation to children with a disability, and there are huge gaps in where to signpost clients for such support.

Services that do provide advocacy or legal supports are in the community and voluntary sector and are already overstretched. How do we reach those who are not engaged in any services and would not know where to go for information or support?¹⁴⁶

Advocacy services can also be a highly effective way to include the child directly in accessing their rights and having a voice in the process.¹⁴⁷ This was pointed out by a member of the Advisory Group:

Adults tend to have low expectations of what young people with disabilities would do or have a say in. Children aren't used to being asked or consulted. This results in children then having low expectations of adults as they're not asked, and their needs are not accommodated. This is a barrier to both adults and children accessing services.¹⁴⁸

LEGAL SUPPORTS FOR ORGANISATIONS WORKING DIRECTLY WITH CHILDREN

Many stakeholders recognise the unique legal needs of children and young, particularly for children who do not enjoy the benefit of parents or other adults who can advocate on their behalf.

Children and young people can lack parental support in a range of circumstances, for example due to their gender or sexual orientation, or because their family is in crisis.¹⁴⁹

Children need a lot of support to actually go up to someone to talk about their legal rights. There is also a need for a legal service that meets young people where they are at. Getting them to offices by themselves is way too hit or miss.¹⁵⁰

One stakeholder pointed out that there is also a

difficulty for organisations that provide advocacy supports to children and are also funded by the State to provide services to children and therefore do not provide advocacy support for a child to access legal services.

Children do not have their rights and entitlements upheld and get lost in the system. They often need independent legal advice and sometimes representation and they need it quickly. The time element is critical. Tusla does not provide a lot of what should be provided legally and if they do it is often way too late. The moment the children we work with hit 18, everything disappears. The care system is supposed to include aftercare, but some young people are leaving care and going straight into homelessness.¹⁵¹

Pursuant to section 5 (of the Child Care Act 1991(as amended)), young people who present as homeless but not formally taken into care are sometimes accommodated in Special Emergency Arrangements (SEAs), and there has been criticism of the fact that very vulnerable children are placed in these unregulated placements.¹⁵²

A stakeholder working directly with children pointed to significant unmet legal need both in relation to children with offending behaviour and for other issues such as housing and evictions affecting children, access to health services and primary school expulsions. They often rely on Juvenile Liaison Officers or Community Policing for information as there is no clear point of contact for legal questions which might arise when supporting young people.¹⁵³ This is a significant gap and highlights the importance of structured and specialised legal supports for existing services providing advocacy to young people.

Some stakeholders interviewed who work directly with children refer clients to the Children's Rights Alliance legal advice service and some also refer to PILA. However, they also pointed out the limitations of these models as there is a need for significant support in relation to many of the legal queries.¹⁵⁴

The absence of specialist legal supports for organisations representing children with disabilities is an area that some stakeholders highlighted as a significant barrier in accessing justice, particularly children with intellectual disabilities.¹⁵⁵

Issues such as the use of seclusion and restraint in schools highlight how non-speaking children are denied justice just because they are not considered credible witnesses. This not only leaves these children without recourse to justice but also perpetuates their marginalisation within the education system.¹⁵⁶

STRUCTURAL AND PROCEDURAL BARRIERS

The limitations of the current civil legal aid scheme were raised by many of the stakeholders as a barrier¹⁵⁷ and there are obvious areas for improvement even within the current model of service provision.

For unaccompanied minors, there is a difficulty when the child is in the care of State. Who advises the child if the State fails to make their family reunification application before the child ages out or if an age assessment is not done appropriately or in a timely manner? How do they get independent representation for the family reunification process? Currently, the Legal Aid Board is the support, but they do not attend the interviews with the children or help with the questionnaire. They are often accompanied by social workers instead of legal representation. They need legal representation independent of social workers and anyone else.¹⁵⁸

Many stakeholders raised the fact that, despite the constitutional amendment, children are still not seen as individual rights holders in practice.

There are many inconsistencies and discrepancies in relation to the capacity of children to give instructions and in relation to how they participate in relation to legal proceedings affecting them. These contradictions were pointed out by lawyers interviewed. In instances, the same child can be faced with different rules and standards in relation to whether they can instruct a solicitor or how/whether they can participate legal proceedings. This issue has been raised by many stakeholders as a significant barrier to accessing legal services for children.¹⁵⁹

Two stakeholders pointed out the risk of costs for Independent Law Centres seeking to vindicate the rights of unaccompanied minors and asylum-

seeking children who do not have a parent or guardian to act as 'next friend'. It can also be an issue where time is of the essence, and they cannot wait for a next friend to be approved through Tusla.

In one case we had to ask a youth officer to stand in as a next friend with the organisation liable for costs of the case was unsuccessful. The issue is that if the case is lost, the next friend is not indemnified, which is a big risk to the organisation.¹⁶⁰

Another stakeholder notes that this is significant, particularly where no parent/guardian is available to act on the child's behalf, e.g. unaccompanied minors, children in conflict with their parent or guardian or children in care. They also point out the risk of an adverse costs order in litigation involving children, even in cases involving public interest, where the 'next friend' bears financial liability for any adverse costs order.

If you are an unaccompanied minor, the requirement to have a 'next friend' means they often have to ask their social worker who then must get permission from Tusla. When they age-out, the next friend then exits the proceedings. This all has to be explained really clearly to the child. What if there is no available 'next friend'? It is also an added layer of complication trying to advise a young person about all the barriers before getting to the substantive point that needs to be examined by the court when the child just wants their problem to be dealt with.¹⁶¹

It was pointed out by one stakeholder that if a child had access to a specialist lawyer who could represent them across various fields and legal issues it would make it much more straightforward for the child. This would also benefit the child by building a relationship of trust and having a sense of agency in relation to how decisions affecting their lives are being made by the legal system.

Children who are the subject of proceedings are often facing multiple legal issues simultaneously – care, special care, youth justice, family breakdown can all converge to affect a young person's life profoundly. However, each of these systems has its own, separate, mechanism for representation. For children facing all of the disruption of these various legal issues, having multiple legal representation mechanisms is often a bureaucracy expecting a child to meet its needs rather than the other way around.¹⁶²

Issues in relation to the voice of the child in child protection proceedings and how this right is implemented in practice was raised by a number of stakeholders.

*While pre-teen children will often need to rely on a guardian ad litem, it is not at all clear why children who are old enough to instruct a solicitor in the Children's Court are not given direct representation in care proceedings. This is particularly important in special care proceedings. The more immediate issue is that it is not at all clear that children in special care are made aware that the court has the power to appoint direct representation. It is hard to see how their voices can be heard if they aren't told they have the option of speaking.*¹⁶³

Many stakeholders raised the fact that recognition of the voice of the child in the Constitution and in legislation is restricted and narrowly construed. Stakeholders pointed out that while the introduction of express constitutional rights for children was a step in the right direction, the implementation and application of Article 42A is still limited. Judges continue to have broad discretion in cases involving children, and judges are not currently required to undertake training in relation to children's rights or skills-based training on hearing the voice of the child. Concerns were also raised in relation to the application and implementation of Article 12 in the legal system.¹⁶⁴

One stakeholder pointed out that in accordance with child-friendly justice, meaningful participation requires that the relevant authorities create a safe and friendly environment and use appropriate methods of questioning to determine and take into account a child's specific needs.¹⁶⁵

CHALLENGES IN CONDUCTING STRATEGIC WORK AND FUNDING CHALLENGES

Stakeholders were asked about the challenges of conducting strategic work in Ireland to address children's rights issues. One stakeholder pointed out that while litigation has its place, there are often barriers around litigation and there can be unintended consequences, noting that a non-litigation approach to a legal campaign is often the most effective.

*Pro bono work has grown in the big firms and there is a lot that they can now do in relation to case work and working with NGOs. You have to consider what a specialist legal service for children would deliver that existing pro bono services could not. That is the added value of the non-traditional legal work such as drafting proposals, lobbying politicians and influencing government, with the added value of very specialist legal knowledge in relation to children's rights and what is happening in practice.*¹⁶⁶

One stakeholder points out that there are three general trends in public interest litigation in relation to children.¹⁶⁷ Firstly, where there is no provision, and the litigation is trying to force the State expenditure to improve the level of State provision for children. The majority of these cases were taken on behalf of homeless children in need of accommodation and education. Other cases concerned the State's obligation to provide an education to children with intellectual disabilities.

*Litigation in these categories resulted in the Supreme Court reining in public interest litigation in Ireland, sending a signal that the courts would not entertain the use of the Constitution to compel State expenditure on providing services and facilities, or the argument that the Constitution protects implied socio-economic rights. However, it is also arguable that the earlier High Court litigation also helped to build up a momentum for reform in relation to both issues, in that these cases generated significant political pressure and brought about significant change including the introduction of legislation and the establishment of the office of a Minister for Children.*¹⁶⁸

A second trend has been in relation to the implementation of statutory rights.

*Even where the Oireachtas has enacted legislation, they have not activated significant parts of the legislation in some cases, such as with the Education of Persons with Special Educational Needs Act 2004. Following the enactment of the Disability Act 2005, there has been a category of cases challenging State failure to comply with statutory duties under Part 2 of the Act.*¹⁶⁹

Thirdly, even where there is a statutory framework with clear duties for State bodies, there is currently litigation concerning the inability of Tusla to provide

properly regulated suitable placements for children in residential and special care. These cases concern statutory rights and therefore do not raise any separation of powers concerns.¹⁷⁰

Legal barriers to bringing group/class action in Ireland was pointed out as a barrier, particularly in relation to repeat breaches of statutory duties in relation to children. The fact that group actions are prohibited under the civil legal aid scheme to address such situations is also a barrier.

*Without a group action, when there is an issue that is repeatedly litigated, such as in relation to special education or disability, the State has tended to settle the individual cases, thereby preventing the generation of publicity about the issue. Representative actions run by law centres may be more effective as they could also involve a legal campaign to make this approach less possible for State bodies where there are repeated breaches of statutory duties relating to children.*¹⁷¹

Funding is another barrier raised by many stakeholders, in particular by the Independent Law Centres. While litigation is always a last resort, a legal service would need sustained funding in order to support strategic litigation.

One stakeholder indicated that you would require initial funding for a 7-year period to allow you to take this type of approach.¹⁷² This was also echoed by two other stakeholders.¹⁷³ Another stakeholder also raised the issue of funding in relation to working on strategic legal issues where strategic litigation may be required:

*One of the major issues is that State funded organisations are funded on an annual allocation basis, whereas casework requires multi-annual funding, particularly for vulnerable clients.*¹⁷⁴

PRACTICAL CHALLENGES OF WORKING WITH CHILDREN AS INDIVIDUAL RIGHTS HOLDERS

Stakeholders interviewed pointed to practical challenges in relation to working directly with children.

*There is no problem involving the child but there are legal difficulties with taking instructions from the child.*¹⁷⁵

Managing expectations of what legal remedies can deliver and the fact that even with positive outcomes, legal remedies might be significantly short of what the child wants to achieve was raised as an important in the provision of legal services to children.¹⁷⁶

Some stakeholders interviewed work with families rather than providing services directly to children. One difficulty raised was to define issues that just affect children.¹⁷⁷ Very often the child is not alone. Their issue is associated with their family or community.

One stakeholder raised the importance of developing services available to parents or other adults supporting children where advice is given from a child rights perspective as well as legal services that are available to children and young people directly.

*Working directly with children however requires considerable time and resources and specific expertise. Models of working, methods of communication and organisational policies all require adaptation to meet the needs of children. It can be a challenge just to ensure that a child or young person has sufficient supports in place to address their legal problem, in addition to their lawyer.*¹⁷⁸

Another stakeholder made the point that existing independent law centres work with families and are already skilled at taking a child rights approach. Recommendations to establish a specialist law service for children should not undermine this existing work as not expert or child-centred enough. Data in existing legal services may not necessarily capture the fact that its work is also children's rights related, sometime for funding reasons, or due to limited resources to capture data in different contexts.

Laws that impact on children is not always child specific. Many organisations refer to a specific area of law, such as housing, disability, social welfare, constitutional rights etc, or the specific group, e.g. Traveller, Roma or LGBTQI where in fact children's



*rights were very much impacted by the work, but this may not be captured. This can also depend on the funding stream which may be issue specific.*¹⁷⁹

A lack of specific focus on the rights of the child within the family in legislation was also a theme raised by many stakeholders interviewed. An issue raised by several stakeholders is the fact that in the International Protection process, accompanied children's applications are considered as part of the adult's application and therefore their individual needs are often not recognised or raised as part of the application.¹⁸⁰ This issue also arises across other areas in immigration law, and one stakeholder raised concerns over the fact that applications for children's residence are often subsumed within that of a parent and therefore the individual needs of the child, separate to the needs or claim of their family, are not examined.¹⁸¹ A similar theme emerges in relation to children who are experiencing

homelessness:

The absence of an adequate definition of homelessness for children and families means that the rights and needs of children are not being taken into consideration in responses to family homelessness at present.¹⁸²

Managing expectations was also a theme with non-legal organisations interviewed working directly with children where the legislative framework is not fit for purpose, particularly in relation to disability.¹⁸³ This problem also applies to weaknesses in the legislative framework in relation to State duty of care towards separated children, homeless children in unregulated emergency accommodation and gaps in the duty of care to children who have experience of the care system in terms of aftercare, particularly in relation to care leavers who are homeless.¹⁸⁴

VIEWS ON WHETHER A DEDICATED LEGAL SERVICE FOR CHILDREN WOULD ADD VALUE

There is broad consensus among stakeholders consulted for this Report that there would be added value in having a dedicated children's legal service in Ireland that would work with children.

*Children grow up too fast and there is a limited window to exercise children's rights. A child with special needs who cannot access education, or a juvenile offender whose case is delayed may well lose rights irretrievably if their rights are not recognised or where implementation is delayed. In the absence of a more upskilled legal profession in this area, the danger is that children's rights will be ignored.*¹⁸⁵

Many stakeholders saw the benefit of having practitioner legal analysis of an issue. While children's rights failures can be couched in the language of children's rights, many stakeholders felt that this does not have the edge that a practitioner brings with the benefit of having casework and practical knowledge of the legal issues facing children.

There are so many recommendations for change but there would be added value in a specialist centre of expertise which could work out where action was needed. There would be value in analysing what other experts had said in reports such as the Special Rapporteur on Child Protection Reports and the work of the OCO and IHREC and see where the legal angle is in terms of a strategic campaign which may or may include litigation but has the strength of really specialist lawyers behind it.¹⁸⁶

However, one stakeholder questioned the added value this would bring:

A lot of independent law centres already work on children's rights but don't state that as the specific priority, but refer to the specific area of law, for example housing, disability, social welfare, constitutional rights etc., or the specific group affected, such as Traveller or LGBTQI.

This stakeholder is of the view that to add value, the focus of a dedicated service should be on areas of

law where the legislation and policy are specific to children and particularly where gaps are identified. In the experience of two of the stakeholders interviewed, there is a huge gap around disability and the intersection between disability and education.

One stakeholder pointed out that sometimes a public policy approach can be sufficient, so it is important to work out the real gaps in terms of where a legal campaigning approach is required. This will require collaborating well within the sector and working with independent law centres to figure out the ancillary issues affecting children that might need a more specialised approach. A specialist service could advocate for systemic legal issues that need to be changed.¹⁸⁷

Many stakeholders were of the view that a specialised law service for children would be a considerable resource to provide information on child-specific policies and principles, and to monitor whether children's rights are being protected and vindicated.¹⁸⁸

Practitioners point to the fact that the law is constantly becoming more specialised. The point was made that State agencies use the same legal teams again and again and build up significant relationships with judges and other significant actors in litigation as well as corporate memory.

*A Children's Law Centre could, if it were engaged in these areas of litigation on a regular basis, build up that kind of corporate memory.*¹⁸⁹

One Stakeholder gave two specific examples of how a specialist children's rights service will add hugely to the vindication of children's rights:

- 1. Some of the legal concepts and principles in children law are unique to that area of the law. Concepts such as the best interests of the child, the importance of the voice of the child, and particular principles that apply to children (particularly in the area of criminal law, e.g. sentencing) are unique to children and require specialist knowledge in order to be fully understood and applied.*
- 2. There are systemic failings which, obviously,*

*would be best addressed by a body that has the expertise to know how the system malfunctions. Special care is an example. There is a systemic crisis. The gravity of the crisis is only fully understood when viewed with full knowledge of (i) how many children are affected, and (ii) the catastrophic consequences of the CFA's failure to comply with High Court orders.*¹⁹⁰

Stakeholders raised the issue of resources and lack of training in terms of being able to work with children as clients, and the lack of professional guidance in relation to having children as clients.

There would need to be proper procedures in place, including in relation to consultations with children, taking instructions, advising a child, issuing proceedings, cost implications, necessary supports within staff, whether there is a need to work with an independent social worker. The child may present with more than a legal problem and the service would need to be in a position to respond appropriately in the child's best interest.¹⁹¹

One stakeholder expressed the view that there would be a value in having targeted supports to address specific needs and gaps in relation to access to justice for children more effectively. This stakeholder stressed the need to be strategic in relation to areas of law where legal services would be offered and the importance of collaborating with children's organisations to share expertise. Their view was that a more strategic and longer-term focus on areas of law was needed, particularly where implementation was intractable or where there were continuing breaches of children's rights.¹⁹²

This was echoed by other stakeholders:

*Typically, providing low level legal assistance to dozens of children about the implementation of a particular right may not be seen as strategic but it could be exactly what children need. And in that case, someone to look at the evidence in relation to those repeat cases, raise awareness, campaign, highlight inefficiencies might be enough.*¹⁹³

One stakeholder highlighted the need for a targeted and focused campaign to ensure there is mandatory training for the legal profession, especially those representing children, as well as for judges. This stakeholder also recommended that there would be consultations and scoping with hard-to-reach young people, to ensure participation of children and young people where there would be additional barriers to accessing supports to address rights violations. This stakeholder also saw the potential of a specialised legal service to encourage the practical implementation of a children's rights framework in how legal services are provided to children.¹⁹⁴

Stakeholders raised the risk of "referral fatigue" where children and young people or their advocates contact services or agencies only to find that they cannot get assistance for their complaint. This is particularly the case in relation to children and young people who may be vulnerable to their legal rights being breached or overlooked. Stakeholders also highlighted the need for improved data collection



and collaboration between service providers in the legal and children's rights sector to minimise this risk so that children and young people do not feel that their rights are meaningless or unenforceable.

Some stakeholders also pointed out that a service would be particularly important given that many complaints fall outside the remit of the Ombudsman for Children Act 2002 and also pointed out that their decisions of the OCO are non-binding and not always implemented by State agencies – as has been documented by the OCO in many reports, including the most recent Annual Report.¹⁹⁵

One stakeholder pointed out the need to be led by the issues that are presenting by children themselves and the benefit of a child specific service with a strong outreach approach, partnering with organisations supporting children.

Sometimes children presenting at clinics are seeking advice for issues they do not have parental support in relation to, such as in the context of family breakdown, sexual orientation and severe parental mental health problems.

Youth organisations are often trying to support children where parents are not in a position to address the problems in their child's life, due to personal circumstances, addiction, poor literacy or language skills, mental health or intellectual disability. Often young people under 18 who have had to live with addiction in their family are very mature and informed about what they and their siblings need and deserve, but getting this support may not be straightforward.

Stakeholders see the value of a community legal presence specialising in children's rights and one stakeholder pointed out that a dedicated service could address systemic issues more effectively and would also enhance IHREC's ability to be more strategic by collaborating with such a service. One stakeholder pointed to a strong evidence base for the economic value of strategic litigation, which aims to improve structures rather than dealing with issues at an individual level, which in turn reduces the need for litigation, ultimately enhancing the overall system.

A comprehensive service package housed within one organisation would be extremely beneficial. Resources are often spent on defending cases repetitively, with cases and issues dragging on unnecessarily. Targeted and strategic activity in this area would likely reduce rights breaches as there would be more pressure on duty bearers to uphold children's rights. Time and resources to properly hear the child's voice is crucial.¹⁹⁶

Several stakeholders pointed to the need for a dedicated children's legal service that would treat children as individual rights holders, benefiting children in disadvantaged areas in particular, would contribute positively to empowering children and reaching those most in need.



ANALYSIS - EXISTING LEGAL SERVICES AND THE ABSENCE OF CHILD SPECIFIC LEGAL SERVICES

In considering the need for a specialised children's law service, this chapter examines the existing legal services in Ireland and the extent to which these services address the legal needs and barriers experienced by children in vindicating their rights. The consultation with stakeholders detailed above informs this analysis.

For completeness, an outline of existing services in Ireland that are available to the public to address civil legal need not met by private practitioners is set out in Appendix B. Some of the services expressly target children's legal needs while others are not. The services outlined include State services as well as services offered by non-governmental organisations, including Independent Law Centres, law clinics, children's rights organisations, and pro bono services.

CURRENT PROVISION OF CIVIL LEGAL AID FOR CHILDREN

As detailed in Appendix B, the Civil Legal Aid Board (LAB) is an independent body established under the Civil Legal Aid Act 1995 in Ireland under the remit of the Department of Justice and provides civil legal aid and advice to individuals of modest means. There are 34 full-time and 3 part-time law centres. The Board also operates seventeen mediation family offices alongside its civil legal aid services. Several law centres in Dublin, Cork and Galway also include an international protection speciality and there are also dedicated units in Dublin dealing with personal injury and/or medical negligence cases, and cases involving children at risk. The Board has recently established a Traveller legal service. The Board also operates a specialised Refugee Documentation Centre.

In 2022, the LAB handled over 20,000 applicants seeking civil legal aid services, primarily addressing family law issues (63%) such as divorce, separation, and custody, as well as housing disputes, debt issues, and employment law.¹⁹⁷ The family mediation service managed over 1,500 new cases.¹⁹⁸ The demand for international protection services saw a 368% increase, with 6,858 new applicants.¹⁹⁹

There has been repeated criticism of the restrictive scope of the current civil legal aid scheme.²⁰⁰ Family law and related areas, including family mediation and child protection matters has dominated the work of the LAB since its inception. The legal aid scheme expressly excludes many critical areas of law, while the impact of being under-resourced is seen in severely limited legal assistance available on matters other than family and child law.²⁰¹ The disproportionate and negative impact of its restrictive scope on vulnerable groups such as women, children, refugees and persons with disabilities has been criticised by many UN and European human rights monitoring bodies.²⁰² The Minister for Justice commissioned a review of the Civil Legal Aid Scheme in 2022 and the review group furnished its reports to the Minister in Spring 2025.²⁰³

While acknowledging the limitations of the current model of service delivery of civil legal aid in Ireland, it is important to highlight the significant work done by legal aid board solicitors, particularly in the areas of family law and international protection, often with clients who experience multiple barriers to accessing justice. A recent report by the Law Society of Northern Ireland highlighted that many of the benefits of legal aid for families and children cannot be quantified, such as the risk of parents who are not professionally represented in proceedings losing contact rights with their children, even when this is not in the best interest of the child. This can negatively impact mental health and family relationships for both child and parent.²⁰⁴ The report further demonstrated the economic benefits of the free legal aid system were quantified. In the context of family law, it calculated that for every £1 invested in family legal aid, £3.62 is generated. The outcome relating to reducing the number of children entering the care system had the highest gross benefit (£87,425,641).²⁰⁵

Professor Whyte points out that public civil legal aid in Ireland is primarily based on the service model of legal aid, with its emphasis on the provision of conventional legal services to needy individuals.²⁰⁶ While family has been the main area of work, this is where demand lies and there tends to be a perception that the LAB does not deal with other

areas of law, even those not excluded. This is not helped by the limitations of the service delivery model and the fact that there is no community outreach, educational or research role for the Legal Aid Board under the current legislative remit.

The Legal Aid Board does not have a particular focus on access to justice for children. In response to questions for this consultation, the Legal Aid Board stated that there are no barriers to legal aid being provided to children in any of the areas covered by the Legal Aid Board provided the child is assisted in bringing the case by a next friend or guardian ad litem. However, they point out that:

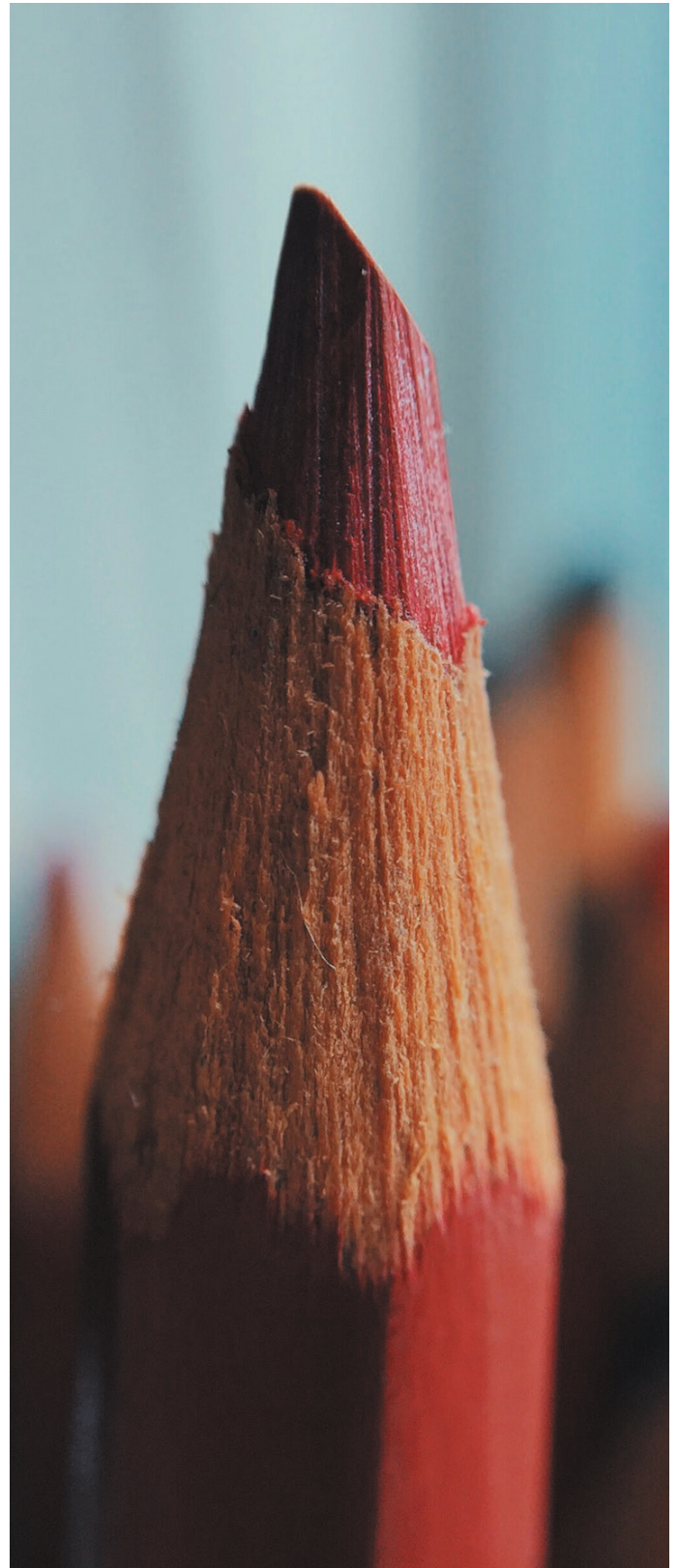
As the law stands at present, a child cannot bring a civil case in their own name and must do so through a next friend or guardian ad litem. The Legal Aid Board is restricted by this in terms of what representation it can provide.²⁰⁷

They do however state that there are no barriers to children receiving legal advice provided as per the Solicitor's Guide to Professional Conduct. The Civil Legal Aid Regulations require that where a child requires legal aid, the application must be made by the next friend or guardian ad litem who must sign an undertaking to pay the contribution and costs that might be due. The Legal Aid Board have confirmed that:

In financially assessing a child, the means of any person who has care and control of the applicant or who is liable to maintain the applicant (i.e. their parents/guardians) must be taken into account. However, this would not apply if the parent/guardian concerned had a contrary interest in the proceedings. Note that this also applies to an adult who is in full time education.²⁰⁸

In certain limited circumstances, and again subject to the eligibility criteria, the Board provides legal aid to children without the need of a next friend or guardian ad litem in District Court family law or child care proceedings where the child is themselves a parent.

In circumstances where there may be a conflict of interest between a parent's interests and a child's or where a child is in care or is a separated child within the asylum process, the absence of a provision whereby children may institute proceedings



independently can provide a real barrier to the child's access to justice.²⁰⁹

The Legal Aid Board also pointed out that there are exclusions and limitations within their Act, discussed elsewhere in the report, in that they can only provide representation in the civil courts or in tribunals that are designated under the Civil Legal Aid Act

In relation to children's rights, this prevents the Board from providing legal aid at the Adoption Authority, though it can provide "outside the door" legal advice.²¹⁰

Civil legal aid services and State-funded information services in Ireland are not currently tailored to children's needs and rights.²¹¹ There is no clear policy or guidelines on how children can access the services of the Legal Aid Board leading to a situation where the availability of civil legal aid to vindicate a child's fundamental rights in many areas of law is lacking or extremely limited. The current service model of civil legal aid, where individuals identify their own legal need and make an application for legal aid or advice is not fit for purpose in relation to children.

The Council of Europe highlights that specific protection and assistance via legal aid may be granted to vulnerable persons, including people with disabilities, women, children and ethnic minorities.²¹² The Committee on the Rights of the Child provides specific guidance on the specialisation of legal aid providers in matters involving children.²¹³ CLM recommends that the State Civil Legal Aid Scheme should be adequately resourced to provide legal aid for children in their own right, in accordance with the COE Guidelines on Child-Friendly Justice.²¹⁴ In particular, children should have the right to receive legal information and advice in understandable language, adapted to age, maturity and abilities,²¹⁵ and access to free legal aid under the same or more lenient conditions as adults.²¹⁶

CLM have called for a reformed civil legal aid system to take specific measures to protect the rights of children and under-served groups. The inclusion of outreach by specially trained children's practitioners to services working with children is particularly important to ensure better understanding and access to legal services. To compliment the provision of outreach legal advice





clinics, the use of “closed” private practitioner panels where representation is required, would allow for specialist children’s rights practitioners who have undergone mandatory training.

OTHER LEGAL SERVICES AVAILABLE TO CHILDREN IN IRELAND²¹⁷

Ireland has a vibrant children’s rights sector in Ireland, significant children’s rights expertise within academic and legal professions and the considerable work of independent law centres, as well as the work of national human rights institutions. This work is detailed in Appendix B with an overview presented and discussed below.

There is a network of community and specialised law centres that assist vulnerable communities in specific areas of law or to meet the needs of the local community in a holistic way. Independent law centres have a role in the provision of legal assistance to individuals on a non-statutory basis and provides a contrasting model of provision to the current Legal Aid Board model. The Independent Law Centres regularly provide legal assistance, especially to groups and individuals experiencing marginalisation and disadvantage. They regularly provide legal assistance that falls outside the remit of the Legal Aid Board.

These law centres operate on a shoestring budget, receiving some level of public funding and pursuing other sources of funding, and are dependent on barristers and others acting pro bono.²¹⁸ A brief outline of the work of these organisations is included in Appendix B. They include the Free Legal Advice Centres (FLAC), an independent law centre providing legal services (advice, advocacy and representation) to members of the public within the structure of an NGO with the overall objective of ensuring that there is access to justice for all. Community Law and Mediation which is a community law centre based in Coolock, Dublin and in Limerick but which offers legal advice and assistance nationwide and free mediation services, and Ballymun Community Law Centre, a community law centre based in Ballymun. Specialist Independent Law Centres which focus on particular areas of law are Mercy Law Resource Centre (with its focus on homelessness), Immigrant Council of Ireland and the Irish Refugee Council (both of which operate independent law centres).

The Independent Law Centres were established in Ireland to take a strategic approach to sometimes complex legal needs affecting a particular group or in relation to a particular issue. Many of these law-centres developed within NGOs to advance the rights of those using their services in specialist areas such as housing or immigration and refugee law, and as a response to a lack of expertise amongst practitioners in these specialist areas and the unavailability or limited nature of legal aid in the relevant area. These law centres are experienced at outreach and working closely with organisations and relevant state bodies and provide especially important legal service to people experiencing marginalisation and disadvantage, as well as advocating for change at a legal and policy level.

A few of these provide legal services directly to children and young people as part of this work - namely Community Law & Mediation, the Irish Refugee Council Law Centre (IRC) and the Immigrant Council of Ireland Law Centre (ICI). Notably, the IRC and ICI collaborate to deliver the KIND Ireland project providing free legal assistance to unaccompanied refugee children and have significant experience with children as clients. See Appendix B for further detail.

Other Independent Law Centres, while not setting out their stall as providing services directly to children, do have significant expertise in relation to hard-to-reach communities. Many have relevant specialised training relevant but also a wealth of experience and expertise in dealing with cross-cutting issues which have a family dimension and which impact on children. In many situations presenting to law centres, the legal issue has an impact on the family as a whole, including the children. In many other situations, parents are advocating for their children in pursuing support for the legal issue and lawyers are often guided by parents as to the extent to which their child should engage with the legal process. There are many examples in the work of Mercy Law Resource Centre, Ballymun Community Law Centre, and FLAC.²¹⁹

Much of FLAC's work has an impact on children, including in family law where it provides advice in

cases involving custody, access, guardianship, and maintenance.²²⁰ FLAC's work includes cases that impact on children and where the focus was on the family as a whole.²²¹ An important recent is the O'Meara case²²² in which the Supreme Court upheld an appeal brought by John O'Meara and his children which challenged the refusal to award them a widower's pension after his long term partner of two decades had died.²²³ Children's rights were central to this case, and the Child Law Clinic in UCC through Dr. Conor O'Mahony expert academic and legal research analysis to FLAC in support of this litigation.

A number of other non-law centre NGOs such as Children's Rights Alliance provide specific legal support services for their service-users based on needs within the communities they work with. The Alliance operates a specialist Helpline providing legal information and collaborates with legal practitioners acting pro bono to fill gaps in legal aid through free legal advice clinics. This service is used mostly by parents and guardians but also by organisations within the NGO sector, as well as by professionals working with children. Issues relating to education have been the dominant issue for the Helpline, followed by family law.²²⁴ The clinics are run pro bono by a lawyer in a private law firm and organised by appointment. The most dominant issues arising in sessions held is disability, education, and immigration. This is an important service, providing a very practical service to many parents and advocates in relation to the rights of their children and informing the advocacy work of the Alliance. While this service will certainly meet an important legal need for many, the Alliance have pointed to an increase in the complexity of the queries coming through the Helpline and to the fact that it can be difficult to get people to take up an appointment with a solicitor to seek further advice on their legal matter. The Alliance found in their access to justice consultations that children and young people want to access information from people that they trust.²²⁵

IHREC's work includes detailed research and analysis to inform its recommendations, engaging with policymakers to advocate for legislative and policy changes, and monitoring the implementation of human rights and equality laws, including many

areas relevant to children's rights IHREC contributes to various international human rights monitoring processes, submitting parallel reports with detailed assessments of Ireland's implementation of international human rights conventions and offered recommendations for improvements, including to the UN Committee on the Rights of the Child.²²⁶

IHREC incorporates elements of the UNCRC in how it conducts its work with children, particularly in relation to communications and additional risks. Applications involving children are also carefully assessed and cases involving children are flagged on a risk register and there is also an internal process to flag the extra time and resources that will be required where there is a child at the centre of the complaint or case.²²⁷ There is limited published information by IHREC on complaints and requests for legal assistance brought by children or on their behalf. However, IHREC have taken a number of cases involving children,²²⁸ and have also been involved as *amicus curiae* in child rights related cases.²²⁹ IHREC works with organisations, including independent law centres, who support people to bring matters to IHREC that come within their statutory remit and current strategic priorities. IHREC is consulting with children and young people as part of their current strategic planning process.

The OCO's work encompasses a wide range of activities aimed at safeguarding children's rights and addressing systemic issues that affect their well-being, from access to education and healthcare to adequate housing and child protection services. Beyond handling complaints, the OCO conducts extensive research and engages in policy advocacy to influence legislation and public policy, they work to spotlight systemic issues impacting children's ability to fully enjoy their rights.²³⁰ Additionally, the OCO runs educational programs to raise awareness about children's rights among children themselves, as well as among professionals working with children, to enhance understanding and implementation of the principles of the UNCRC.²³¹ While the OCO also has a very important role regarding the review public decision making, the OCO does not however provide legal advice or representation to young people regarding their rights or to make independent submissions as *amicus curiae* in legal proceedings involving

children. There is also an absence of published information in relation to complaints brought to the OCO which are outside of their legislative remit and would require the services of a lawyer.²³²

The core statutory function of the OCO in relation to administrative actions of public bodies, which have had an adverse effect on the child, limiting its complaints and investigations work to actions or decisions involving "mal administration". This limits the capacity of the OCO to accept complaints or investigate where the crux of a complaint relates to how the State spends its resources, even if this means that children's rights are breached or not implemented as a consequence of those decisions. The complaints and investigations remit of the OCO also excludes the investigation of actions/decisions regarding naturalisation, citizenship, immigration, and asylum decisions. Complaints relating to clinical decision making are also excluded. Furthermore, the decisions of the OCO are non-binding and the OCO Annual Reports have highlighted many areas where there has not been sufficient progress in relation to their decisions and there are instances where their decisions are ignored.²³³ OCO are guided by a children's rights framework in taking complaints from children, although children only constitute approximately 3% of those who contact the office in relation to their complaints function.

The legal profession has traditionally contributed to otherwise unmet legal needs in Ireland through arrangements such as a taking cases on a "no foal no fee" or "no win, no fee" basis. More recently, a more formal structured pro bono culture in Ireland, particularly with the launch of Pro Bono Pledge in 2020.²³⁴ Another development is the Bar of Ireland Voluntary Assistance Scheme.²³⁵

FLAC operates PILA, the Public Interest Law Alliance, which runs a Pro Bono Referral Scheme that facilitates NGOs, community groups and independent law centres in getting pro bono legal assistance from members of the legal profession. While the Pro Bono Referral Scheme is primarily focused on supporting organisations, PILA has also established collaborative projects and strategic partnerships to address individual needs currently not met by civil legal aid.²³⁶

FLAC stresses that, while it plays a valuable and important role in delivering legal services to those in need, pro bono it is not a substitute for an adequately funded system of civil legal aid:

It is important to emphasise that, given specialisation issues, pro bono does not operate in a vacuum and needs an infrastructure provided through a strong network of independent law centres, and advice and advocacy organisations. In this way, while pro bono has a role as a contributor to enabling access to justice, it should be by adding value to and complementing existing services and legally aided provision. There are limits to what pro bono can offer as it is dependent on the skills and availability of members of the legal profession. Issues of conflict may arise. Pro bono is not, and cannot be, a replacement for a properly resourced, community-based, national legal aid system.²³⁷

It is worth noting that there is no specialist legal service focused on people with disabilities in Ireland. The absence of legal supports for children with intellectual disabilities was highlighted in the consultation and recent research outlined in Chapter 2 highlights the need to improve access to justice for children with disabilities is clear in both the literature review and the consultation for this Report.²³⁸ Disability services is one of the three “spotlight” areas identified in the National Policy Framework Young Ireland as a serious issue posing significant challenges, especially to those who may be more vulnerable to poor outcomes, and a key issue requiring a cross-government approach. It is important therefore that ensuring access to justice for children is recognised as part of the cross-government response.

An important theme in the consultation with stakeholders was the significant burden on parents and advocates in trying to secure services for their children in areas such as school places for children with special educational need or access to health services. The need for specialist advice for children who are particularly vulnerable when their basic rights are not met was raised with some organisations describing the exhaustion of parents fighting for basic services that children are supposed to have a legal right to access. The frustration of spending precious energy fighting

for access to services for families with complex challenges and significant caring responsibilities is a significant barrier to accessing justice. A recent Report by Inclusion Ireland explored that need for a representative advocacy service for children with intellectual disabilities.²³⁹

Fear in bringing a complaint or challenge when trying to access a right or service was also highlighted. The OCO raised the fact that parents can feel disempowered, due to the dynamic which can be present when making a complaint about a service provided by the State, particularly for those who are living in poverty or from a social minority group. The key theme of trust emphasised by the YAG is also relevant here - it is important that such parents and children receive support from a professional they trust when challenging a breach of their child's rights or a repeat failure to implement their child's legal rights.

Notwithstanding the services discussed in this chapter and outlined in Appendix B, there is limited legal outreach services to organisations working with children. CLM recognises that the implementation gap that exists in relation to children's rights in Ireland disproportionately affects children of marginalised communities. Engagement of frontline services supporting children and families is a key to CLM's approach to reaching such communities.²⁴⁰ Specific areas of need highlighted by CLM are disability and access to services, including health services, education including third level, social welfare, housing and homelessness, in particular the impact of inadequate accommodation and emergency accommodation, aftercare, family law and voice of the child in a range of contexts.²⁴¹ While outside the remit of this Report, the issue of children transitioning out of systems and services at 18 is particularly problematic in Ireland. This issue has been identified in the National Policy Framework Young Ireland and is an issue that arises for CLM in their work with children and young people, as it is for other independent law centres and many stakeholders and organisations. It was also raised by the YAG and a significant cross-cutting issue which should not be ignored in an access to justice context.

In addition to CLM's supporting communities on matters impacting children and families since 1975, in 2021 CLM partnered with Empowering People in Care (EPIC) to provide specialised legal advice to children and young people in care or with care experience.²⁴² Clinics are three-way between the child or young person, an EPIC advocate and CLM's specialist solicitor. In the main, the advocate support enables the young person to follow up on the legal advice and it is not litigation but support and advocacy that is required. In certain circumstances, CLM also provide legal advocacy and representation.²⁴³ More recently and in an effort to expand its child-friendly model of targeted legal advice clinics, CLM has formed a partnership with Crosscare to provide training to Youth Workers and Family Support teams in advance of setting up outreach clinics for children and young people supported by Crosscare. Youth workers in Crosscare identified systemic issues affecting the children they work with as relating to access to mental health & disability services, addiction and education. Building on this training, outreach legal advice clinics will be available to children and young people supported by Crosscare.

Current civil legal aid services and State-funded information services are not tailored to children's needs and rights.²⁴⁴ There is no clear policy or guidelines on how children can access the services of the Legal Aid Board leading to a situation where the availability of civil legal aid to vindicate a child's fundamental rights in many areas of law is lacking or extremely limited. It is hoped that the Civil Legal Aid Review when published will include recommendations for the provision of child specific services, recognising the distinct barriers to accessing justice which children experience and the need for an approach which aligns with child-friendly justice.²⁴⁵

Overall, while acknowledging the significant work of the OCO, IHREC, the Independent Law Centres and services of the Children's Rights Alliance and other pro bono work ongoing, as outlined in Appendix B, there is a gap in relation to specialised legal advocacy and legal representation services focusing on children. The existing network of Independent Law Centres highlights the importance of outreach work and community legal education in harder to reach communities to ensure access to justice.

The emphasis on a participation approach in this Report underpins the importance of not identifying specialist issues or areas in which a new specialist service would operate. This would undermine the essence of the participation approach, which would envisage the involvement of children and young people in the strategic direction and delivery of the service. Chapter 6 will discuss the many ways in which such a specialist service could add value. However, in the context of the existing landscape of legal services discussed above, and the overall findings of the consultation, the key gap in terms of access to justice to children is the need for a specialist outreach approach.

The stakeholder consultation and the outreach work being done by CLM illustrates that there is a need for more targeted legal support to organisations working directly with children with particular barriers to accessing their rights. This is also the view of many stakeholders consulted for this Report, including those working directly with children. This underpins the key message from the YAG that children and young people seek the support of people they trust in seeking help for a problem. Children often experience multiple barriers in accessing justice and it is important that there is a legal service focused on ensuring they have specialist support tailored to their needs as children to realise their rights.







ANALYSIS - KEY CONSIDERATIONS IN ENHANCING ACCESS TO JUSTICE FOR CHILDREN AND YOUNG PEOPLE IN IRELAND

This chapter analyses how to enhance access to justice for children and young people in Ireland based on common themes and considerations emerging from the consultation with adult stakeholders and with the YAG, with reference to the literature reviewed. Key considerations that emerge are: Child-friendly justice and embedding a child-rights approach in practice; Specialist training; The importance of trust: outreach and advocacy as key to trust building; Participation, collaboration and partnerships as key to an effective child-rights approach; The benefits of preventative and early intervention legal services and; The benefits of specialist legal services for children using a child rights-based approach.

A brief overview of specialist legal services for children in other jurisdictions and relevant projects and initiatives is provided in this chapter. There are a number of well-established children's law centres in other jurisdictions that have developed expertise in child-friendly justice and provide specialist legal services using a child rights-based approach. Examples of these specialist legal services, as well as examples of initiatives that support a child rights-based approach are referenced in this chapter and also in Appendix C. The chapter concludes with a discussion on the benefits of specialist legal services for children using a child rights-based approach, with reference to examples of children's law centres.

The chapter finally discusses a recent three-year global research collaboration that looked at the interplay between a child rights-based approach and strategic litigation involving children's rights. The Advancing Child Rights Strategic Litigation (ACRiSL) Project²⁴⁶ explores ways that strategic litigation has been used to advance children's rights. There is much to be learned from this research about how a child rights approach can be applied across all stages of legal work involving children, including planning and strategising, case work, and the broader extra-legal work such as advocacy and campaigning.

CHILD-FRIENDLY JUSTICE AND EMBEDDING A CHILD RIGHTS APPROACH IN PRACTICE

Child-sensitive access to justice has been described as involving three elements: child-friendly information, child participation in proceedings, and child-friendly remedies.²⁴⁸ At Council of Europe level, there is increased focus on encouraging countries to make their justice systems child-friendly and empower children to access justice. The OECD Child-Friendly Justice Framework 2023 identifies several principles and themes from international covenants and standards concerning the protection of children and ensuring their ability to be heard and to exercise their rights effectively. This involves adapting the justice system to be sensitive to children's needs and interests, and to be more responsive to children's participation in formal and informal decision making concerning them. The importance of supporting and resourcing the implementation of policy and institutional frameworks is emphasised, as it is acknowledged that a sustainable child-friendly justice environment cannot be achieved by focusing solely on legal frameworks.

As Nolan and Skelton²⁴⁹ point out, children's rights have generally played an 'outward-facing' role in strategic litigation and have not been used as a framework by lawyers to consider the extent to which their practice itself and way of working, as opposed to the aims and impact of their work, are consistent with children's rights standards – what they refer to as the lens turning inwards. They point out that the lack of focus on practice from a children's rights perspective is striking given the extensive existing research on child rights approaches and growth of theory and practice of children's rights in academia, advocacy and policymaking over the past three decades.

The ACRiSL project carried out in-depth research in order to establish the scope for child rights-consistent strategic litigation practice and potential challenges to such an approach.²⁵⁰ A number of UNCRC rights were identified as particularly

relevant for practitioners to assess and shape their own strategic litigation practice from a child rights perspective.²⁵¹ The research discussed the relevance of these standards to the various stages of litigation.²⁵² The ACRiSL research has made clear that there is good awareness of the need to ensure that practice was aligned to child rights principles when it came to extra-legal advocacy work, such as political advocacy and campaigning. However, there is greater scope for child rights consistent practice around the scoping, planning, design, and operationalisation of legal practice, which is acknowledged as unsurprising, given the reality of technical and strategic challenges in relation to the litigation process.

The ACRiSL research concluded that there is a large body of child rights consistent strategic litigation (CRSL) practice from across the globe, even if it is not explicitly conceptualised in rights terms by those carrying it out. The ACRiSL project was also guided by insights of a Child and Youth Advisory Group. The study's research findings, together with the rights framework itself, has led to the production of Key Principles for Child Rights-Consistent Child Rights Strategic Litigation Practice. Responding to the findings, the project also produced a series of guidance and tools outlining how such child rights-consistent strategic litigation can be ensured in practice.²⁵⁴ The project also builds networks, bringing together partners from advocacy and academia to work on child rights strategic litigation.²⁵⁵

SPECIALIST TRAINING

Lawyers play a key role in ensuring that children's rights are enforced in a meaningful way in practice. A child rights-based approach to how children interface with legal systems requires that lawyers be trained in clear principles and processes to ensure that children's rights can be upheld in both procedural and substantive terms. Children are more vulnerable to rights violations and lawyers play a critical role in defending against such violations. Ensuring children have a firm advocate for their wishes can help to minimise the risk that legal proceedings will compound those vulnerabilities. An important part of a lawyer's role is to ensure that there is due regard to the individual circumstances of their child client. Children's rights are distinct from the rights of adults and require specific, individual attention.

The Council of Europe Guidelines on Child Friendly Justice highlight the need for interdisciplinary training to all professionals working with or for children with legal needs.²⁵⁶ The guidelines further specify that training should include information on the rights of children and relevant standards, the needs of children in accordance with their age and how proceedings can be adapted to them, child and adolescent development and psychology and communicating with children at all ages and stages of development, including children with particular vulnerabilities.²⁵⁷ The UN Committee on the Rights of the Child have highlighted the need for such training to be on-going and in-depth and continuously evaluated to assess the extent to which it has contributed to improved respect and knowledge of children's rights.²⁵⁸

A positive example here in Ireland in relation to training is the IDEA project²⁵⁹ which aimed to improve decisions for children by building capacity of professionals who represent children's interests in the child protection system, to empower children and advocate for the advancement of children's rights in five partner countries, including Ireland²⁶⁰. The project aimed to establish the training needs of professionals representing children's interests in the child protection system by developing networks of professionals, delivering training and ongoing learning and collaboration on legal developments, child participation and child development. Lawyers representing children or children's interests were the primary target group along with other professionals who work to represent children and children's interests in the child protection system, such as guardians ad litem and social workers. Training modules were developed and delivered in each country, including on legal knowledge, theories of child development, communication skills, models of child participation, child representation and communication.

The TALE project²⁶¹ is funded by the European Commission and provides online training and advice for legal practitioners to support their work with children, informed by the Council of Europe Guidelines on Child Friendly Justice. The training modules address the practical, procedural, legal and personal challenges they face when working with child clients and explores various techniques

that lawyers can use to overcome them. This includes practical tools to assist lawyers to put child sensitive procedures in place as well as techniques for developing persuasive child's rights-based arguments.

Through collaborating with partner organisations, the training is also informed by consultation with a reference group of children who have first-hand experience of legal proceedings and processes about what aspects of the process they would like to change to make it less traumatic, less confusing, and more meaningful for them. This project would be a great asset to a specialised law centre, especially given that the need for specialised training for lawyers has emerged as a theme from the stakeholder consultations as well as from the literature. A key objective of any specialist service for children which may be established should be to play a role in ensuring lawyers are trained to apply a child's rights-based approach to case work involving young clients.

THE IMPORTANCE OF TRUST: OUTREACH AND ADVOCACY AS KEY TO TRUST BUILDING

The YAG consultation findings indicate the importance of enabling children and young people to choose how to be helped by trusted adults and suggest that the way they want to be helped is likely to be specific to the situation. A key message in relation to how they want people to help them was that while sometimes young people want adults to take responsibility and act on their behalf, for other issues they would like to act together with another adult they trust and sometimes, a young person wants to act on their own behalf, but with the support of an adult they trust.

This is consistent with the findings of the stakeholder consultation and the literature which highlights the importance of trust building, the need for information and awareness raising among adults to support children to access their rights, the need for training for professionals working with children, the importance of advocacy and 'bridge building', and the importance of working with organisations who provide advocacy for children and providing outreach clinics for legal advice.

The importance of building trust was a key theme

in both the consultations with the YAG and with stakeholders working directly with children. Coupled with the need to be strategic in the use of resources, the benefits of a service that would provide legal support to organisations working directly with children experiencing barriers in accessing rights due to poverty and other challenges was clear.

The absence of a national child advocacy service and the lack of child advocate services in Ireland is a significant barrier in access to legal services for children. Advocacy services are particularly important for children without parental care or in situations of homelessness or where there is limited or no capacity for parental support. Without legal support, children with intellectual disabilities are particularly vulnerable to being overlooked and marginalised. The lack of legal supports perpetuates systemic injustice, where children with disabilities continue to face barriers that others do not. An independent advocate can provide children with information, advice, advocacy, representation, and support to ensure their voice and preferences are heard, understood, and taken seriously by agencies making decisions about them. Independent advocates are focused on the child's views and can take necessary action to assist the child including support to seek legal advice and representation.

While Ireland has the National Advocacy Service for people with disabilities, children are not included in its remit and there is currently no national advocacy service for children. A recent report by the Centre for Disability Law and Policy at the University of Galway, commissioned by Inclusion Ireland, examines the current landscape of services and supports available to children with intellectual disabilities in Ireland, and calls for the establishment of a children's advocacy service.²⁶² Inclusion Ireland draws attention to the enormous pressure that children and families are under, particularly in recent years, in accessing education, health and social care supports in a timely manner, further compounding the economic disadvantages that many children with intellectual disabilities face. The organisation is calling on Government to establish a task force of key stakeholders to make recommendations on the development of an independent advocacy service for children.

EPIC, an independent organisation working exclusively with children in care and young people who have care experience in Ireland, provide a direct one to one advocacy service to enable children and young people to have their views and concerns heard, to empower them to speak for themselves, to resolve the issues and challenges they raise, and to help them to obtain the services and resources they need to bring about change in their lives. EPIC campaign to enshrine the right to independent advocacy for children in care and care experienced young people in legislation.²⁶³

The stakeholder consultation highlighted the fact that advocacy services can be an effective way to include the child directly in accessing their rights and having a voice in that process. Many stakeholders highlighted the value of legal advocacy, where there is specialist knowledge. The importance of “bridge building” as a type of legal advocacy was emphasised by stakeholders, as well as the benefit in building relationships with advocates for children. Previous reports on the barriers to the realisation of children’s rights recommended the establishment of an independent advocacy service to ensure that all children in need of independent representation can access it without delay.²⁶⁴

THE BENEFITS OF PREVENTATIVE AND EARLY INTERVENTION LEGAL SERVICES

The critical importance of early legal advice and intervention, which aims to identify and resolve legal problems at their inception has been well documented in research and practice both in Ireland and internationally.²⁶⁵ Evidence shows that early advice significantly speeds up the resolution of legal issues.²⁶⁶ Early legal assistance can prevent cases from escalating, offer timely and cost-effective solutions and address both unmet and unknown legal needs, particularly in relation to hard-to-reach groups. Research indicates substantial benefits of early legal advice, reducing the burden on the courts and public services, and preventing issues such as poor health, debt, and homelessness. There is no one-sizes-fits-all approach to providing early legal advice and assistance and research shows that accessibility and tailoring such services to the needs of specific groups and communities is key to their success.²⁶⁸

Many submissions to the current Civil Legal Aid Review recommend that a reformed system of civil legal aid delivery needs to have an explicit preventative justice function. This would involve early legal advice and intervention to address problems before they escalate which can prevent cases from going to court.

The benefits of preventative legal services have also been well documented and examples in the literature include collaboration with other services which targeted groups engage with, such as community groups, health or welfare services; tailoring of services to the needs of specific groups and ensuring that they are accessible; and outreach and proactive approaches to identify legal need.²⁶⁹ Research also highlights the need for flexibility and innovation, allowing funding for legal services to be more responsive to the needs of the people it services.

This includes contractual arrangements and policy frameworks wherein legal advisers have scope to deal with all clients’ problems together, rather than in isolation, and by cooperation between services working together which can improve clients’ outcomes immeasurably.²⁷⁰

PARTICIPATION, COLLABORATION AND PARTNERSHIPS AS KEY TO AN EFFECTIVE CHILD RIGHTS-BASED APPROACH

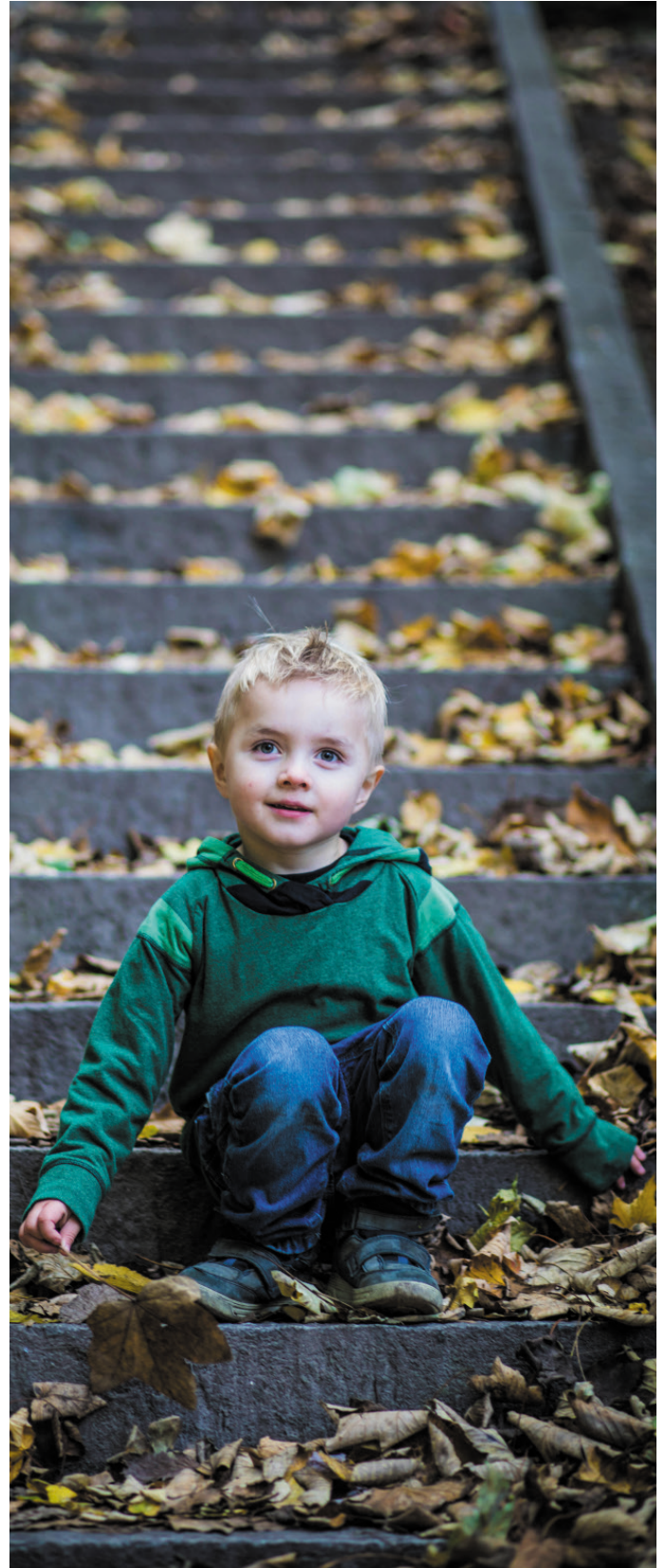
Despite an increased focus on specific participation of children, there has been comparatively little focus on the specific participation of children in processes that impact change in the justice system at a systemic and structural level, rather than the individual level. There is increased awareness of the need to adopt measures to promote the child’s effective participation across legal and justice processes more generally and not just limited to the right to be heard in judicial processes. While there is an increased recognition of the right of children to be involved in decisions that affect them, children’s right of active engagement still poses a challenge in many areas.²⁷¹

The recent Assessing Children’s Rights in Strategic

Litigation (ACRiSL) report²⁷² discusses the fact that a key element of a child rights-consistent approach to strategic legal work is to ensure that children's voices and views play a central role in informing and shaping strategic legal work and discusses the challenges and opportunities presented in doing so.²⁷³ The ACRiSL report highlights the need to build on existing campaigns and activities aimed at changing law and policy and that pre-existing advocacy work plays a central role in ensuring that children's voices and views inform a child rights-consistent approach to legal work.²⁷⁴

Such an approach has been central to the work of the Children's law Centre (CLC) in Belfast. Youth@CLC has played an important role in their work ever since the Centre's establishment, participating in organisational planning, providing input into CLC consultation processes, highlighting issues that are affecting children and young people, and assisting with research work and the development of young people's reporting to the United Nations Committee on the Rights of the Child. Youth@CLC is made up of between 15-20 young people aged 14-17. The CLC provides the group with rights and capacity training and facilitate at least eight meetings every year where they can share experiences, raise issues, and agree topics for further development and advocacy. Maintaining Youth@CLC involves dedicated staff employed by the CLC to do this work and also requires annual recruitment as young people age out from the group.²⁷⁵

This research found that child participation was one of the key gaps in current practice worldwide. In contrast, many practitioners were familiar with issues relating to protection and privacy.²⁷⁶ The research acknowledges that child participation is not appropriate in all aspects of children's rights strategic litigation work and is sometimes inappropriate or not possible in practice. The ACRiSL research has made clear that there is good awareness of the need to ensure a child rights approach to extra-legal advocacy work, such as political advocacy and campaigning. However, there is greater scope for child rights consistent practice around the scoping, planning, design, and operationalisation of legal practice, which



is challenging, given the technical and strategic challenges in relation to the litigation process.²⁷⁷

The research also made clear that legal practitioners will often not be able to do everything needed to ensure their work is child rights-consistent on their own. This highlights the opportunities for those using the law to enhance children's rights to work collaboratively and in a cross-disciplinary way to learn new ways of integrating children's participation and engagement into how they work.

Child rights-consistent practice does not require practitioners to become experts in child development, participation or protection. It does, however, require them where possible to look to those who do have that expertise in order to bring it to bear in their CRSL [children's rights strategic litigation] work with children.²⁷⁸

The ACRiSL research concluded that there is a large body of CRSL practice from across the globe, even if it is not explicitly conceptualised in rights terms by those carrying it out. This is certainly the case in Ireland. Within the network of Independent Law Centres in Ireland, there is a strong understanding and culture of international human rights law and practitioners already incorporate child rights approaches into their non-litigation activities, such as policy and advocacy work, which indirectly inform their legal strategies. This echoes the findings of interviewees in the ACRiSL project: many practitioners felt their existing practices were already inherently child-centred without the need for explicit rights frameworks. There is also a strong children's rights culture within the NGO sector in Ireland, due in large part to the work of the Children's Rights Alliance who have focused on rights-based approaches within its membership and as an integral part of the way it works. The sector is also augmented by the existence of the OCO and IHREC with regard to rights-based approaches.

OVERVIEW OF SOME EXISTING CHILDREN'S LAW CENTRES IN OTHER JURISDICTIONS

The Children's Law Centre in Belfast undertakes strategic litigation with a specific children's rights focus and where a public interest issue impacting on children's lives is engaged. Judicial reviews are

taken on behalf of individual children with the CLC applying for legal aid to take these cases. They provide third party interventions in judicial reviews on children's rights issues and have successfully litigated in a small number of High Court civil claims for damages and human rights breaches where children have been severely impacted by a public authority's failure to provide critical children's services or have breached their rights under the European Convention on Human Rights and the Human Rights Act 1998. They provide formal legal representation at Tribunals for children in relation to mental health, disability and special educational need. Making the law accessible to children by ensuring they know their rights and how to claim them is a key aim of the Children's Law Centre in Northern Ireland. This includes providing accessible child friendly information, particularly to those who are more vulnerable to rights violations. Central to the CLC ethos is having a child centred approach and culture, including through the language it uses when providing information or when having consultations, which can involve issues around capacity and competency.²⁷⁹

Just for Kids Law²⁸⁰ in the UK, combine youth advocacy, legal representation, and youth opportunities support to help young people break negative cycles. Advocacy, legal support, and youth opportunities services are all under one roof with the aim to foster consistency and to avoid young people being passed from service to service. Their legal team have specialist skills to work in a way which recognises the trauma that children may have experienced. Their support to young clients helps them to avoid criminal prosecution; prevent school exclusion; attain regular immigration status; access housing or social care support. They also fight for wider systems change, informed by evidence from direct casework.

The Centre for Child Law, Pretoria²⁸¹ is a children's rights strategic impact litigation organisation based at the University of Pretoria, South Africa. The centre contributes to the establishment and protection of children's rights through strategic impact litigation, participation in legislative and policy reform, advocacy, research, capacity building of relevant stakeholders and contributing to the body of knowledge on child law. Their research on the implementation and interpretation of children's



rights and child law are an important basis for their litigation and advocacy efforts. The Centre has contributed to the development of child law through law reform, case law, policy development and influencing public discourse through the use of the constitutional, regional and international legal frameworks for effective public interest litigation. Cases are selected on the basis that they have the potential of bringing about broad legal and social changes in society and have long-term benefits for all children.

THE BENEFITS OF SPECIALIST LEGAL SERVICES FOR CHILDREN USING A CHILD RIGHTS-BASED APPROACH

The ACRiSL report found that organisations and practitioners working consistently on children's rights, who are 'repeat players' in that arena, are more likely to do their work in line with a holistic child rights approach, prioritising a longer-term strategy over short-term gains.²⁸² The report documented some of the ways child clients were identified, including through legal clinics, networking and outreach. Forming broad alliances with children's rights organisations was found to enhance and support the work of lawyers, enabling contact with clients and the development of child rights-consistent strategies. The research found that this also provides platforms and partnerships

for advocacy. Another key benefit of such a collaborative approach is that it allows for follow-up work in which children themselves can be involved. This can provide a framework for a child rights participation approach and can also act to limit the risk of negative outcomes, as children themselves can be involved in pushing back against trends that negatively affect children's rights.²⁸³

Children's law centres can build up significant experience in specific areas of law, coupled with expertise in using international procedures. Ireland is a State Party to the Optional Protocols on the United Nations Convention on the Rights of the Child (UNCRC) allowing for both individual and collective complaints. In this way, a specialist legal service for children could build partnerships both domestically and internationally and pursue international remedies where domestic remedies have failed. It will be important therefore that a children's law centre in Ireland gains expertise in international sources for enforcing rights violations and the various communications procedures under the Council of Europe, UN Human Rights Council procedures and the various UN mechanisms, especially the UNCRC.



CONCLUSIONS AND RECOMMENDATIONS

This Report assesses the need for a specialised legal service for children in Ireland and the role it could play in improving child-friendly justice and enhancing access to justice in Ireland. The Report looks at the intersection between access to justice and children's rights. There is broad consensus among stakeholders consulted that there would be added value to having a specialised children's legal service in Ireland working in a strategic and collaborative manner to enhance access to justice for children and the realisation of rights. Establishing a specialist service within an existing law centre with expertise working with children and in developing outreach with children's organisations would avoid previous challenges of setting up a children's law centre as an independent legal entity.

The consultation with the YAG and adult stakeholders details many of the barriers that children and those acting on their behalf experience in seeking to implement their rights or access legal remedies. Notwithstanding the considerable work of Government, State services and non-State services in Ireland outlined in this Report, significant gaps remain. Such gaps make it difficult for children to access the legal system and for breaches of their rights to be challenged on either an individual or a strategic basis. This points to the need for a specialist legal service that will champion access to justice for children and young people as an essential component in ensuring children's rights are protected, respected, and vindicated.

Children's rights around access to justice and to child-friendly justice have received much attention in policy and practice over the past two decades and is the subject of significant research and literature.²⁸⁴ This has brought an increased focus within the OECD and beyond on child friendly justice as well as a particular focus on access to justice for children at UN level by the CRC Committee. In Ireland, an increased focus on the implementation of a child friendly justice system is needed to address the structural and procedural barriers to children's access to justice identified in this Report. This should be a key priority for Government in recognition of international and regional children's rights and commitments. With imminent publication of a new General Comment 27 on Access to Justice for Children from the UN CRC Committee, it is a timely opportunity for Government to examine the

extent to which children's unique needs in accessing justice are being met.

The issues raised by the YAG highlight the fact that children and young people do not live and experience their lives in neat boxes that match with specific Government departments or agencies. Several of the issues raised by the YAG speak directly to the three spotlight areas of Young Ireland - National Policy Framework for Children and Young People 2023-2028²⁸⁵ – namely disability, poverty and mental health – which are identified as cross-cutting, with responsibility across a range of departments and agencies.

There is an emphasis on children's rights in Young Ireland, including an acknowledgment of difficulties around fragmentation of services and implementation across key departments and agencies affecting children. Strategies to implement



the national policy commitments in relation to cross cutting priorities identified should include access to justice components. This should include ensuring access to justice for children who are most at risk of poor outcomes in areas such as housing, disability, and mental health services, and particularly in relation to education, which features as one of the top issues raised by the YAG. The work of the Programme Office on Child Poverty and Well-Being should be examined, as well as the role various Departments and agencies could play in improving access to justice within existing policy frameworks.

The stakeholder consultation highlighted the need for specialist advice for children, particularly those who are more vulnerable to rights violations. Stakeholders pointed out the lack of child friendly, age-appropriate information about legal processes. Even when there is awareness of rights, the problem of rights existing in rhetoric and not in reality is a recurring theme with stakeholders, particularly in relation to accessing health, education and disability services for children, as well as accessing housing or appropriate accommodation, including for children in the care system. Children should have access to appropriate legal support to pursue remedies for breaches of their rights where appropriate and necessary and to complement existing complaints mechanisms.

There is a significant body of research and reports in Ireland on specific children's rights issues. This includes research highlighting areas in need of law reform; and specific contexts where children's rights remain ignored, regularly denied or unimplemented in practice, without access to effective remedies. Legal issues highlighted in reports and in the stakeholder consultation would benefit from a focused legal campaign. As pointed out by stakeholders consulted, a specialised legal service for children could increase the effectiveness of access to the Office of the Children's Ombudsman (OCO) and Irish Human Rights & Equality Commission (IHREC), particularly for those children that experience multiple barriers in accessing services and in accessing complaints mechanisms.

One stakeholder expressed reservation about the added value a specialist children's law centre would bring unless there were established priorities from the outset in areas of law that were unique to

children and where there are key gaps, highlighting unmet legal needs in relation to disability and special education. However, while areas of legal need of children and young people have emerged through the consultations and research reviews, it is important not to pre-empt the areas of law to focus on or how the service would be developed without consulting a youth advisory group more fully.

A specialist legal service could play a role in advocating for child friendly justice and child rights-based approaches in Ireland. There are well-established children's law centres in other jurisdictions that have developed expertise in child-friendly justice and provide specialist legal services using a child rights-based approach. Much can be learnt from these initiatives to improve access to justice for children and to campaign for child-friendly justice and child-centred access to legal services in Ireland.

In terms of the gaps identified, there are four key ways in which a specialised service would add value in improving access to justice to children using a child rights-consistent approach. Firstly, this Report highlights the central importance of trust and the importance of outreach and advocacy in overcoming barriers to meeting children's legal needs. Secondly, the Report focuses on child participation as an essential and fundamental aspect of ensuring a child rights-consistent approach to the delivery of legal services to children and identifying and meeting their legal needs. Thirdly, the Report highlights how a specialist service could advocate for a child-friendly justice system and embed a child rights-based approach in practice. Fourthly and finally, the Report emphasises collaboration and partnerships as key to an effective child rights approach.

The importance of trust: outreach and advocacy as key to trust building

This Report highlights the central importance of trust in providing legal services to children. Listening to children about how they can best access help for their problems and the importance of trust building, it is clear the important role that outreach work plays. It is important for a specialist legal service for children to work with organisations young people feel comfortable with.

The importance of outreach for bridge-building and establishing trust also corresponds with the findings of the stakeholder consultations. A clear message is that working with organisations supporting hard-to-reach children and young people to provide outreach legal advice clinics and training is key. Child advocacy services can ensure

children and young people can access legal advice through an organisation or professional they trust.

While outreach work is well established within independent law centres in Ireland as a key component of providing early legal advice, there is a significant gap when it comes to children. The fact that CLM has commenced such an outreach approach and is building relationships with organisations in this way is positive. However, the need for structured and specialised legal supports for existing services providing advocacy to young people is evident. This type of partnership approach was also highlighted as a positive element of a child rights-consistent approach by the AC-RiSL research.

Child participation

Child participation should inform the development and work of a specialised children's law service. The work with the YAG on this Report highlights how children and young people can be involved in decisions around how help is provided. A key message of the YAG is that the way they want to be helped for a problem depends on the situation. While sometimes young people want adults to take responsibility and act on their behalf, there are circumstances where they would like to act together with another adult they trust and other circumstances again where they would like to act on their own behalf, but with the support of an adult they trust.

The ACRI SL research found that child participation was one of the key gaps in current practice.²⁸⁶ The research acknowledges that child participation is not appropriate in all aspects of legal work relating to children or is sometimes not possible in practice and that legal practitioners may not be able to do everything needed to ensure their work is child rights-consistent on their own.

Broader participation was also identified as a key gap in current children's rights in strategic litigation practice. The ACRI SL project highlights the opportunities for those using the law to enhance children's rights to work more collaboratively and in a cross-disciplinary way to learn new ways of integrating children's participation and engagement into how they work. A specialist legal service for children should explore ways in which this can be done, particularly using a partnership approach with other organisations. This could be a separate stream of funding but should be integrated into the strategic aims and approach of a new service, similar to the approach of the Children's Law Centre (CLC) in Belfast. The experience of recruiting a Youth Advisory Group for this research has pointed to the importance of collaboration with non-lawyers and participation experts for this work. This work could also complement the outreach work and clinics which the new service would provide.

Child-friendly justice and a child rights-based approach to legal services

There is a growing importance afforded to child-friendly justice in international standards and obligations at European and OECD level. A specialised legal service for children could play a central role in campaigning for a child friendly justice system, pursuing practical and procedural mechanisms to give effect to children's rights within legal processes and systems. It will be important to collaborate with the Children's Rights Alliance to strengthen the policy work they do in this area. Importantly, a specialised children's legal service could model and share practices on adopting a child's rights-based approach to legal services for children. This could raise awareness of the impact of this approach, in relation to both the process itself as well as the outcomes of the legal work.

Such advocacy work should also take account of best practice in child rights-based approaches to legal work involving children, as addressed in the Assessing Children's Rights in Strategic Litigation (ACRiSL) project. Adapting legal processes to be

more sensitive to children's needs and interests should include a focus on how lawyers and legal services can be more responsive to children's participation in formal and informal decision making concerning them. A child rights-based approach to how children interface with legal systems, as modelled by the ACRiSL project, requires training for lawyers in clear principles and processes to ensure that children's rights can be upheld in both procedural and substantive terms.

State funding to establish a specialised legal service for children would be significant step towards ensuring access to justice for children which is an important component of the realisation of children's rights. As part of the pursuit of a child-friendly justice system, a specialist legal service for children could play an important role in ensuring that legal practitioners working with children receive training in accordance with children's rights standards.



Collaboration and partnerships as key to an effective child rights approach

This Report has emphasised the importance of partnership and collaboration to ensure the development of child rights consistent practices and especially in relation to outreach and participation. There is also a strong children's rights culture within the NGO sector in Ireland, due in large part to the work of the Children's Rights Alliance who have focused on rights-based approaches within its membership and as an integral part of the way it works. The sector is also augmented by the existence of the OCO and IHREC with regard to rights-based approaches.

Working together and building partnerships with the children's rights sector, including the Children's Rights Alliance, the OCO, IHREC, the Child Law Clinic in University College Cork and other relevant bodies will be crucial to ensure that existing work is supported rather than replicated. Collaboration with other specialist law centres to address issues of mutual concern and to carry out joint work where feasible and relevant will be important. Many well-established children's law centres, including examples referred to in this Report in Pretoria and Belfast, are built on models of collaboration and partnership with children's rights organisations and key stakeholders. Many such law centres have grown as partnerships with universities who have strong child law departments and expertise.

A challenge for any specialist service will be the tension between providing services directly to children and being strategic in enhancing children's rights and tackling systemic issues more broadly. It will require a strategic use of resources with a view to bringing about legal changes that have long-term benefits for children. The experience of specialist children's law centres, for example, the CLC in Belfast, is instructive in this regard, operating a strict case work policy with clear strategic goals in relation to casework.

It will be important that a specialist law service develops a strong youth advisory group and also consults widely as to where the legal needs are in Ireland and where the service can add value, especially in relation to children who experience particular barriers in realising their rights. This should form an important part of the strategic planning process, to include a case work policy. Existing resources should be leveraged where possible. For example, the research and resources of the AC-RiSL project provides particularly useful guidance in a rights-based approach to such decisions as well as being instructive on how to ensure a child participation approach. ACRI SL developed a Children's Rights Strategic Litigation Toolkit with the Office of the Children and Young People's Commissioner Scotland²⁸⁷ which provides a framework for those working on strategic litigation to assess the extent to which their work is child rights-consistent and outlines an approach to bring such work in line with children's rights.²⁸⁸

In short, at the heart of the concept of child friendly justice is the fact that access to justice looks different for children than for adults, particularly when viewed through the lens of children's rights standards. This Report reflects the ways this can be respected and realised in meeting the legal needs of children and young people in Ireland.



1

RECOMMENDATIONS

A specialist children's legal service in Ireland with a particular focus on outreach, participation and the practice and promotion of child friendly justice has the potential to enhance access to justice for children and young people, particularly for those impacted by disadvantage and inequality or lacking family supports.

2

Situating a specialist children's legal service within an existing independent law centre such as CLM, which has expertise working with children and who are developing an outreach model within communities impacted by disadvantage and inequality, would avoid previous difficulties of establishing a children's law centre as an independent legal entity.

3

Given the unique needs of children in relation to accessing justice and the current gaps in legal service provision for children outlined in this Report, consideration should be given to how the State can meet its obligations. Priorities in the National Policy Framework Young Ireland and within the Child Poverty Unit of the Department of the Taoiseach should be reviewed to ensure commitments in relation to children's rights include an access to justice component.

Glossary of Acronyms

| | |
|---------|--|
| ACRiSL | Advancing Child Rights Strategic Litigation |
| BCLC | Ballymun Community Law Centre |
| CAMHS | Child and Adolescent Mental Health Services |
| CCL | Centre for Child Law (Pretoria) |
| CFA | Child and Family Agency |
| CFI | Community Foundation Ireland |
| CLC | Children's Law Centre (Northern Ireland) |
| CLM | Community Law & Mediation |
| CLP | Child Law Project |
| COE | Council of Europe |
| CRA | Children's Rights Alliance |
| CRC | UN Committee on the Rights of the Child |
| CRIA | Children's Rights Impact Assessment |
| CRSL | Child Rights Strategic Litigation |
| ECHR | European Convention on Human Rights |
| ECtHR | European Court of Human Rights |
| EPIC | Empowering People in Care |
| EU | European Union |
| FLAC | Free Legal Advice Centres |
| GAL | Guardian ad litem |
| HSE | Health Service Executive |
| ICI | Immigrant Council of Ireland |
| IDEA | Improve Decisions through Empowerment and Advocacy |
| IGO | Intergovernmental Organisation |
| IHREC | Irish Human Rights and Equality Commission |
| IRC | Irish Refugee Council |
| ITM | Irish Traveller Movement |
| KIND | Kids in Need Europe |
| LCCYP | Law Centre for Children and Young People (Ireland) |
| MLRC | Mercy Law Resource Centre |
| NGO | Non-Governmental Organisation |
| NHRI | National Human Rights Institution |
| OCO | Ombudsman for Children's Office |
| OECD | Organisation for Economic Co-operation and Development |
| PILA | Public Interest Law Alliance |
| SASSY | Substance Abuse Service Specific to Youth |
| SDG | Sustainable Development Goal |
| SEA | Special Emergency Arrangements |
| SENDIST | Special Educational Needs and Disability Tribunal |
| SPHE | Social, Personal and Health Education |
| TALE | Training and Advice for Legal Practitioners |
| TJEP | Traveller Justice and Equality Report |
| UCC | University College Cork |
| UN | United Nations |
| UNCRC | United Nations Convention on the Rights of the Child |
| YAG | Youth Advisory Group |



APPENDICES

Appendix A

DESK-BASED REVIEW OF RELEVANT CONSULTATIONS WITH CHILDREN AND YOUNG PEOPLE

A brief review of consultations with children and young people in Ireland relevant to their experience of interacting with the legal system was undertaken. When considering what to consult children about for the current research, of particular relevance was their experience of interacting with legal frameworks the justice system, especially whether they felt listened to. A summary of some of the key relevant reports present some interesting findings and highlight that even where there are processes for children's voices to be heard, it is important to ensure that they are really listened to and feel valued and believed and that decisions are explained to them at every part of the process.

A comprehensive study of the legal needs of children and young people in Northern Ireland, commissioned by the Department of Justice in Northern Ireland and conducted by researchers in Queen's University Belfast, sought the views of children and young people and of adult stakeholders and was published in 2014.¹

Young people highlighted the need to be treated with respect, have their views sought, listened to and acted upon in matters relating to legal issues they may have. They also wanted honesty from lawyers about potential outcomes and to be kept informed about proceedings and decisions made. The data in this study suggests that young people expect adults working in the legal system on their behalf to have more than the necessary legal qualifications, but also to have experience of working with young people, a caring personality, respect for young people's rights and to treat them accordingly.

The study found that young people didn't always feel their needs and concerns are prioritised by adults working for them, emphasising a 'lack of confidence' in relation to safely exercising their legal rights without repercussions, as well as a 'lack of willingness' to exercise rights as they feared it would not make a difference.²

A Report on the Consultations with Children and Young People for the Family Justice Oversight Group³ examined four recent consultations with children and young people, including children with experience of child protection proceedings, the Guardian *ad Litem* (GAL) service and children with lived experience of domestic violence. One report referred to found that some young people did not want to speak in court for fear of the consequences their input would have on their relationships with family members. Some children had little faith that appearing in court would make a difference to the outcome and some talked about not being offered the opportunity to speak, despite having a GAL, or a social worker or GAL not wanting them to speak.⁴

In relation to how they would like their voice to be heard, young people with experience of the child protection and child welfare interventions felt that every effort should be made to seek their views and opinions, and to keep them informed of what decisions were being made and the reasons behind them.⁵

The recommendations of children and young people who had a lived experience of domestic violence and abuse on what would make it easier or would help families going through difficulties like theirs included: having more control and a greater say in family decisions that affect them; being listened to, having their story heard, and to be believed; and having the support of an advocate or trusted person with knowledge of the court system who would give

1 Emerson, L., Lloyd, K., Lundy, L., Orr, K., & Weaver, E., The legal needs of children and young people in Northern Ireland: the views of young people and adult stakeholders. 2014, Queens University Belfast.

2 *Ibid*

3 Fullerton, D., McGrellis, S., The Report on the Consultations with Children and Young People for the Family Justice Oversight Group, 2022, Department of Justice.

4 *Consultations with young people on the Guardian ad Litem Service* (DCEDIY 2019, unpublished)

5 *Report of consultations with young people to inform the review of the Child Care Act* (DCEDIY 2002, unpublished)

them reassurance or speak on their behalf.⁶

Children with similar lived experience also gave their views on how they would like professionals to respond to and interact with them in a separate report. This included; listening to their voices; being kind and believing what they say; providing time to talk, to ask and answer questions, and to process information; creating an atmosphere of safety, calmness and reassurance; interacting with them in a respectful way by introducing themselves and explaining their role and communicating clearly.⁷

A recent review of past consultations with children and young people in Ireland⁸ recommended that future consultations might consider a specific focus on children or young people; with disabilities (physical/sensory/learning); who are experiencing or have experienced homelessness; from minority ethnic groups; from the Traveller community and young carers. To provide assurance on the value of children's and young people's participation in decision-making, the review also recommended that future consultation reports include a section indicating how the findings will be used, how young people will be informed on progress, and if possible, provide an update on the influence of the consultation.

Results of the consultation on 'child friendly justice' conducted by the Ombudsman's Office for the Council of Europe⁹ found that; children and young people felt it was important that those making decisions about their lives should hear their views; they would like to have a person of their choice to support them in saying what they think; and fewer than one-third thought that "anonymity would be a support or that nothing would help". Most participants wanted parents, family members or friends – not judges, lawyers or officials – to explain legal decisions affecting them. Over two-thirds of participants said that they would "like the opportunity to question or challenge a legal decision affecting them if they were not happy with it."

A report commissioned by the Children's Rights Alliance which looked at children's knowledge about their rights, rights education and to access to justice, which was co-designed by a youth advisory panel, found the lack of enforcement of children's rights and other people's attitudes towards them is a deeper structural problem than the perceived lack of knowledge of children's rights.¹⁰

In a recent consultation with the OCO Youth Advisory Panel one of the aspects of how access to justice was understood was that "*you know where to go for help if justice is not being provided to you*". In terms of who to talk to in a situation where rights violations occur, and what can help children access justice, trust was highlighted as being really important. Themes arising relating to trust included; dealing with people who are "trustworthy", professionals with experience engaging with children; giving children enough "space and time to explain their issue" and allowing children to choose who is present when they are explaining their issue. Other issues raised were reducing costs, providing information in places where young people can see it, access to peer support, access to counselling for child victims and witnesses of crimes before, during and after court and supports for disabled children and for children who don't speak the language.¹¹

6 Empower Kids' Project Team/ Barnardos (unpublished) Family law Reform children's consultation

7 Empower Kids Team Our Rights, Your Responsibilities Responding to Childhood Domestic Violence and Abuse

8 Deridre Fullerton, Dr. Maria Herron, A review of past consultations with children and young people as part of the UNCRC reporting process, 2022, Department of Children, Equality, Disability, Integration and Youth.

9 Findings of the Consultation with Children and Young People living in Ireland conducted by the Ombudsman for Children's Office, Ireland as part of the Council of Europe's Consultation with Children on Child-Friendly Justice, 2010, OCO.

10 Children's Rights Alliance, 'Voice, Rights, Action! Children's Knowledge about their Rights & Rights Education to Access Justice'(2023)

11 [Submission to the UNCRC on General Comment No. 27 'Children's Rights to Access to Justice and Effective Remedies' | Ombudsman for Children \(oco.ie\)](#) August 2024

Appendix B

CURRENT LANDSCAPE OF LEGAL SERVICES

LEGAL AID BOARD

The Legal Aid Board is an independent body established under the Civil Legal Aid Act 1995 in Ireland and operating under the Department of Justice and provides civil legal aid and advice to individuals of modest means. Individuals seeking civil legal aid generally must apply to one of the Legal Aid Board's Law Centres and complete an application form detailing the legal issue and their financial resources.

Civil legal advice encompasses any oral or written advice given by a solicitor or barrister, including writing letters and negotiations, while legal aid entails representation in court proceedings or proceedings in any Tribunal that is prescribed by the Minister for Justice for civil legal aid purposes.¹ The only Tribunal that has been prescribed to date is the International Protection Appeals Tribunal. Legal aid may also be available for proceedings in the Coroner's Court. Civil legal aid and advice are provided by salaried solicitors in Legal Aid Board law centres or by solicitors in private practice who are on a panel. Civil legal aid is primarily funded by the State and is administered by the Legal Aid Board.²

Civil legal aid and advice is currently provided primarily through a network of 34 full-time and 3 part-time law centres by solicitors employed by the Board and a panel of solicitors in private practice. The Legal Aid Board now uses the services of private practitioners in Circuit Court cases concerning divorce or separation, in District Court cases concerning domestic violence, custody, access, guardianship or maintenance, in cases going before

the Refugee Appeals Tribunal, in cases under the Garda Station Advice Revised Scheme, the Legal Aid - Custody Issues Scheme and the Criminal Assets Bureau Ad-hoc Legal Aid Scheme.

Priority service is provided in urgent cases, including those involving domestic violence, child abduction, state applications (Tusla) to take children into care or under supervision, and cases with imminent statutory deadlines. The Legal Aid Board also operates seventeen mediation family offices alongside its civil legal aid services. Several law centres in Dublin, Cork and Galway also include an international protection speciality and there are also dedicated units in Dublin dealing with personal injury and/or medical negligence cases and cases involving children at risk. The Legal Aid Board has recently established a Traveller legal service and also operates a specialised Refugee Documentation Centre.

The family mediation services often involve resolving issues related to child custody and access, helping parents reach agreements that prioritise the welfare of their children.³ The Legal Aid Board also has a dedicated Children's Unit in Dublin for handling international protection applications by unaccompanied minors.⁴ In 2023, the Legal Aid Board handled applications from 150 unaccompanied minors, offering services related to family tracing and reunification.⁵ In cases of human trafficking, the Legal Aid Board provided legal services to 27 potential victims referred by the Garda Síochána.⁶

IRISH HUMAN RIGHTS AND EQUALITY COMMISSION (IHREC)

IHREC serves as Ireland's national institution dedicated to promoting and protecting human rights and equality. IHREC operates independently of the government to maintain impartiality and effectiveness

¹ *Legal Aid Board, Annual Report 2023 (2024)*

² Neither legal aid nor legal advice from the state on civil matters is free: a 'contribution' to the costs is payable. To qualify, a person must satisfy the LAB's financial eligibility requirements and must also satisfy the Legal Aid Board that their case has merit.

³ *Ibid.*, p.29.

⁴ *Legal Aid Board, Annual Report 2022 (2023)* 22.

⁵ *Legal Aid Board Annual Report 2023 (2024)*.

⁶ *Ibid.*

in its advocacy and monitoring roles. The organisation's broad mandate includes addressing discrimination, promoting equal treatment, and fostering a culture of respect for human rights across all sectors of Irish society.⁷ IHREC's work includes detailed research and analysis to inform its recommendations, engaging with policymakers to advocate for legislative and policy changes, and monitoring the implementation of human rights and equality laws.⁸

IHREC provide legal support and services to individuals and groups facing discrimination or whose human rights have been violated. This support includes taking cases to court, offering legal advice, and supporting strategic litigation that can establish important precedents for human rights and equality.⁹ In addition to legal support, IHREC conducts extensive research and policy analysis to inform public debate and influence government policy covering a wide range of issues, from discrimination and inequality to specific human rights concerns. IHREC also delivers educational outreach visits aimed at raising awareness about human rights and equality issues among the public, schools, and various professional groups.¹⁰

Under Section 40 of the IHREC Act, the organisation is empowered to offer legal assistance to individuals wishing to bring matters related to equality or human rights before the Workplace Relations Commission or the Courts. The assistance provided can range from legal advice to full legal representation and includes assistance to children and young people.

IHREC also plays a significant role as *amicus curiae* (friend of the court) in legal proceedings involving human rights or equality issues. This role involves assisting the court by providing expertise on human rights and equality matters without representing any party in the case. Some of the cases in which IHREC have acted as *amicus curiae* have involved children's rights.

Section 42(1) of the *Irish Human Rights and Equality Commission Act 2014* requires public bodies, in the performance of their functions, to have regard to the need to eliminate discrimination, promote equality and protect human rights of both staff and people availing of their services. IHREC gives guidance and encourages public bodies in developing policies and good practice in relation to human rights and equality. Where the Commission considers that there is evidence of a failure by a public body to perform its functions in line with the Public Sector Equality and Human Rights Duty it has the power to invite a public body to carry out a review, or to prepare and implement an action plan related to the performance of its functions, or both. The focus of the review or action plan may be on equality of opportunity and human rights in general terms, or on a particular aspect of human rights or discrimination in the body, or both.

OMBUDSMAN FOR CHILDREN'S OFFICE (OCO)

The Office of the Ombudsman for Children (OCO) was established under the *Ombudsman for Children Act, 2002* as an independent statutory body with the role of promoting and protecting children's rights in Ireland. The powers of the OCO include the provision of advice to Government on legislation and other matters concerning children, the conduct of investigations, handling complaints against public authorities, undertaking research, as well as education and awareness raising in the advancement of children's rights.

The OCO cannot provide legal advice or representation to children and young people regarding their rights and has no authority to intervene in legal proceedings as *amicus curiae*.

One of the core functions of the OCO is to investigate complaints from children and their families about the

⁷ Irish Human Rights and Equality Commission, 'Annual Report 2023' (2024) 6

⁸ International Human Rights and Equality Commission, *Annual Report 2023* (2024) 62

⁹ *Ibid*, p.15.

¹⁰ *Ibid*, p.76.

administrative actions or decisions of public authorities. This includes schools, hospitals and child protection service but excludes complaints regarding naturalization, citizenship, immigration and asylum decisions. The OCO's complaints system allows children, or adults on their behalf, to submit complaints, enabling the office to address individual grievances and systemic issues.¹¹ The remit of the OCO in relation to complaints is whether an administrative action of a public body has had an adverse effect on a child or children. Where maladministration has occurred, the OCO can make recommendations to public bodies or government administration to address these failures. Decisions of the OCO are non-binding.

Beyond handling complaints, the OCO conducts research and engages in policy advocacy to influence legislation and public policy, with a focus on spotlighting systemic issues impacting children's ability to fully enjoy their rights.¹² Additionally, the OCO runs educational programs to raise awareness about children's rights among children themselves, as well as among professionals working with children, ensuring that the principles of the UNCRC are widely understood and implemented.¹³ The OCO also runs outreach clinics including in Oberstown Detention Campus, Direct Provision Centres and more recently in Dublin's North Inner City.

The OCO has a particular focus on participation and advocates for children's voices to be heard in all matters affecting them and advising the government on policy and legislative changes needed to improve the lives of children in Ireland.¹⁴ Furthermore, the office runs educational workshops tailored to different age groups, from early years to secondary school students, to educate them about their rights in an interactive and age-appropriate manner.¹⁵

The OCO deals with complaints on a wide array of complaints,¹⁶ with education complaints comprising the largest proportion of complaints.¹⁷ These complaints often related to access to school places, bullying, school transport, and the State Exams Commission. Health-related complaints and complaints related to Tusla (Child and Family Agency) were each approximately one quarter of the proportion of complaints in 2023.¹⁸ There were a smaller proportion of complaints related to housing in 2023 also.¹⁹

11 Ombudsman for Children's Office, 'Complaints' (Ombudsman for Children's Office, 2024) <https://www.oco.ie/complaints/>

12 For example, in 2023, this included publishing special reports on issues such as delays in scoliosis surgeries for children and the conditions in 'direct provision' for children seeking international protection. See further: Ombudsman for Children's Office, *Uncertain Times: Annual Report 2023 (2024)* p.43.

13 The OCO also engages directly with children through various platforms, such as the EU Participation Platform, where children can express their opinions on matters affecting their lives. The OCO facilitates the Child and Youth Participation Awards, recognising projects that promote children's participation in decision-making processes. See: The Ombudsman for Children's Office, *Uncertain Times: Annual Report 2023 (2024)* p.9 and p.36.

14 Ombudsman for Children's Office, 'Policy and Research' <https://www.oco.ie/childrens-rights/policy-and-research/>

15 In 2023, the OCO hosted 1,930 children from schools and youth groups across Ireland, providing them with the knowledge and tools to understand and advocate for their rights. See Ombudsman for Children's Office, 'Workshops and Seminars', <https://www.oco.ie/childrens-rights/workshops-and-seminars/>

16 1,790 complaints in 2023. The Ombudsman for Children's Office, *Uncertain Times: Annual Report 2023 (2024)* 6.

17 40% in 2023, *Ibid.*

18 23% in 2023, *Ibid.* Health related complaints included including issues with hospital services, Child and Adolescent Mental Health Services (CAMHS), Children's Disability Network teams, and HSE-funded services. 23% of the complaints were related to Tusla, focusing on the experiences of children in residential and secure care, interagency cooperation, and access to supports and interventions.

19 7% in 2023), highlighted issues with local authority housing, appropriate housing for children with disabilities, and housing conditions on local authority halting sites. *Ibid.*, p.7.

CHILDREN'S RIGHTS ALLIANCE

The Children's Rights Alliance, founded in 1995, unites over 150 member organisations working collaboratively to influence laws, policies, and services to respect and protect children's rights. The work of the Alliance includes advocacy efforts and public awareness campaigns, extensive policy work. The Children's Rights Alliance produce, among other publications, an annual Report Card which monitors the implementation of the Programme for Government Commitments for children and young people. The Alliance runs a multi-year campaign to end child poverty, focusing on early intervention, improved public services, and targeted supports for children in need. The campaign includes initiatives like the Child Poverty Monitor, which tracks government progress and provides recommendations for reducing child poverty, and the End Child Poverty Week, which focuses on key budgetary requests for children.²⁰

The Alliance also conducts research to highlight issues like child poverty, access to justice, and online safety, using this evidence to inform their campaigns and influence public policy.²¹

The recent *Building Children's Futures* research published by the Alliance identifies best practice in responding to children's needs in Europe during the Covid-19 pandemic and reviews the use of Children's Rights Impact Assessments (CRIA) across Europe. The report contains a CRIA template with associated guidance for how to use the tool. As part of this project, the Alliance trained over 100 local and national decision-makers on the use of Child Rights Impact Assessments.

The Alliance operates a specialist helpline providing legal information and collaborates with pro bono partners to fill gaps in legal aid through free legal advice clinics.²² In 2022, education was a dominant issue for the Helpline, seeing a 31 percent increase in related cases over the past three years²³ The legal advice clinics received 47 referrals and held 28 sessions, with disability, education, and immigration being the most common concerns.²⁴

The Alliance also maintains a "Know Your Rights" guide, offering up-to-date, accessible information to children, young people, and families and develops children's rights training for professionals across various sectors. Additionally, they provide training and resources to member organisations and other stakeholders.

FREE LEGAL ADVICE CENTRES (FLAC)

An independent voluntary organisation, the mission of FLAC (Free Legal Advice Centres) is to address and eliminate barriers to justice, fostering a fairer society where the law serves the public interest.²⁵ FLAC engages in a broad spectrum of activities, including advocacy, direct legal support, research and analysis on priority areas of work, which aims to highlight and address systemic inequalities. Its advocacy work focuses particularly on the needs of marginalised and disadvantaged groups and on reform of laws or legal provisions found to be unfair, discriminatory, or outdated. FLAC provides a wide array of legal support services. The

20 Children's Rights Alliance, Child Poverty Monitor 2024 (2024).

21 <https://childrensrights.ie/building-childrens-futures-using-childrens-rights-to-recover-from-the-global-pandemic/>

22 Children's Rights Alliance, Annual Report 2022 (2023) 17.

23 The CRA's Helpline assisted 249 people through 848 contacts, with the highest number of contacts relating to education (64 cases, 26 percent), followed by family law (32 cases, 13 percent), other issues (31 cases, 13 percent), children's rights (25 cases, 10 percent), and immigration (22 cases, 9 percent). A total of 160 parents and guardians sought support on various issues, including education, health, disability, family law, housing, immigration, early years, care, and child protection. Additionally, three cases were referred by organisations such as the Disability Federation

24 *Ibid* p. 17-20.

25 FLAC, 'What We Do | FLAC - Promoting Access to Justice' <<https://www.flac.ie/about/what-we-do/..>>

organisation operates over 1000 legal advice clinics across Ireland, staffed by volunteer lawyers who offer free, confidential advice on various legal issues.²⁶ FLAC also runs a Telephone Information and Referral Line, which provides basic legal information and directs callers to appropriate services or organisations for further assistance.²⁷ Key areas of support include housing rights, social welfare law, housing, and discrimination, ensuring comprehensive coverage of critical legal issues affecting disadvantaged groups.²⁸ Children's rights are often central to the work FLAC pursues to address inequality, for example in the important case of John O'Meara and his children against the refusal of Widower's Pension which was successful before the Supreme Court in 2024.²⁹

COMMUNITY LAW & MEDIATION (CLM)

Community Law & Mediation (CLM) was established in 1975³⁰ as Ireland's first community law centre³¹ In 2012, recognising the significant needs in the Midwest region of Ireland, CLM opened a branch in Limerick. The expansion continued in 2021 with the establishment of the Centre for Environmental Justice.³²

The number of legal interventions by CLM in matters relating to children and young people increased from 61 in 2022 to 164 in 2023. In June 2024, CLM was awarded 2 year funding by CFI and the RTE Toy Show Appeal to extend their children's law work. This has allowed CLM to expand the legal advice clinics, providing additional child-friendly legal advice clinics a month, Know Your Rights training to front-line organisations working with children and carry out strategic litigation and legal policy work to promote children's rights, particularly from marginalised communities. A Youth Advisory Group will also be established to inform the work. As a result, the number of legal interventions by CLM in matters relating to children and young people's grew further to 206 in 2024.

The stated aim of this project is to progress the goal set in CLM's Strategic Plan 2024-2028 of establishing a dedicated children's law centre.³³

In 2021 CLM partnered with Empowering People in Care (EPIC) to provide specialised legal advice to children and young people in care or with care experience. Clinics are three-way between the child or young person, an EPIC advocate and CLM's specialist solicitor. In the main, the advocate support enables the young person to follow up on the legal advice and it is not litigation but support and advocacy that is required. In 2023, the partnership assisted 35 young people, addressing various areas of legal need including aftercare support, guardianship and housing.³⁴ In certain circumstances, CLM also provide legal advocacy and representation.

CLM is currently developing a partnership project with Crosscare Youth Workers and Family Support Workers

26 FLAC, Annual Report 2023 (2024) 4.

27 *Ibid*,

28 *Ibid*, p.8.

29 [*FLAC welcomes landmark Supreme Judgment on Equal Treatment for Parents and their Children regardless of marital status*](#)

30 Established by FLAC in 1975, CLM (originally called Coolock Community Law, then Northside Community Law Centre) to make the case for the establishment of the Community Law Centre model across the country.

31 Community Law & Mediation, 'Home' <https://communitylawandmediation.ie/>

32 Strategic litigation is central to this work and on 9th September 2024, CLM, alongside a grandfather, a youth climate activist, and a child were granted leave to proceed with a landmark court case challenging inadequate Government action on human-driven climate change. <https://communitylawandmediation.ie/centre-for-environmental-justice/climate-and-environmental-casework/>

33 <https://communitylawandmediation.ie/wp-content/uploads/2024/05/Strategic-Plan-2024-2028-2.pdf>

34 The CLM & EPIC legal advice partnership funded by Tusla saw assistance given to 35 young people with care experience in 2023, 13 of whom were under 18 years of age. <https://www.epiconline.ie/library/national-advocacy-service-report-2023/>

to address the legal needs of the children and young people they support. Training was provided in 2024 on key areas of legal need identified by the organisation, namely, disability rights and accessing services and education rights. Following this, a programme of legal advice clinics has been offered for children and young people working with Crosscare, addressing all areas of legal need. These clinics can be attended by children, young people, their guardians, and, ideally, their youth workers or family support workers to build expertise in the relevant areas of law.

CLM also provides representation in legal proceedings, ensuring that the voices of children and young people are heard, and their rights are protected in court. CLM has represented child clients in environmental cases, child care cases, social housing, education and discrimination cases.³⁵ CLM also work in advocacy and policy work aimed at improving the legal protections available to children and young people aiming to create a more supportive and just environment for some of the most vulnerable members of society.³⁶

BALLYMUN COMMUNITY LAW CENTRE (BCLC)

BCLC was established in 2002 and engages in training and education around legal rights, law reform and advocacy and resourcing the community in relation to legal matters of relevance in the area, provides traditional legal advice and representation.³⁷ When first established, the Legal Aid Board seconded one of its solicitors to manage the Law Centre. While that arrangement has since ceased, FLAC point out that this collaboration does flag *the potential benefits of the Legal Aid Board engaging in the strategic model, in partnership with an Independent Law Centre*.³⁸

Other specialist law centres have been established in Ireland to take a strategic approach to sometimes complex legal needs affecting a particular group or in relation to a particular issue. Many of these law-centres developed within NGOs to advance the existing in the particular specialist area. As FLAC have stated, this is sometimes due to a lack of expertise amongst practitioners in specialist areas and the unavailability of legal aid in the relevant area.³⁹ Gerry Whyte points out that that collaboration between the Legal Aid Board and Ballymun Community Law Centre is an example of a mixed-delivery model of legal aid combining both service and strategic elements.

MERCY LAW RESOURCE CENTRE (MLRC)

MLRC is an independent law centre dedicated to providing free legal advice and representation to individuals who are homeless or at risk of homelessness, focusing on social housing and related social welfare law.⁴⁰ Outreach advice clinics are held in homeless hostels and other centres for the homeless, and legal representation is provided in cases raising important matters of principle or that are likely to have a broader benefit others.⁴¹ While MLRC do not provide services directly to children, they do work with families and have begun to capture children who benefit from their services through this work. They have also published work to document the experience of family homelessness and campaigning for policy and legislative reforms in this area.⁴²

35 [Law Society of Ireland Gazette](#)

36 Community Law & Mediation, Annual Report 2022 (2023) 29.

37 Ballymun Community Law Centre, 'Annual Report 2023'(2024) 4.

38 FLAC, 'Submission to the Civil Legal Aid Review'(2023) 16.

39 *Ibid.*

40 Mercy Law Resource Centre, 'Annual Report'(2023) 2024 4.

41 *Ibid.* 8.

42 Mercy Law Resource Centre, 'Report on the Lived Experiences of Homeless Families' (2019).

MLRC also produces policy work with specialised legal analysis, informed by its work and campaigns on issues around homeless and housing rights, including the proposal for a referendum on the right to housing. MLRC also uses volunteers known as ‘befrienders’ who provide emotional and practical support to the centre’s clients, complementing the legal service that the centre provides.

IMMIGRANT COUNCIL OF IRELAND INDEPENDENT LAW CENTRE (ICI)

In 2006, the Immigrant Council of Ireland (ICI) was recognised as an Independent Law Centre, enabling the legal team to represent clients directly at administrative and court levels, both nationally and within Europe.⁴³ Alongside providing direct legal services, the team documents challenges faced by clients within the immigration system and actively pursues positive law reforms at both domestic and international levels. It operates a strategic approach to individual casework due using specific criteria including the strategic importance of the case, its merits, the capacity of the centre and the vulnerability of the client.⁴⁴ The ICI provides direct legal services to child migrants, handling issues such as residence status, citizenship, family reunification, and cases of children trafficked for sexual exploitation.⁴⁵ Additionally, through the Kids in Need of Defence (KIND Ireland) project, the ICI facilitates pro bono legal aid for unaccompanied children navigating complex family reunification processes, addressing gaps in state-provided legal assistance and ensuring children’s access to justice and family unity. See Appendix C for more detail.

Over recent years, the ICI has engaged with policymakers to advocate for improvements in law and policy affecting child migrants. Central to their advocacy is ensuring that children’s individual rights and needs are prioritised within Ireland’s immigration system.⁴⁶ Their advocacy focuses on child protection, enhancing care and support frameworks, improving immigration procedures, and raising awareness among stakeholders about children’s rights and entitlements. They published ‘Child Migration Matters’ in 2016⁴⁷, which detailed systemic issues and proposed solutions.

IRISH REFUGEE COUNCIL INDEPENDENT LAW CENTRE

The Irish Refugee Council Independent Law Centre commenced operations in November 2011 providing legal services to asylum seekers. The centre offers extensive legal support to refugees and asylum seekers. These services include providing legal advice and representation, helping individuals understand their rights, and navigating the asylum process.⁴⁸ Limited by resource constraints, the centre operates a case work strategy based on their strategic plan where legal representation is provided in cases that are considered to be of strategic importance to asylum seekers generally or where the individual is extremely vulnerable and has difficulty in accessing legal services. The IRC supported 110 young people through one-to-one support in 2023 and collaborated with 9 other youth organisations throughout 2023.⁴⁹ These numbers reflect the extensive reach and effectiveness of the IRC’s support.

The law centre also engages in advocacy, working to ensure that the voices of refugees and asylum seekers

43 Immigrant Council of Ireland, ‘Independent Law Centre’ (Immigrant Council of Ireland) <<https://immigrantcouncil.ie/independent-law-centre>>

44 Immigrant Council of Ireland, ‘Impact Report 2022’ (2023) 11.

45 *Ibid.*

46 Immigrant Council of Ireland and Irish Refugee Council, ‘NGO Report to the UN Committee on the Rights of the Child, The Republic of Ireland’s Implementation on the UNCRC’ (2022).

47 Mannion, K. Child Migration Matters: Children and Young People’s Experiences of Migration’ (ICI, 2016)

48 Irish Refugee Council, ‘Law Centre’, <https://www.irishrefugeecouncil.ie/Listing/Category/law-centre>

49 Irish Refugee Council, Annual Report 2023, (2024) p14.

are heard and their rights protected within the legal system.⁵⁰ In addition to legal services, the Information and Advocacy Service offers practical support and guidance on a range of issues, helping individuals access necessary public services and benefits. They offer a helpline that is dedicated to providing free information and advice to international protection applicants.⁵¹

The work of the law centre is complemented by the broader work of the IRC in relation to children. The IRC Youth Advocacy Project provided recreational, educational, and social activities designed to help young refugees integrate into their new communities.⁵² They also collaborate with schools and educational institutions to ensure that young refugees receive the necessary support to succeed academically.⁵³ Mentorship programs connect young refugees with peers and mentors who provide guidance, support, and positive role models. Additionally, the IRC engages in child protection advocacy, working to ensure that the rights and needs of child refugees are prioritised in policy decisions and that they receive adequate protection and support.

KIND IRELAND PROJECT

The KIND project, which commenced in September 2019, is a collaborative project of the Immigrant Council of Ireland and Irish Refugee Council Independent Law Centre and seeks to address the gaps in protection for unaccompanied refugee children during the family reunification process. Unaccompanied children are entitled under statutory law to be reunified with their parents and their parents other minor children. However, there is no legal aid available and applications are extremely lengthy and complicated to make without legal assistance.

The project emerged from the work that the organisations were doing for some years previous, in particular the Immigrant Council of Ireland regarding the experiences of migrant children living in Ireland⁵⁴ and the provision of child-friendly legal services, which had been recognised as an example of good practice by the Council of Europe.⁵⁵

Under the project the ICI and IRC work collaboratively to provide in-house legal services, as well as to develop the capacity of social care professionals and pro bono legal professionals to ensure that unaccompanied refugee children in Ireland have access to timely and effective assistance when making applications for family reunification.

In 2021, the project was extended to include legal assistance in citizenship applications, also an area of unmet legal need and where no civil legal aid is available. Access to citizenship is widely considered to be a long-term tool of integration for migrants.

In the project, the following actions are undertaken:

- Training social care professionals to support refugee children and young people to make family reunification applications;
- Training for pro bono legal professionals to assist unaccompanied children to make family reunification

50 Ibid p18.

51 Irish Refugee Council, 'Information and Advocacy Service' <<https://www.irishrefugeecouncil.ie/information-and-advocacy-service>>

52 Irish Refugee Council, 'Youth Advocacy Project' <<https://www.irishrefugeecouncil.ie/youth-advocacy-project-2016>>

53 Irish Refugee Council, 'Outreach' <<https://www.irishrefugeecouncil.ie/Listing/Category/outreach>>

54 See generally, Mannion, K. *Child Migration Matters: Children and Young People's Experiences of Migration* (ICI, 2016).

55 [Family reunification for refugee and migrant children – Standards and promising practices \(2020\)](#) pp. 61-62. See also Eurochild / SOS Villages [Let Children Be Children Lessons from the Field on the Protection and Integration of Refugee and Migrant Children in Europe](#) (2017) pp.80-85.

- applications;
- Matching trained pro bono lawyers with children requiring legal assistance in family reunification and citizenship cases;
- Providing representation by law centre staff to children in more complex family reunification and citizenship cases.

Under the project, the law centres partner with leading law firms in Ireland to deliver the pro bono element of the project. To date, the project has provided free legal services to 343 children and young adults ranging in age from 12 years to 23 years old.

In addition to seeking to address unmet legal need through the provision of direct services, the KIND project has a wider advocacy objective in relation to raising awareness regarding child friendly legal services, civil legal aid, as well as administration, policy and law reform relating to family reunification procedures. Submissions have been made to the Civil Legal Aid Review Group⁵⁶, as well as to the Department of Justice regarding family reunification.

CHILD LAW CLINIC, UNIVERSITY COLLEGE CORK

The Child Law Clinic in University College Cork aims to improve the quality of children's representation and to promote evidence-based reform in all areas of child law, supports lawyers litigating children's issues and provides students with practical experience of child law and litigation. While the clinic does not provide legal advice to individuals, it supports lawyers to represent and litigate on behalf of children and aims to provide legal support to organisations working with and for children.⁵⁷ This includes the preparation of research briefs to support practitioners working in the area of child protection law, particularly on issues relating to family reunification for children in care. The clinic has also provided support for civil society groups through the preparation of research briefs on a variety of topics to support advocacy work and makes authored submissions to Government departments as part of public consultations

Support for litigation has included cases in the European Court for Human Rights *O'Keeffe v Ireland*⁵⁸, 2014; *Allen v Ireland*, 2019); the Irish Supreme Court (*O'Meara v Minister for Social Welfare*, 2024); and various other cases in the Circuit Court and District Court. The clinic also carried out extensive follow-up work on the implementation of the *O'Keeffe* judgment, including submissions to the Committee of Ministers of the Council of Europe and the Independent Assessor (2019), which resulted in the *ex gratia* scheme established after *O'Keeffe* being declared incompatible with the *O'Keeffe* judgment.⁵⁹

PUBLIC INTEREST LAW ALLIANCE (PILA)

Launched by FLAC in 2009, to address systemic injustices, promote social change, and improve access to justice. PILA's pro bono referral scheme has created a structured network of pro bono legal services in Ireland, connecting NGOs and community organisations with legal practitioners who provide their services free of charge.⁶⁰ PILA's referral scheme has enhanced the pro bono movement in Ireland by building the

56 ICI [Submissions to Civil Legal Aid Review Group](#) (2023)

57 University College Cork, 'Child Law Clinic' <[Child Law Clinic | University College Cork](#)>

58 See *O'Keefe v Ireland* O'Mahony and Kilkelly (2014) *Journal of Social Welfare and Family Law*, 36 (3) 320-329.

59 See further: <https://www.ucc.ie/en/childlawclinic/redressofsurvivorsofsexualabuseinnationalschool/>.

60 Through this scheme, PILA has coordinated over 800 referrals and built partnerships with 310 social justice organisations and over 2,000 legal professionals, including 37 law firms and five in-house legal teams. PILA, 'PILA Impact Report 2009-2019: Challenging Injustice, Championing

capacity of both legal professionals and social justice organisations.⁶¹ PILA has also worked to foster a culture of pro bono work within law firms.

Examples of good practice relevant to this report is the partnership between A&L Goodbody and the Irish Refugee Council which PILA facilitated to support asylum seekers with pro bono legal advice early in the asylum application process.⁶² Since its inception, this project has contributed over 4,000 pro bono hours, significantly increasing asylum seekers' chances of success by ensuring their applications are thorough and credible.⁶³ In 2020, the Pro Bono Pledge was launched in Ireland, which invites lawyers to commit a minimum of 20 Pro Bono hours per annum. By 2023, 51 law firms, 40 barristers, 2 in-house legal teams and 6 individual solicitors had signed up to the pledge.⁶⁴

BAR COUNCIL: VOLUNTARY ASSISTANCE SCHEME

The Voluntary Assistance Scheme (VAS), established in 2004 by the Bar of Ireland, serves as the official pro bono platform connecting non-governmental organisations (NGOs) and civil society groups with barristers who provide voluntary legal services, aiming to address gaps in access to justice, such as where civil legal aid falls short.⁶⁵ The VAS does not directly assist individual clients, but barristers offer their expertise on a voluntary basis to NGOs and charities, who act as intermediaries to clients in need.⁶⁶ The majority of The VAS's work is advisory in nature, with litigation being a smaller component.⁶⁷ The scheme involves both senior and junior counsel, with a focus on providing junior barristers with valuable experience.⁶⁸ The Pro Bono Pledge further complements the VAS's efforts by encouraging legal professionals across Ireland to commit time to pro bono work.⁶⁹

OTHER LAW CLINICS

TRAVELLER EQUALITY & JUSTICE PROJECT (TEJP)

The Traveller Equality & Justice Project (TEJP) is an innovative collaborative initiative between the University College Cork (UCC) School of Law and the Free Legal Advice Centres (FLAC).⁷⁰ Based within the Centre for Criminal Justice & Human Rights at the UCC School of Law, the TEJP provides access to justice for

61 PILA, 'PILA Impact Report 2009-2019: Challenging Injustice, Championing Change' (2020) 7.

62 PILA, 'A&L Goodbody & the Irish Refugee Council: Early Legal Advice for Asylum Seekers' (PILA) <https://www.pila.ie/resources/case-studies/al-goodbody-the-irish-refugee-council-early-legal/>

63 PILA, 'A&L Goodbody & the Irish Refugee Council: Early Legal Advice for Asylum Seekers' (PILA) <https://www.pila.ie/resources/case-studies/al-goodbody-the-irish-refugee-council-early-legal/>

64 See FLAC Annual Report 2023, p.16. The second Pro Bono Pledge Ireland Impact Report was launched in November 2023. 28 signatories reported having undertaken 42,742 hours of pro bono work.

65 Law Library, 'Pro Bono Services' The Bar of Ireland See: www.lawlibrary.ie/legal-services/pro-bono-services

66 Requests are evaluated on various criteria, including the financial status of the client, prior attempts to secure Legal Aid, and whether a solicitor is already involved. VAS reserves the right to refuse requests, and its capacity is contingent on available barristers willing to take on cases. *Ibid.*

67 Voluntary Assistance Scheme of The Bar Council of Ireland, 'Annual Report 2011' (2012) 6.

68 *Ibid.*, p.4.

69 PILA, 'Pro Bono Pledge Ireland: Impact Report 2023'(2024) p3.

70 University College Cork, 'About the Traveller Equality and Justice Project', <https://www.ucc.ie/en/tejp/about-the-traveller-equality-and-justice-project/>

Travellers who experience discrimination, particularly in accessing goods and services. The clinic's legal support includes handling discrimination cases and providing initial case-building support, testimony, and evidence gathering,⁷¹ operating under the guidance of experienced legal professionals.⁷² The Traveller Court Support Initiative (TCSI), developed in partnership with local Traveller organisations and the Courts Service, aims to train Traveller 'court-support workers' to provide culturally appropriate, peer-led support for Traveller litigants in the District Court.⁷³ While the primary focus of TEJP is on addressing discrimination against adult Travellers, the organisation recognises the broader impact on Traveller families, including children. The clinic is currently closed to new referrals due to funding and staffing limitations but continues to support ongoing cases.

DISABILITY LEGAL INFORMATION CLINIC

The Disability Legal Information Clinic was established in 2011 as a partnership between the Centre for Disability Law and Policy (CDLP) and the student led FLAC Society in the University of Galway.⁷⁴ More recently the clinic is run by the CDLP as part of module on the LLM in International and Comparative Disability Law and Policy. Students undertaking the module provide legal information to a client supervised by a qualified legal professional and a member of CDLP staff. Queries in relation to children with disabilities are typically brought to the clinic by their parents or guardians and while the child may attend the clinic this has happens very rarely. The clinic has not engaged with younger disabled children without their parents or guardians. However, 16- or 17-year-old who are attending the University of Galway may have attended clinic. Queries have included access to services and supports, access to education (including access to supports in education, disciplinary procedures), the impact of the Assisted Decision-Making (Capacity) Act 2015, and access to money or banking facilities. Parents have also contacted the clinic with queries about succession and long-term planning for their children.

71 Traveller Equality & Justice Project, D3.1 Traveller Legal Clinic and Legal Support Activities (2020) p9.

72 *Ibid.*

73 University College Cork, 'About the Traveller Court Supports Initiative' <https://www.ucc.ie/en/tejp/about-the-traveller-court-supports-initiative/>

74 The University of Galway, 'Disability Legal Information Clinic', <Disability Legal Information Clinic - University of Galway>

Appendix C

EXAMPLES OF SPECIALIST LEGAL SERVICES FOR CHILDREN

CHILDREN'S LAW CENTRE, BELFAST (CLC)

The CLC is an organisation focused on ensuring children's rights are respected, realised and vindicated through participation, partnership and representation. Established with the goal of ensuring that children's voices are heard and respected, the CLC operates with a strong foundation in legal expertise and child-centred advocacy.¹ The organisation is dedicated to addressing issues of discrimination, injustice, and inequality that affect young people, offering a range of services designed to empower and support them across various aspects of life including education, health, and justice²

The CLC's activities encompass a broad array of services aimed at supporting and advocating for children's rights. The CLC operates a helpline, the Chalky freephone advice line, offering valuable advice and assistance on issues such as education, child homelessness, and human rights. A significant portion of inquiries (64%) relate to education, disability, and discrimination, focusing on assessments, statements, placements, and school transport.³ Additionally, the CLC's digital service, REE Rights Responder, provides legal information to children and young people online, reaching them in their daily environments.⁴ The CLC's legal team handles complex case queries related to care services, discrimination, and non-immigration issues faced by asylum-seeking children. The CLC's mental health solicitor focuses on supporting children and their families affected by systemic issues and continues to represent children at the Mental Health Review Tribunal. The CLC also contributes significantly to policy work in order to advocate for systemic changes and improvements in the legal and policy frameworks affecting children's rights.⁵

The CLC undertakes strategic litigation in an increasing number of judicial reviews with a specific children's rights focus and where a public interest issue impacting on children's lives is engaged. Judicial reviews are taken on behalf of individual children with the centre applying for legal aid to take these cases. The CLC provide third party interventions in judicial reviews on children's rights issues and have successfully litigated in a small number of High Court civil claims for damages and human rights breaches where children have been severely impacted by a public authority's failure to provide critical children's services or have breached their rights under the European Convention on Human Rights and the Human Rights Act 1998. The CLC provides formal legal representation at the Mental Health Review Tribunal for children who wish to review their hospital detention, at SENDIST and other education tribunals.⁶

Youth@CLC are a group of 15-20 young people aged between 14-17, first formed in 1998 shortly after the charity was set up and playing an important role in their work ever since. The group participates in organisational planning, provide input into CLC consultation processes, highlight issues that are affecting

1 Children's Law Centre, *Annual Report 2022-2023*, p.7

2 *Ibid*, p.9

3 Interview with Paddy Kelly, Director of Children's Law Centre Belfast, on 23.04.24. See also Children's Law Centre, *Annual Report 2022-2023*, p.9-11

4 *Ibid*

5 Interview with Paddy Kelly, Director of Children's Law Centre Belfast, on 23.04.24. See also Children's Law Centre, *Annual Report 2022-2023*

6 Interview with Paddy Kelly, Director of Children's Law Centre Belfast, on 23.04.24. See also Children's Law Centre, *Annual Report 2022-2023*, p.12-18

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2 *Ibid*, p.9

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4 *Ibid*

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6 Interview with Paddy Kelly, Director of Children's Law Centre Belfast, on 23.04.24. See also Children's Law Centre, *Annual Report 2022-2023*, p.12-18

children and young people, and assist with research work and the development of the young people's reporting to the United Nations Committee on the Rights of the Child. The CLC provides Youth@CLC with rights and capacity training and facilitate at least eight meetings every year where they can share experiences, raise issues and agree topics for further development and advocacy. Maintaining Youth@CLC also requires annual recruitment as young people age out from the group.⁷

CENTRE FOR CHILD LAW, PRETORIA

The Centre for Child Law (CCL) is a children's rights strategic impact litigation organisation that is registered as a law clinic with the Legal Practice Council, and is based at the University of Pretoria, South Africa.⁸ The CCL contributes to the establishment and protection of children's rights through strategic impact litigation, participation in legislative and policy reform, advocacy, research, capacity building of relevant stakeholders and contributing to the body of knowledge on child law. Outputs of research on the implementation and interpretation of children's rights and child law provide a basis for litigation and advocacy.⁹

The CCL has contributed to the development of child law through law reform, case law, policy development and influencing public discourse through the use of the constitutional, regional and international legal framework for public interest litigation. Cases are selected on the basis of whether they have the potential to effect broad legal and social changes and have long-term benefits for all children.¹⁰ The CCL also provides legal advice to members of the community, including the provision of direct legal assistance to children, parents, caregivers. This may involve legal opinions, legal representation, or referrals to organisations and state organs charged with providing specific services.¹¹ This also allows the CCL to evaluate and monitor systemic challenges and barriers that require intervention.

JUST FOR KIDS LAW, UK

Just for Kids Law was co-founded in 2006 in the UK,¹² combining youth advocacy, legal representation, and youth opportunities support to help young people break negative cycles. Advocacy, legal support and youth opportunities services are all under one roof with the aim of fostering consistency and avoid young people being passed from service to service. The organisation's legal team have specialist skills to work in a way which recognises the trauma that children may have experienced.¹³ The support provided to young clients helps them to avoid criminal prosecution; prevent school exclusion; attain regular immigration status; access housing or social care support. The organisation also fights for wider systems change, informed by evidence from direct casework.¹⁴

7 Interview with Paddy Kelly, Director of Children's Law Centre Belfast, on 23.04.24. See also: Children's Law Centre, *Annual Report 2022-2023*, p.27

8 See [Home - Centre For Child Law](#)

9 Just for Kids, *Impact and Learning Report 2020-2021* [J4KL_IMPACT-2021-DIGITAL.pdf](#)

10 See *Centre for Child Law Annual Report 2023*, p.31. See also [Case Law - Centre For Child Law](#) for a database of case law and case reports

11 See *Centre for Child Law Annual Report 2023*

12 See: [Home | Just For Kids Law](#)

13 See *Just for Kids Learning and Impact Report 2021*

14 See: Sarah Menzies with Sally Cupitt, *Just for Kids Law Casework Evaluation 2021-22*

Appendix D

YOUTH ADVISORY GROUP DOCUMENTS



Community
Law & Mediation



Information for partner organisations on setting up a Youth Advisory Group to advise on a children's law service.

Community Law and Mediation (CLM) is **an independent community focused law centre** providing free legal advice, mediation and education services in communities impacted by social exclusion, disadvantage, and inequality. We also work to advance policy and law reform, informed by the issues coming through their services.

We would like to set up **a dedicated children's law service**, which is guided and informed by children and young people. The service would focus on protecting the rights and giving a voice to children who are most disadvantaged.

We have **commissioned a research project** to explore what legal supports are available to children in Ireland and the barriers they experience in accessing them to inform the setting up of a children's law service. The issues emerging from this research indicate that prominent areas of unmet legal need for children and young people include, disability, housing, mental health, youth justice, discrimination, Traveller and Roma issues and issues relevant to migration.

As noted above, we want **young people under 18 years to work with us on this important project** from the start, so we are setting up a Youth Advisory Group (YAG) to inform the research. We would like you to invite young people who have had experience of a legal issue that affected them to become part of the YAG. This can be a legal issue in the broadest sense, eg. problems with school, youth diversion, discrimination, accessing services or being treated unfairly by a public body etc.

WHAT WILL THE YAG DO?

Young people who join the YAG will:

- Come to two meetings in Dublin with other young people who have had difficulties or problems in their lives and who needed help or advice to solve these problems.
- Share their views on:
 - The type of help children and young people need and want.
 - The difficulties for children and young people when looking for help or advice.
 - The help or advice that works well.
 - The help or advice that does not work well and what the result of that is.
 - How children and young people like to be listened to, treated, and spoken to.
 - Suggestions about what a law service could do to help children and young people.
- Share their views on what a children's law service should look like.

The **views of the young people will be captured by facilitators and will be taken into consideration** when progressing research into the setting up of a law service. The report will be written with **due regard to confidentiality and anonymity**. No participants will be identifiable in the report.

We will:

- Give the young people pizza and other tasty food!
- Pay their travel expenses and the travel expenses of adults who come with them.
- Make sure they are safe and have a good time.

Ideal Dates: 19/21 June and 14/16 August (TBC)

Practical and logistical information

To be discussed

NOTES FROM CONSULTATION WITH YOUTH ADVISORY GROUP 3 JULY 2024

OMBUDSMAN FOR CHILDREN'S OFFICE

INDIVIDUAL LIFELINE

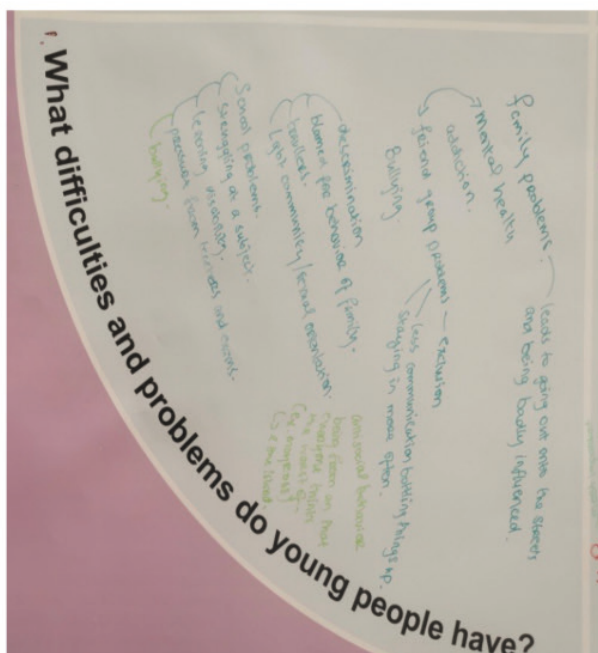
| | |
|--|---|
| Who listens to young people when they have a problem? | <ul style="list-style-type: none"> • Parent/s • Grandparents • Aunts/Uncles • Siblings • Mam/brother • (Good) Friends • Youth Workers/Foróige • (Nice) Teachers • Guidance Counsellor • Therapist • Comhairle • Boxing coach • Sassy <p>Some young people named one relative (Nanny, brother, Mam)</p> |
|--|---|

PLACEMATS

| | |
|---|---|
| What difficulties and problems do young people have? | <ul style="list-style-type: none"> • Mental Health issues (stress, lack of support, communication, waiting lists for counselling..) • Bullying (online, physical, verbal) • Friend group problems (exclusion, less communication, bottling things up, staying in more often) • Anti-social behaviour • Being from a place that everyone thinks the worst of (eg Moyross and the Island) • School (stress, struggling with a subject, pressure from teachers and exam stress learning difficulties or learning disability) • Being suspended or kicked out of school • Using drugs to deal with mental health problems • Post Leaving Cert Issues – lack of support, once 18 support is cut off • Discrimination (homophobia, racism, sexism, Travellers, LGBTQ community) • Peer pressure (drugs, illegal activity) • Family issues (divorce, alcoholism, abuse, being kicked out of home or can lead to going out on the street and being badly influenced, being blamed for problems of the family) • Addiction (drugs, vaping, alcohol) • Lack of trust (with Gardaí, raids by Gardai) <p><i>Young people don't always know how to express themselves or how to open up</i></p> <p><i>Some teachers notice if you're upset or sad and will come up to you and ask if you're ok or if you've something going on</i></p> |
|---|---|

| | |
|---|---|
| <p>Where can young people get help or support?</p> | <ul style="list-style-type: none"> • Foróige – clubs, cafés, projects • Youth organisations/youth workers (Limerick Youth Services) • Social worker/respice • YAP (Youth Advocates) (The most important part of having an advocate is having a person you feel most safe with) • Big brother or sister • Parents/grandparents/friends/family • Pieta House • Spun Out • Sassy • Belong To • Hairdressers have QR codes for different issues women might be dealing with (eg, domestic or sexual abuse or mental health) • Guidance Counsellors/School Chaplain (some good experiences but mostly negative. (Some schools had different guidance counsellors for different purposes such as career advice and pastoral type care) • Therapist or counsellor (some young people talked about a therapist who comes to their school and sees them twice a week and this was seen as positive – someone to listen to you. Play therapy at primary level was also mentioned) • CAMHS (some people had good experiences with CAMHS and some negative) • Garda (for some young people, depends on where you live and on the relationship¹) • Jigsaw <p><i>The most important thing is a person you feel most safe with and trust and who really listens to you.</i></p> <p><i>Really important to create the safe place where young people can open up and talk to people, where they feel comfortable and safe</i></p> <p><i>I can talk to my boxing coach about anything and can go there just to hang out – it's a safe place.</i></p> <p><i>It's really hard to find support for family issues</i></p> <p><u><i>Turning 18:</i></u></p> <p><i>- It's hard when you know you are going to lose the supports when you turn 18.</i></p> <p><i>- Sometimes the youth worker or organisation still looks out for you or connects you to other services.</i></p> <p><i>- Sometimes there is still some involvement, it's just less formal.</i></p> <p><i>- Sometimes you might even work with the organisation once you've turned 18.</i></p> |
|---|---|

| | |
|---|--|
| <p>What stops young people getting help and support?</p> | <ul style="list-style-type: none"> • Peer pressure – being judged, especially for boys. Bullied into not getting help. • Being judged/embarrassed • Downplaying the problem or doubting yourself (social media pros and cons here) • They are scared or uncomfortable • Trust issues because of bad experiences at school or with the Gardaí • Lack of knowledge or education • Lack of motivation – effort of signing up and getting up to go • Waiting lists • Too expensive • Teachers not wanting to talk about it • May result in their parents knowing what's going on and parents might be scared they will say something • Parental consent needed to access services, including youth services. • Too stubborn – might want to just help themselves – think you're wasting your time • Trouble communicating <p><i>It depends on who you surround yourself with. Sometimes the older generation just expect you to get on with things and not make a fuss – they say stuff like “build a bridge and get over it”</i></p> <p><i>You just think what is happening is normal</i></p> <p><i>Before getting help from CAMHS I didn't want to get help, I was downplaying the problem – just thought it wasn't a big deal</i></p> <p><i>What might have helped? Hearing other young people who have gotten help</i></p> <p><i>Social media either has a massive focus on mental health on the one hand, or makes you feel like you shouldn't talk about your problems on the other hand.</i></p> <p><i>Advertising from different organisations to raise awareness helps. Young people are not taught how to deal with their mental health in school. SPHE curriculum could be improved.</i></p> <p><i>There is not enough knowledge about the services available. It's hard to find information unless you are already involved with a service or organisation.</i></p> <p><i>The schools say they want to help but then if you ask for help they don't care or don't want to know.</i></p> <p><i>I was having trouble with school attendance because of illness and it was really hard but the guidance counsellor didn't even ask me how that was for me. They just kept saying I have to attend.</i></p> <p><i>If the youth services are not in a good space where you feel safe – Limerick Youth Services feels good, safe.</i></p> <p><i>Young people in Cork wanted to set up a new Foróige but it didn't have a home. Had to meet in a different hall each time.</i></p> <p><i>A space that is accommodating for everyone makes a difference – somewhere you can be loud and space for those who want a quieter time.</i></p> |
|---|--|



| | |
|---|--|
| <p>How do young people feel when they can't get help or support?</p> | <ul style="list-style-type: none"> • Upset • Lost • Isolated • Stressed • Depressed • Anxious • Lost • Nervous • Under pressure • Hopeless • Overthink things • Failing in class • Mood swings • Not paid attention to • Brushed to the side • Feel that there is nobody there or just feeling the same about the problem • Angry at the way mental health services are run, eg CAMHS • Feel that children with additional needs are being treated unfairly and don't have enough support • Distance themselves from friends and family • Start acting out at friends/family <p><i>For mental health issues, if you can't get help and support its just really hard.</i></p> <p><i>If you don't get the supports you need in education you're just struggling all the time and finding it hard to learn.</i></p> <p><i>I got suspended too many times and now I'm on my last chance. I had to talk to the Board of Management with my Mam to be let back in.</i></p> |
|---|--|

NOTES FROM CONSULTATION NO.2 WITH YOUTH ADVISORY GROUP 24 OCTOBER 2024

EPIC OFFICES

FEEDBACK ON JULY MEETING

Anne talked the young people through the main issues they discussed and key findings from their YAG meeting in July, which were printed on A3 posters on the wall. A printed copy of the report of the meeting was given to each young person. The two issues young people wanted to discuss at the second meeting were school issues and family issues.

SCHOOL ISSUES

| | |
|---------------------------------|--|
| Struggling with learning | <p>Workload and size of courses:</p> <ul style="list-style-type: none"> • Lots of workload which causes stress and anxiety • Teachers give too much homework and its overwhelming • Struggling with keeping up with the work • Not enough free time and no social time because we're too busy studying • Must follow the course • Courses are too big • Too little time <p>How students learn:</p> <ul style="list-style-type: none"> • They expect everyone to learn the same way • Not enough support for people with learning disabilities • They don't help or support young people with learning disabilities in schools or in Youthreach • Accommodations are ignored • It really makes a difference when proper accommodations are made for young people (separate room for exams, laptops for people with dyspraxia, etc.) • Teachers assume that "quiet people" know what they are doing, and they don't get the attention they need • "Smart students" are also under pressure |
|---------------------------------|--|

| | |
|--|--|
| <p>Discipline, including suspension, reduced hours, expulsion</p> | <p>How schools deal with discipline:</p> <ul style="list-style-type: none"> • Be a bit extreme and go straight to expelling • Don't give students a voice • Giving discipline rather than helping • Favouritism • Teachers letting their opinions affect how they discipline or treat students. • Lack of trust with teachers and students. • Not listening to young people's opinions or their side of the story about what happened. • Trying to mediate a situation but just making it worse. <p>How discipline affects students:</p> <ul style="list-style-type: none"> • No gains from suspension, for example a 1st year student was suspended for 3 weeks for smoking. He just stayed at home and missed 3 weeks of learning. • A student was suspended for not going to school even after they tried discussing the problem with the school. |
| <p>Bullying</p> | <p>Types of bullying:</p> <ul style="list-style-type: none"> • Online bullying – students can't be themselves and it ruins their social life • Physical bullying • Verbal bullying • Discrimination • Sly bullying • Seen my friend picked on for his clothes • Rumours going around about people <p>How it affects people:</p> <ul style="list-style-type: none"> • Depression • Don't want to go to school <p>What schools do about bullying:</p> <ul style="list-style-type: none"> • They promote anti-bullying, but when there's an actual problem, nothing is done. • Certain interventions don't help and make it worse. • Teachers ignoring bullying when they hear it. • There's nothing done about it and no support. • Bullying has become normalised. • Different tolerance to bullying/"messaging". |

HAVE YOU SEEN ANY HELP THAT WORKS?

- Nice teachers offering to help, for example a music teacher who comes in early in the morning before school, to help students learn their instruments; a history teacher who offers free grinds to students on Wednesday mornings for LC students.
- The principal who takes bullying seriously and sorts the situation immediately.
- Students getting accommodations such as a separate room for exams, or more time for an exam.
- Guidance counsellors helping students.
- Help from SNAs, such as going out for a walk with a student during class time or inviting people to take a break from class.
- SNAs are more human than teachers.
- Being able to talk to youth workers.

WHAT HELP DOES NOT WORK?

- Parents arguing with you, instead of listening to you
- Going to the chaplain who tells you just to attend school even through what you are struggling with
- Price of therapy and waiting lists stops people from getting help
- Schools that have anti-bullying policies but don't follow the policy
- Suspending people for bullying does not work
- Guidance counsellors are sometimes not helpful
- Falling through the gaps in school, you may be struggling silently, communication between schools and parents lost.
- Schools saying to just ignore bullying and "be the bigger person"
- Ignoring bullying that happens outside of school and saying it's not their problem, even through its carried into the school day. It feels like "being shot in the chest", feels as if the school just doesn't want to deal with it.

WHO WOULD YOU LIKE TO GET HELP FROM?

- A close teacher or year head.
- Get help from SNA, but only sometime happens because she is busy.
- My grandfather who really listens to me and give me practical advice.
- Get whoever you live with (like a parent) to bring the problem to the school.
- Go to someone who you feel you're not going to burden or put stuff onto.

| School problems | Your choices (1 – 4) |
|---|----------------------|
| Them to take responsibility to do something for you | 3 3 3 3 3 2 3 1 |
| You and them do something together | 1 1 1 1 1 1 2 2 |
| You to do something yourself with their support | 2 2 2 2 2 3 1 3 |

SCHOOL PROBLEMS

| Options | Preference (1 – 3) | 1 st choice | 2 nd choice | 3 rd choice |
|--|------------------------|------------------------|------------------------|------------------------|
| For an adult helper to take responsibility to do something for you | 3, 3, 3, 3, 3, 2, 3, 1 | 1 person | 1 person | 6 people |
| For you and an adult helper to do something together | 1, 1, 1, 1, 1, 1, 2, 2 | 6 people | 2 people | |
| For you to do something yourself with their support | 2, 2, 2, 2, 2, 3, 1, 3 | 1 person | 5 people | 2 people |

FAMILY ISSUES

| | |
|---|---|
| Family problems young people have | <ul style="list-style-type: none"> • Having your voice heard or your wishes shared with the judge when you want to express them in court proceedings. • Drug addiction among parents. Parents going to rehab but then returning to drug use. • Relationships not happening with parents. • Having to be the man of the house as a child. • Mental abuse when young people are shouted at and called names – but they don't think it's a big deal with you say you're upset. • Parents dealing with their own problems but putting in on you. • Divorce or separation – when your parent who was your role model is gone and you don't understand. • Parents day in school can be a big issue. • Anger can be a big issue. • Conflict between extended family and parents not being able to cope. Dragging young people into the middle of the conflict. • Parents struggling with severe mental health and seeing it as a child when the child doesn't understand what's going on and as they become older realising how bad it was. |
| Where young people get help (family, parents, siblings, etc.) | <ul style="list-style-type: none"> • Parent might help to get a young person into counselling. • A parent can be helpful if you fully trust them. • Grandparents can be good if they understand, especially if you have lived with them for a while. • Friends can be helpful – but it may not be possible as young people don't want burden to them. • CAMHS was first but it was really bad. Young person felt they were being told they were lazy or that their problems are not so bad even though you are severely depressed. • YAP or an advocate is the person who is the person who really helps. |
| What stops young people getting help (consent from parents, parents, knowing what's going on, etc.) | <ul style="list-style-type: none"> • Feel that you are burdening other people. • Other people might not be able to relate or understand. • Hard to have the courage. • Might not be able to trust them. They might go behind their back. |

WHAT HELP WOULD WORK?

- Counselling service that can really meet your needs – for example Jigsaw only gives 6 weeks
- Need free teen counselling.
- “Nice” teachers are people who listens to you as a friend, takes their time, non-judgemental
- A youth advice centre e.g. a child version of Citizens Information
- Teachers who are trained to deal with mental health issues and how to listen to you and understand.

WHAT DO YOU WANT FROM THE PERSON YOU TELL?

Group discussion: What do you want from the person you tell?

Followed by ranking on a wall chart (1 – 3):

| Family problems | Your choices (1 – 4) |
|---|----------------------|
| Them to take responsibility to do something for you | 2 2 3 1 3 3 3 |
| You and them do something together | 3 3 1 2 2 2 1 |
| You to do something yourself with their support | 1 1 2 3 1 2 2 |

FAMILY PROBLEMS

| Options | Preference (1 – 3) | 1 st choice | 2 nd choice | 3 rd choice |
|--|---------------------|------------------------|------------------------|------------------------|
| For an adult helper to take responsibility to do something for you | 2, 2, 3, 1, 3, 3, 3 | 1 person | 2 people | 4 people |
| For you and an adult helper to do something together | 3, 3, 1, 2, 2, 2, 1 | 2 people | 3 people | 2 people |
| For you to do something yourself with their support | 1, 1, 2, 3, 1, 1, 2 | 4 people | 2 people | 1 person |

KEY MESSAGES FOR AN INFOGRAPHIC/ANIMATION

1. The difficulties and problems young people have

| |
|--|
| • School problems (pressure, learning difficulties, being suspended or kicked out of school) |
| • Family problems |
| • Bullying (online, physical, verbal) |
| • Discrimination |
| • Friend group problems |
| • Supports cut off after the age of 18 |
| • Mental health |
| • Peer pressure (drugs, illegal activity) |
| • Addiction (drugs, vaping, alcohol) and using drugs to deal with mental health problems |
| • Being from a place that everyone thinks the worst of |
| • Anti-social behaviour and lack of trust in Gardaí |

2. What stops us getting help?

| |
|---|
| • Peer pressure – being judged or embarrassed. Bullied into not getting help. |
| • Downplaying your problems or doubting yourself. |
| • Scared, uncomfortable and not knowing how to communicate problems. |
| • Too stubborn (might want to help yourself, think you're wasting your time). |
| • Lack of motivation or thinking you can help yourself. |
| • Waiting lists and cost of getting help. |
| • Lack of knowledge or education about how or where to get help. |
| • Parent issues, including needing parental consent for things you don't want them to know, or parents being scared young people will say something about problems at home. |
| • Trust issues because of bad experiences at school or with the Gardaí. |
| • Teachers not wanting to talk about it. |

3. What kind of help works or would work?

- Free teen counselling that meets young people's needs.
- "Nice" teachers, who listens as a friend, take their time, are non-judgemental and help students with learning.
- Students getting help and proper accommodations with learning disabilities and difficulties.
- Teachers who are trained to deal with mental health issues and how to listen to and understand young people.
- Principals and teachers who take bullying seriously and act immediately.
- Help from SNAs – such as time out from classes.
- Guidance counsellors helping students.
- Parents and other family members who listen to and help young people.
- Being able to talk to youth workers.
- A youth advice centre e.g. a child version of Citizens Information

4. How we want people to help us

Depending on the problem and situation, we want to be able to choose from the following options:

| |
|---|
| For an adult helper to take responsibility to act on behalf of a young person |
| For the young person and an adult helper to act together |
| For the young person to act on their own behalf with the support of an adult helper |

Appendix D

ADVISORY GROUP MEMBERS

Professor Bruce Adamson, Former Children and Young People's Commissioner of Scotland.

Julie Ahern, Legal, Policy and Services Director, **Children's Rights Alliance (CRA)**.

Ruth Barry, solicitor (Children's Law) **Community Law & Mediation (CLM)**.

Noeline Blackwell, Human rights Lawyer, former Director of **Free Legal Advice Centres (FLAC)**.

Teresa Blake, Senior Counsel.

Alan D.P. Brady, BL and Adjunct Assistant Professor, **School of Law, Trinity College Dublin (TCD)**.

Dr Eavan Brady, Assistant Professor, **School of Social Work and Social Policy, Trinity College Dublin (TCD)**.

Dr Maria Corbett, Chief Executive of the **Child Law Project**.

Catherine Cosgrave, Managing Solicitor, **Immigrant Council of Ireland (ICI)**.

Dr. Cliona de Bháilís, **Centre for Disability Law and Policy (CDLP)**.

Paddy Kelly, Director, **Children's Law Centre Belfast (CLC)**.

Professor Ursula Kilkelly, **University College Cork (UCC)**.

Dr. Lindsey Liston, Lecturer TUS Midwest, Board Member **Community Law & Mediation (CLM)**.

Sinéad Lucey, Managing Solicitor, **Free Legal Advice Centres (FLAC)**.

Michael Lynn, Senior Counsel.

John McDaid, former Chief Executive, **Legal Aid Board**.

Gareth Noble Partner, **KOD Lyons Solicitors**.

Anne O'Donnell, independent child rights, training, and facilitation consultant

Siobhán O'Dwyer, CEO of **Youth Advocate Programmes Ireland (YAP)**.

Leo Ratledge, Co-Director of the **Child Rights International Network (CRIN)**.

Rose Wall, former CEO, **Community Law & Mediation (CLM)**.

Yvonne Woods, Communications and Campaigns Manager with **Dublin Rape Crisis Centre**.

Appendix F

STAKEHOLDERS/ ORGANISATIONS INTERVIEWED

Paul Dornan, Solicitor, Ballymun Community Law Centre (BCLC).

Ruth Barry, Solicitor (Children's Law), **Community Law and Mediation (CLM).**

Dr. Samantha Morgan-Williams, **Traveller Justice and Equality Project University College Cork (UCC).**

Derval McDonagh, CEO, **Inclusion Ireland.**

Neil Forsyth, Head of Youth Services, **Focus Ireland.**

Naomi Basdeo, Youth Worker, **Foróige.**

Alan D.P. Brady, BL and Adjunct Assistant Professor, School of Law, Trinity College Dublin (TCD).

Micheal Lynn, Senior Counsel.

Professor Gerry Whyte, Adjunct Associate Professor Trinity College Dublin (TCD)

Noeline Blackwell, Former Director General, Free Legal Advice Centres (FLAC).

Deirdre Malone (Director) and Rebecca Keatinge (Head of Monitoring and Compliance and formerly Senior Solicitor **Irish Human Rights and Equality Commission (IHREC).**

Nuala Ward, Director of Investigations, Dalila Pinto and Sarah Groarke, Marianne Joyce, (Policy Officers) **Ombudsman for Children's Office (OCO).**

Eilís Barry, Chief Executive and Sinéad Lucey, Managing Solicitor, **Free Legal Advice Centres (FLAC).**

Paddy Kelly, Director, **Children's Law Centre, Belfast (CLC).**

Tanya Ward, CEO and Julie Ahern, Head of Legal, Policy and Services, Children's Rights Alliance (CRA).

Katie Mannion, Managing Solicitor, Irish Refugee Council (IRC).

Catherine Cosgrave, Managing Solicitor, **Immigrant Council of Ireland (ICI).**

Kate Heffernan, Solicitor and Adam Boyle, Solicitor **Mercy Law Resource Centre (MLRC).**





Endnotes

1. J Beqiraj and L McNamara, Children and Access to Justice: National Practices, International Challenges (Bingham Centre for the Rule of Law Report 02/2016), International Bar Association, October 2016, p.4.
2. Kilkelly et al., The Unmet legal need of Children and Young People in Ireland, 2016, University College Cork (unpublished).
3. Law Centre for Children and Young People and Children's Rights Alliance, Making Rights Real for Children: A Children's Rights Audit of Irish Law (2015).
4. Information and documentation from LCCYP provided by Catherine Cosgrave, former Director of LCCYP. Consideration was also given to the changing landscape in relation to pro bono legal services, particularly the Public Interest Law Alliance at that time. Further information in Chapter 5 of this report
5. The Advisory Board for this Report includes the key actors involved in this previous initiative who have been generous with their expertise and have shared documents and papers from the previous centre.
6. In June 2022, the Minister for Justice in Ireland announced the establishment of a Civil Legal Aid Review Group. This followed calls from Free Legal Advice Centres (FLAC) together with 44 NGOs in Ireland to establish a comprehensive review of civil legal aid system which has not been reviewed in the 40 years since it was introduced.
7. In January 2021, the former Chief Justice of Ireland established a working group on access to justice and this work has been continued by the current Chief Justice, with the focus on civil legal aid since the announcement of the review.
8. Kilkelly U. et al Unmet Legal Need of Children and Young People in Ireland, (2016), University College Cork (unpublished).. The study referenced the following broad definition of legal need: "A legal matter experienced by an individual that raises legal issues, whether or not it is recognised by the respondent as being 'legal' and whether or not any action taken by the respondent to deal with the event involved the use of any part of the civil justice system." H. Genn, *Paths to Justice: What People Do and Think about Going to Law* (Oxford and Oregon: Hart Publishing, 1999), p. 12.
9. Ibid, p.3.
10. In terms of unmet legal need, the Unmet Legal Need of Children and Young People in Ireland (2016) report examined the ability of children and young people to: obtain legal information, advice, advocacy and representation; access non-legal advocacy and support services; access both judicial and non-judicial remedies, including complaints mechanisms; and participate effectively in the legal system.
11. CLM adopts the definition used by Ballymun Community Law Centre in the context of a legal needs survey carried out at the time of their establishment. "This encompasses empowerment to first identify that they have a legal problem, finding a satisfactory non-legal solution to their problem should they so wish, information to pursue that option and finally, where appropriate, obtain legal advice and representation." See Community Consultation Report, Unmet Legal Need in Limerick, prepared by CLM (2013), p.9. See also Law from a Community Perspective; Unmet Legal Need in Ballymun. Research commissioned by the Ballymun Community Law Centre, 2005.
12. Professor Pleasence advocates for a 'bottom-up' approach to how ordinary people experience these problems and how they realistically interact and access the formal legal processes available to them. See Conference Report, Civil Legal Review: An opportunity to develop a model system in Ireland Conference, Dublin Castle 24th - 25th February 2023, p. 47.
13. Ibid, p.64. See also: Clements, L, *Clustered Injustice and the Level Green*, (2020), Legal Action Group.
14. Ibid.
15. The decision-making tool was authored by Shauneen Lambe and Aoife Nolan, drawing on the research of the Advancing Child Rights Strategic Litigation (ACRiSL) project. See www.acrisl.org.
16. Ibid. The project does not advocate a 'one-size-fits-all' approach to CRSL but rather recognises the importance of context and of evaluating concrete experiences so that CRSL practice can move beyond abstract rights-framing to reality.
17. The use of the terms 'children' and 'young people' in this Report both refer to persons under the age of eighteen.
18. National Framework for Children and Young People's Participation in Decision-Making, Department of Children Equality, Disability, Integration and Youth, (2021).
19. Lundy, L., 'Voice' is not enough: conceptualising Article 12 of the United Nations Convention on the Rights of the Child (2007) 33(6) British Educational Research Journal p. 927.
20. The Lundy Model focuses on four elements: Space, Voice, Audience, Influence. Firstly, children and young people must be given safe, inclusive opportunities to form and express their views (space). Secondly, children and young people must be facilitated to express their views (voice). Thirdly, the views must be listened to (audience). Fourthly, the views must be acted upon (influence).
21. CLM also deals with legal issues related to children turning 18 and often ageing out of services or not having a good transition to adult services, in addition to the difficult legal issues a very young adult must navigate if without parental support. However, the risks of including young people over 18 with children in the same consultation were discussed and given the diverse range of needs the young people were likely to have it was decided that this would not be good practice.
22. See Appendix D.
23. Each organisation was asked to ensure that the young people were accompanied on the day and that there was support available from the link organisation should any child be in distress, or a difficult issue arises for a child.

24. The organisations approached young people they supported to explain the project. If a young person was interested in taking part in the advisory group, there was an information sheet for their parents/guardians.
25. See Appendix D
26. The venue and space for the meeting was very important as children were coming from different parts of Dublin and outside Dublin and were arriving by different modes of transport. We also wanted a child friendly environment where children would feel comfortable and one which was suited to the activities and methodology planned.
27. Several such law centres were consulted, specifically Community Law & Mediation (CLM), Ballymun Community Law Centre (BCLC), Mercy Law Resource Centre (MLRC), Immigrant Council of Ireland (ICI), the Irish Refugee Council (IRC) and the Free Legal Advice Centres (FLAC). CLM houses the Centre for Environmental Justice and is represented on the Advisory Group of the research. FLAC also houses the Traveller Legal Service and the Public Interest Law Alliance (PILA) and is represented on the Advisory Group of the research. Although not an independent law centre, we also included the Traveller Justice and Equality Project in UCC.
28. National Children's Strategy: Our Children – Their Lives (Government Publications, (2000)).
29. Forde, L. and Kilkelly, U. (2021) Incorporating the CRC in Ireland, in Kilkelly, U., Lundy, L. and Byrne, B. (eds.) Incorporating the UN Convention on the Rights of the Child into National Law, Cambridge: UK: Intersentia, (2021), p. 281.
30. See for example, Child and Family Agency and M.L. and Orla Ryan v. G. [2019] IECA 109, para. 16, D.P.P. v. T.C. [2017] IEDC 07; D.P.P. v. A.B. [2017] IEDC 12.
31. Better Outcomes, Brighter Futures: The national policy framework for children and young people 2014-2020, Department of Children and Youth Affairs, (2014).
32. National Strategy on Children and Young People's Participation in Decision-Making 2015-2020, Department of Children and Youth Affairs, (2015).
33. Forde, L., Kilkelly, U. Kelleher, D. and Lundy, L. The Right of Children to Participate in Public Decision-Making Processes, (2020) Save the Children International, p.13.
34. Ibid.
35. Department of Children, Equality, Disability, Integration and Youth, (2023).
36. The Framework considered consultations Government has done with children and young people in recent years on a range of issues, and with specific vulnerable groups of children. The framework includes improvements to further enable direct participation by children and young people and commits to developing a detailed Cross Government Action Plan for Participation, led by DCEDIY, to progress the high-level actions set out in the framework document.
37. Young Ireland - National Policy Framework for Children and Young People 2023-2028, Department of Children, Equality, Disability, Integration and Youth, (2023).
38. Forde, L. and Kilkelly, U. Incorporating the CRC in Ireland, in Kilkelly, U., Lundy, L. and Byrne, B. (eds.) Incorporating the UN Convention on the Rights of the Child into National Law, Cambridge: UK: Intersentia, (2021), p.285.
39. There has been significant research and literature on this issue. Eg. O'Mahony, C., O'Driscoll, L. The Voice of the Child in Private Family Law Proceedings: A Comparative Review, (2023). Detailed recommendations have been made in the Special Rapporteur Reports over many years
40. Daly, A., The Judicial Interview in Cases on Children's Best Interests: Lessons for Ireland, (2017), 20(3) Irish Journal of Family Law, p.66.
41. Recommendations include that Voice of the Child reports would be commissioned from assessors on an expert panel, the development of a Voice of the Child report template, the development of a professional diploma for the role of Children's Court Advocate, establishing the Children's Court Advocate Pilot Project and recommendations in relation to how Voice of the Child reports are funded. Department of Justice, Review of the Role of Expert Report in the Family Law Process, (2024).
42. Minister McEntee passes historic legislation to reform the Family Courts System (2024) gov.ie. Available at: <https://www.gov.ie/en/press-release/2c31e-minister-mcentee-passes-historic-legislation-to-reform-the-family-courts-system/> (Accessed: 12 February 2025).
43. Funding for pilot project to support voice of the children (2024). Available at: <https://www.gov.ie/en/news/faf60-funding-for-pilot-project-to-support-voice-of-children/> (Accessed: 12 February 2025). See also Ombudsman for Children's Office, Child Centred Justice Support for child defendants in the Irish court system (April 2025). [OCO-Child-Centred-Justice-Report-1.pdf](#)
44. Roderick O'Gorman, Foreword to Young Ireland: National Policy Framework for Children and Young People, Department of Children, Equality, Disability, Integration and Youth, p.vii.
45. On 1 August 2023, the Taoiseach published a two-and-a-half-year Programme Plan on Child Poverty and Well-being: From Poverty to Potential: A Programme for Child Poverty and Well-being. This plan focuses on six key priorities: income supports and joblessness; early learning and childcare; reducing the cost of education; family homelessness; consolidating and integrating public health, family and parental support and well-being services; and enhancing participation in culture, arts and sport for children and young people affected by poverty.
46. Smyth, E., The dynamics of poverty: understanding the impact on child outcomes, Cross-Government Network on Child Poverty and Wellbeing, Presentation to Cross-Government Network on Child Poverty and Child Well-being, (October 19 2023).

47. See further Nolan, A., *Children's Socio-Economic Rights, Democracy and the Courts*, Oxford, (2011, Hart Publishing), p12-13.
48. Liefwaard, T. Access to Justice for Children: Towards a Specific Research and Implementation Agenda. *The International Journal of Children's Rights*, 27(2), 2019, pp.195- 227.
49. European Commission: Directorate-General for Justice and Consumers, University College Cork Child Law Clinic, Kennan, N. and Kilkelly, U., *Children's involvement in criminal, civil and administrative judicial proceedings in the 28 Member States of the EU – Policy brief*, Publications Office, 2015, <https://data.europa.eu/doi/10.2838/450749>, p. 33
50. Child Rights International Network (CRIN), *Rights, Remedies & Representation: Global Report on Access to Justice for Children*, p.7.
51. The Solicitor's Guide to Professional Conduct states that solicitors may accept instructions from a child if they have the necessary training and expertise in this field and the child is of an age and understanding to instruct. It further states that a solicitor's role is to provide independent representation and advice to the child and that the solicitor must continually assess the child's competence to give instructions. See, Law Society of Ireland, *The Solicitor's Guide to Professional Conduct* (4th Edition, 2022), p.178.
52. This is the term used in Ireland for a person who voluntarily helps a minor or someone lacking legal capacity, particularly by filing a lawsuit. Also known as 'litigation friend' or 'tutor' in other common law jurisdictions. See Child Rights International Network (CRIN), *Rights, Remedies & Representation: Global Report on Access to Justice for Children*.
53. Daly, A., *Assessing Children's Capacity*, *International journal of children's rights* 28 (2020) p.471-499. "Although it may not necessarily be possible objectively and precisely to assess children's capacity, insisting on understanding capacity through a children's rights lens will at least prompt challenging questions which get to the heart of what it is to respect children as equals", at p.494.
54. Kilkelly et al., *The Unmet legal need of Children and Young People in Ireland*, (2016), University College Cork.
55. The study noted that the data reviewed does not provide an insight into those with a legal need who do not act or who might not be aware of how to seek legal assistance or redress.
56. Kilkelly et al., *The Unmet legal need of Children and Young People in Ireland*, 2016, University College Cork, p.46-49.
57. *Ibid*, p.51.
58. Emerson, L., Lloyd, K., Lundy, L., Orr, K., & Weaver, E., *The legal needs of children and young people in Northern Ireland: the views of young people and adult stakeholders*, (2014), Queens University Belfast.
59. *Ibid*. The study identified specific needs as including: accurate assessment of competence; appropriate communication skills for adults engaging with children and young people; the recognition of children as rights-holders with the particular right to have their views sought, listened to and taken seriously; adequate time for cases so that meaningful consultation can occur; need for legal specialism in relation to the issues faced by children and young people.
60. Kilkelly et al., *The Unmet legal need of Children and Young People in Ireland*, (unpublished, 2016), University College Cork, p. 35.
61. Kilkelly U., *Barriers to the Realisation of Children's Rights in Ireland* (2007) University College Cork, (Dublin: Ombudsman for Children).
62. U. Kilkelly, *The Children's Court: A Children's Rights Audit* (Cork: University College Cork, 2005).
63. Carroll J. and Meehan E., *The Children Court: A National Study*, (Dublin: Association for Criminal Justice Research and Development Ltd., 2007).
64. See *Key Characteristics of Young People in Detention Reports from 2017, 2018 and 2019*. Published on the website of Oberstown Children Detention Campus. See also: Hayes J.M., and O'Reilly, G., *Emotional Intelligence, Mental Health and Juvenile Delinquency* (Cork: Juvenile Mental Health Matters, 2007).
65. Parkes, A., Shore, C., O'Mahony, C., and Burns, K., *The right of the child to be heard? Professional experiences of child care proceedings in the Irish District Court, Child and Family Law Quarterly*, Vol 27, No 4, (2015). See also Corbett, M., and Coulter, C., *Ripe for Reform: An Analytical Review of Three Years of Court Reporting on Child Care Proceedings*, (2021) Child Law Reporting Project (Commissioned by the Department of Children, Equality, Disability, Integration and Youth) See www.childlawproject.ie.
66. U. Kilkelly and L. Forde, *Children's Rights and Police Questioning: A Qualitative Study of Children's Experiences of being interviewed by the Garda Síochána*, (2020) Centre for Children's Rights and Family Law School of Law University College Cork.
67. Kline, J. Flynn, E., *Access to Justice for Children with Cognitive Disabilities*, *Ireland Country Report*. (2015) Centre for Disability Law & Policy, National University of Ireland Galway, p.4.
68. *Access to Justice: Implementation of Article 13 of the UN Convention on the Rights of Persons with Disabilities*, Irish Human Rights and Equality Commission, December 2024.
69. O' Mahony, C., *Access to Justice: A Baseline Study of Article 13 of the UN Convention on the Rights of Persons with Disabilities*, (2024).
70. *Access to Justice: Implementation of Article 13 of the UN Convention on the Rights of Persons with Disabilities*, Irish Human Rights and Equality Commission, December 2024. p.10.

71. Ibid, p.11.
72. Ibid, p.33.
73. A sample of relevant publications by the OCO, IHREC, Children's Rights Alliance and others are referenced in Appendix B.
74. Law Centre for Children and Young People, Children's Rights Alliance, Making Rights Real for Children: A Children's Rights Audit of Irish Law (2015). Each chapter was authored by a legal expert in their field and was peer reviewed. The chapters covered non-discrimination and equality; access to justice and decision making; guardianship, access and custody; health and healthcare (including separate spotlights on consent to medical treatment and on mental health); welfare and material deprivation; education, play and leisure; youth justice; immigration and asylum law and child care law.
75. Kilkelly, U., A Children's Rights Analysis of Investigations (2011), OCO.
76. A 2017 OCO report raises huge concerns about the serious and ongoing violations of the rights of children waiting for scoliosis treatment. See Ombudsman for Children's Office, Waiting for Scoliosis Treatment: A Children's Rights Issue What has changed for children? (2017). An investigation was published by the OCO into the living conditions on a Local Authority run halting site, where 66 children and their families were living, with a follow-up report in December 2022. See Ombudsman for Children's Office, No End in Site: An investigation into the living conditions of children living on a local authority site (2021). Another Report highlighted major deficiencies with how the HSE Assessment of Needs (AON) process is working for children with long waiting lists to receive their assessments, and significant delays in accessing the services they need from the Community Disability Network Teams. See Ombudsman for Children's Office, Unmet Needs: A report on the challenges faced by children in Ireland who require an assessment of their needs OCO, (2020). See also: Ombudsman for Children's Office Nowhere to Turn: Children with Disabilities Left with No Support. (2023).
77. Ombudsman for Children's Office, Uncertain Times: Annual Report 2023 (2024).
78. O'Mahony, C (2020), Annual Report of the Special Rapporteur on Child Protection, p.8-9. Joint Oireachtas Committee on Children and Youth Affairs, Report on the Impact of Homelessness on Children (November 2019) at pp 11-13, Halpenny AM., Keogh A and Gilligan R, A Place for Children? Children in Families Living in Emergency Accommodation: The Perspectives of Children, Parents and Professionals (2002), Royal College of Physicians of Ireland, The Impact of Homelessness and Inadequate Housing on Children's Health (2019), Ombudsman for Children's Office, No Place Like Home (2019). Savage, M., Excluded and Left Behind: The Lived Experience of Long-Term Family Homelessness on Minority Ethnic Families and the Effects on Their Children. (2024), Mercy Law Resource Centre.
79. Reports of Child Law Project are available at <https://www.childlawproject.ie/>. The project has published a number of reports, including a study of ten exceptionally lengthy and complex cases, attempting to identify factors that led to them becoming so prolonged and making recommendations. See Coulter C., An Examination of Lengthy, Contested and Complex Child Protection Cases in the District Court, Child Law Project (2018).
80. In particular, the reports highlight lack of availability of suitable placements for children with complex problems and needs, the prevalence of addiction and mental health problems among families in child protection proceedings.
81. The reports of the Child Protection Rapporteur are published on the website of the Department of Children and Youth Affairs. Dr Geoffrey Shannon held the post from 2006 to 2019. He was succeeded in 2019 by Dr Conor O'Mahony who held the post until 2022. The current Rapporteur is Caoilfhionn Gallagher KC, appointed in 2023.
82. O'Mahony, Annual Report of the Special Rapporteur on Child Protection, (2022) p.64. O'Mahony points out that this is an issue repeatedly highlighted by the National Review Panel which investigate cases where a death of a child has occurred while under State care.
83. 'Falling Behind: The Ombudsman of Children's Office Annual Report 2022' (2023).
84. Such as the establishment of the Barnahus/Onehouse model for meeting the needs of victims of sexual abuse or assaults, the establishment of specialist family courts, as well as current reform of the guardian ad litem system.
85. For example, worsening problems in relation to child homelessness, the under-resourcing of child and adolescent mental health services (CAMHS), concerns regarding the effectiveness of Ireland's response to child trafficking as well as areas where Government departed from international children's rights law in new policy or legislative developments, such as the omission of an individual complaints mechanism from the Online Safety and Media Regulation Bill 2022 and the decision not to raise the minimum age of criminal responsibility. See O'Mahony, C., Annual Report of the Special Rapporteur on Child Protection, (2022).
86. O'Mahony, C., Annual Report of the Special Rapporteur on Child Protection, (2022), p.33.
87. J Beqiraj and L McNamara, Children and Access to Justice: National Practices, International Challenges (Bingham Centre for the Rule of Law Report 02/2016), International Bar Association, October 2016, p.4.
88. Committee on the Rights of the Child, Concept Note: General Comment on Children's Rights to Access to Justice and Effective Remedies, 2024.
89. CRC Committee, General Comment No. 5 General Measures of Implementation of the Convention on the Rights of the Child, (2004), UN Doc. CRC/GC/2003/, para 24.
90. Article 12 states that children who are capable of forming a view have the right to express these views freely and that these views must be given due consideration, according to the age and understanding of the child.

91. In accordance with Article 3, in all actions concerning children undertaken by courts of law, the best interests of the child shall be a primary consideration.
92. In accordance with Article 27, no child shall be deprived of liberty unlawfully or arbitrarily. Children deprived of liberty have the right to legal assistance and to challenge their detention.
93. In accordance with Article 39, victims of violence, torture or armed conflict have the right to physical and psychological recovery and social reintegration.
94. In accordance with Article 40, every child accused of or convicted of breaking the law has the right to be treated in a manner that safeguards their sense of dignity and worth.
95. CRC Committee: General Comment No. 5: General measures of implementation for the Convention on the Rights of the Child (2003), UN Doc. CRC/GC/2003/5.
96. CRC Committee, Concept Note: General Comment on Children's Rights to Access to Justice and Effective Remedies, February 2024.
97. See CRC Committee, General Comment No. 5: General measures of implementation for the Convention on the Rights of the Child (2003), UN Doc. CRC/GC/2003/5; General Comment No. 6 on the Treatment of unaccompanied and separated children outside their country of origin (2005), UN Doc. CRC/GC/2005/6; General Comment No. 10 on Children's rights in juvenile justice (2007), UN Doc. CRC/GC/2007/10; and General Comment No. 12: The Right of the Child to be Heard (2009), UN Doc. CRC/GC/2009/12.
98. CRC Committee, Concept Note: General Comment on Children's Rights to Access to Justice and Effective Remedies, February 2024. In February 2024, the CRC invited submissions to this process which it states, "provides the opportunity for the Committee to refocus the attention of States towards building better access to justice and remedies for children."
99. Ibid
100. Examples include *T. v. The United Kingdom*, 24724/94, 16 December 1999; *V. v. The United Kingdom*, 24888/94, 16 December 1999; and *S.C. v. The United Kingdom*, 60958/00, 10 November 2004.
101. *Sahin v Germany* (2003) 36 EHRR 765.
102. See Freeman, M., *The Child Perspective in the Context of the Hague Convention*, EU Policy Department for Citizens Rights and Constitutional Affairs, 2020, "Considerable global concern has existed for some time among family justice professionals about returning mature children who have been wrongfully removed or retained who have expressed objections to their return under Article 13 of the Convention" p.6.
103. Phelan, S, "Access to Justice and Decision Making in Making Rights Real for Children", *Making Rights Real for Children: A Children's Rights Audit of Irish Law*, (2015), p.27, Children's Rights Alliance and Law Centre for Children and Young People.
104. Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice, (2010), Strasbourg: Council of Europe. Child-friendly justice is defined as: justice systems which guarantee the respect and the effective implementation of all children's rights at the highest attainable level.... It is, in particular, justice that is accessible, age appropriate, speedy, diligent, adapted to and focused on the needs and rights of the child, respecting the rights of the child including the rights to due process, to participate in and to understand the proceedings, to respect for private and family life and to integrity and dignity. (Ibid, para. IIc)
105. The COE Guidelines were drafted through a consultative process with children, integrating the views of children into the Guidelines. This is the first time that the Council of Europe involved children in drafting a legal instrument. See Council of Europe, Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice, Explanatory memorandum, 2010. See also Ursula Kilkelly, *Listening to Children About Justice: Report of the Council of Europe Consultation with Children on Child-Friendly Justice*, 2010, Council of Europe Directorate General of Human Rights and Legal Affairs.
106. OECD (2023), "OECD Child-Friendly Justice Framework: Building a people-centred justice system", OECD Public Governance Policy Papers, No. 41, OECD Publishing, Paris, <https://doi.org/10.1787/6a60970e-en>.
107. Ibid, p.9.
108. [Peace, justice and strong institutions - United Nations Sustainable Development](#)
109. United Nations, 2015: [Transforming our World: The 2030 Agenda for Sustainable Development | Department of Economic and Social Affairs](#)
110. Recommendation of the OECD Council on Access to Justice and People-Centred Justice Systems OECD/LEGAL/0498.
111. Held on 9 May 2024. Discussion questions centred on the main barriers to meeting the legal needs of children and young people within existing services and structures, as well as how a new service could best address those barriers and how it could ensure it used a child-centre approach.
112. Such general barriers include poverty, costs or fees, lack of knowledge and inability to understand complex or technical laws and procedures. Low-income families are often not aware that their issue could have a legal remedy. There are also cultural barriers by the law can be an intimidating environment and particularly in communities where there is already a distrust of authorities. Interview with Stakeholder 17.
113. Interview with Stakeholder 17.

114. Interview with Stakeholder 17.
115. Advisory Group discussion, 9 May 2024.
116. Interview with Stakeholder 9.
117. Advisory Group discussion, 9 May 2024.
118. Interview with Stakeholder 13.
119. Interviews with Stakeholders 13, 14 and 17 and Advisory Group discussion, 9 May 2024.
120. Advisory Group discussion, 9 May 2024.
121. Interview with Stakeholder 12.
122. Interview with stakeholder 5.
123. Interview with Stakeholder 14.
124. Interview with Stakeholder 9.
125. Interview with Stakeholder 9.
126. Interview with Stakeholder 1.
127. Interview with Stakeholder 12.
128. See above Chapter 2: Background and Context, sub-section Children in Irish Law and Policy.
129. Interview with Stakeholder 2.
130. Interview with Stakeholder 1.
131. Interviews with Stakeholders 1 and 2.
132. Interview with Stakeholder 2.
133. Interview with Stakeholder 1.
134. Interview with Stakeholder 2.
135. Interview with Stakeholder 10.
136. Interview with Stakeholder 14.
137. Interview with Stakeholder 13.
138. Interview with Stakeholder 2.
139. Interview with Stakeholder 2.
140. Interview with Stakeholder 3.
141. Interview with Stakeholder 5.
142. Interview with Stakeholder 12.
143. Discussion with Advisory Group, 9 May 2024.
144. Interview with Stakeholder 1.
145. Interview with Stakeholder 14.
146. Discussion with Advisory Group, 9 May 2024.
147. See Burns, E., De Bhailís, C., Eilionóir, E., Exploring the Need for a Representative Advocacy Service for Children with Intellectual Disabilities in Ireland, Centre for Disability Law and Policy, 2025 (Commissioned by Inclusion Ireland). See also: Amplifying Voices: Enshrining the Right to Independent Advocacy, EPIC (Empowering People in Care) (2023).
148. Discussion with Advisory Group, 9 May 2024.
149. Interview with Stakeholder 10.
150. Interview with Stakeholder 13.
151. Interview with Stakeholder 13.
152. Interview with Stakeholder 13.
153. Interview with Stakeholder 14.
154. Interview with Stakeholders 12 and 13.
155. Interview with Stakeholders 3, 8 and 12.
156. Interview with Stakeholder 12.
157. Interview with Stakeholders 1,2,5,6,7,8 and 9.
158. Interview with Stakeholder 5.
159. Interview with Stakeholders 1,2,5,6,7,8 and 9, 15, 16 and 17.
160. Interview with Stakeholder 5.
161. Interview with Stakeholder 6. Managing expectations is also highlighted by the ACRI SL project as part of a children's rights-approach in line with the obligation to avoid harm in accordance with Articles 19 and 39 UNCRC.
162. Interview with Stakeholder 15.
163. Interview with Stakeholder 15. Under the current operational provisions of the Child Care Act 1991 (as amended), the power to appoint a solicitor and a guardian ad litem (GAL) are mutually exclusive. The new regulatory system for GALs under the Child Care (Amendment) Act 2022 is welcome. This section merely highlights some relevant points which have arisen in the stakeholder consultation.

164. See Chapter 2 Background and Context: Children in Irish Law and Policy for further discussion.
165. Interview with Stakeholder 2. See also European Union Agency for Fundamental Rights, *Child-friendly justice perspectives and experiences of professionals on children's participation in civil and criminal judicial proceedings in 10 EU Member States*, (2015), p.7.
166. Interview with Stakeholder 17.
167. Interview with Stakeholder 17.
168. Interview with Stakeholder 17. See also Whyte and Casey, *Social Inclusion and the Legal System: Public Interest Law in Ireland* (3rd ed., 2025, Clarus Press), paras.7.132-152.
169. Interview with Stakeholder 17.
170. Interview with Stakeholder 17. See also Whyte and Casey, *Social Inclusion and the Legal System: Public Interest Law in Ireland* (3rd ed., 2025, Clarus Press)
171. Interview with Stakeholder 17. See also Whyte and Casey, *Social Inclusion and the Legal System: Public Interest Law in Ireland* (3rd ed., 2025, Clarus Press), paras.7, p.64-8.
172. Interview with Stakeholder 18.
173. Interview with Stakeholder 6.
174. Interview with Stakeholder 2.
175. Interview with Stakeholder 8.
176. Interview with Stakeholder 6.
177. Interviews with Stakeholders 7, 8 and 18.
178. Interview with Stakeholder 10.
179. Interview with Stakeholder 8.
180. Interview with Stakeholders 1,2, 6 and 7.
181. Lack of guidelines for legal practitioners on ensuring the views of children are heard in family, asylum and residence applications was raised in an OCO report in this issue. OCO, *Pathways to Irish Citizenship: Separated, Stateless, Asylum Seeking and Undocumented Children*, (2020).
182. Interview with Stakeholder 7. See further: Mercy Law Resource Centre, *Excluded and Left Behind: The Lived Experience of Long-Term Family Homelessness on Minority Ethnic Families and the Effects on Their Children*, (2024).
183. Interview with Stakeholder 12.
184. Interviews with Stakeholders 5,7 and 13.
185. Interview with Stakeholder 18.
186. Interview with Stakeholder 18.
187. Interview with Stakeholder 3.
188. Interview with Stakeholder 16.
189. Interview with Stakeholder 15.
190. Interview with Stakeholder 16.
191. Interview with Stakeholder 9.
192. Interview with Stakeholder 3.
193. Interview with Stakeholder 18.
194. Interview with Stakeholder 3.
195. OCO, *Annual Report 2023: Uncertain Times*, (2024), p.27.
196. Interview with Stakeholder 2.
197. Legal Aid Board, *Annual Report 2022*, (2023), p.25- 26. Note, FLAC point out that the data provided by the Legal Aid Board in its annual reports is very general and lacks definitions and specifics in terms of the categories and the sub-categories. Notwithstanding this obstacle, an analysis of two recent LAB Annual Reports, they conclude that the perception that civil legal aid in Ireland is primarily a family law service is supported by the data presented. FLAC, *Submission to the Review of the Civil Legal Aid Scheme*, (2023), p.59.
198. Legal Aid Board, *Annual Report 2022 (2023)* p.32.
199. *Ibid* p.22
200. See in particular the work of FLAC, which has campaigned since its inception for improvements in access to justice and to civil legal aid. See in particular FLAC, *Submission to the Review of the Civil Legal Aid Scheme* (2023).
201. Areas excluded include employment disputes, equality claims, social welfare appeals, and environmental matters. There is a lack of clarity about what services the Legal Aid Board provides in relation to housing and homelessness. Community Law & Mediation, *Submission on the Review of the Civil Legal Aid Scheme* (2023), p. 41.
202. FLAC, *Submission to the Review of the Civil Legal Aid Scheme* (2023), p43.
203. In response to questions for this Report, the Legal Aid Board stated that many stakeholders including CLM have contributed submissions to the Civil Legal Aid Review which included, amongst other matters, submissions on children's rights. At the time of publication of this Report, the review groups reports have not been published by the Government.

204. Ibid, p.38, referencing Organ, J., and Sigafoos, J. The Impact of LASPO on Routes to Justice, (2016).
205. The Law Society of Northern Ireland in association with Rocket Science, The Value of Legal Aid in Northern Ireland – Final Report, (2025), p.35.
206. See Whyte and Casey, Social Inclusion and the Legal System: Public Interest Law in Ireland (3rd ed., 2025, Clarus Press), paras.11.126-8.
207. Written reply to questions from Legal Aid Board.
208. Ibid.
209. Phelan, S. in Chapter 2 of Making Rights Real for Children: A Children’s Rights Audit of Irish Law, Children’s Rights Alliance/ Law Centre for Children and Young People, (2015), p. 28.
210. Written reply to questions from Legal Aid Board.
211. The importance of information and awareness raising as part of this service has been raised by many stakeholders and at the Access to Justice conference held as part of the Civil Legal Aid Review.
212. Guidelines on efficiency and effectiveness of legal aid schemes in the areas of civil and administrative law and Explanatory memorandum, European Committee on Legal Co-operation, (2021), p.7. See FLAC Submission to Civil Legal Aid Review p.98.
213. Committee on the Rights of the Child, General Comment No. 24’ (CRC/C/GC/24), para. 49.
214. Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice (Adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers’ Deputies), Guideline 37.
215. Ibid, Guideline 2.
216. Ibid, Guideline 38.
217. To note, the Office of the Ombudsman for Children is included given its remit to investigate complaints about the administrative decisions of public bodies and its broader remit to promote children’s rights. However, it does not have a remit in relation to legal advice or representation or to make third party interventions.
218. Remarks by Eilís Barry. See Conference Report: “The Chief Justice’s Working Group on Access to Justice Civil Legal Review: An opportunity to develop a model system in Ireland”, Dublin Castle 24th - 25th February 2023, p.77.
- 219.
220. See Appendix B for further information about the work of these organisations.
221. FLAC, Annual Report 2022 (2023) 17 FLAC also addresses social welfare issues affecting children and supports foster carers through legal workshops in collaboration with the Irish Foster Care Association to equip participants with the knowledge to navigate the legal system effectively, enhancing their ability to advocate for children in their care. See further FLAC Annual Report p.30.
222. For example, FLAC have taken cases around the ‘Summer provision’ scheme, an administrative programme where children with additional needs may access educational supports during the summer holidays. FLAC’s most recent annual report documents examples of such cases, such as a homeless Traveller couple and their four children who were provided with emergency accommodation after judicial review proceedings against a local authority settled in their favour.
223. O’Meara et al. v. Minister for Social Protection, and Attorney General [2024] I.E.S.C.1.
224. See further FLAC, Annual Report Targeted Action, Transformative Outcomes 2023, (2024).
225. See Appendix B for further information and sources.
226. Interview with Julie Ahern, Director of Legal, Policy and Services, Children’s Rights Alliance.
227. Irish Human Rights and Equality Commission, Annual Report 2022, (2023), p.51.
228. Information provided by IHREC -interview with Deirdre Malone, Director IHREC and Rebecca Keatinge, Solicitor, IHREC.
229. [See, for example, Commission Legally Assists Young Person in Disability Rights Claim - IHREC - Irish Human Rights and Equality Commission](#)
230. [Successful legal challenge leads to significant expansions in Junior and Leaving Certificate examination schemes - IHREC - Irish Human Rights and Equality Commission](#). Note: the Commission acknowledged the work of CLM and their strategic litigation that precipitated the change first at Leaving Certificate level.
231. This includes publishing special reports on critical issues such as delays in scoliosis surgeries for children, the conditions in Direct Provision for children seeking international protection. See further Chapter 2 of this report and Appendix B. See also OCO, Uncertain Times: Annual Report 2023, (2024) p.29.
232. OCO, Uncertain Times: Annual Report 2023, (2024), p.9
233. The OCO indicate that they do refer people to existing legal services such as the Legal Aid Board, or legal services provided within the NGO sector or to the Law Society of Ireland if their complaint would require a solicitor and is outside of the remit of the OCO. Interview with Nuala Ward, Head of Investigations, OCO, 1 July 2024.
234. See Annual Reports of the OCO, including their latest annual report Uncertain Times: Annual Report 2023, (2024).
235. See further Appendix B.
236. Ibid.

237. Such as the provision of staff to assist in FLAC's telephone information line; early legal advice and representation for asylum seekers; advice for victims of domestic violence who are representing themselves in family law proceedings; and representation for those experiencing or at risk of homelessness.
238. FLAC, Stakeholder Submission to Review of Civil Legal Aid Scheme, (2023), p.21.
239. IHREC, Access to Justice: Implementation of Article 13 of the UN Convention on the Rights of Persons with Disabilities, December 2024.
240. Burns, E., De Bhailís, C., Eilionóir, E., Exploring the Need for a Representative Advocacy Service for Children with Intellectual Disabilities in Ireland, Centre for Disability Law and Policy, 2025 (Commissioned by Inclusion Ireland).
241. In June 2024, CLM was awarded 2-year funding by CFI and the RTE Toy Show Appeal to extend their children's law work, allowing CLM to expand the legal advice clinics, providing additional child-friendly legal advice clinics and training each month. A Youth Advisory Group will also be established to inform the work and to inform the establishment of a dedicated children's law centre. Information provided by CLM.
242. Interview with CLM. Examples of strategic litigation enhancing children rights are also evident in the work of CLM. See examples at [Law Society of Ireland Gazette](#), "Mother's tribute to solicitor who took on son's case"; [dublinpeople.com/news/northsideeast/articles/2021/07/23/local-community-law-centre-welcomes-changes-to-eligibility-for-civil-legal-aid/](#); and 'I can't do it any more': Parents take primary school to WRC as gay son tormented by abuse and bullying | Irish Independent.
243. See EPIC, Impact Report 2022 (2023) for full details of the service and case studies. <https://www.epiconline.ie/library/epic-impact-report-2022/>. This partnership is funded by Tusla and offers outreach legal advice clinics to support young people in care.
244. The services provided through this collaboration include legal advice on a wide range of issues affecting children in care, such as placement stability, access to education, and health services, aftercare, and housing. Community Law & Mediation, 'Children's Law Hub', <https://communitylawandmediation.ie/our-services/childrens-law-hub/>. The main issues presenting in these clinics were domestic violence, guardianship, custody, access and family law. See EPIC, Impact Report 2022, (2023), p.19.
245. See CLM and ICI Submissions to Review of Civil Legal Aid Scheme 2023.
246. Ibid.
247. www.acrisl.org
248. This project is an international research collaboration which brought together eight partners from academia and advocacy in Africa, Europe and Asia and carried out extensive research on the theory and practice of child rights strategic litigation globally. The ACRiSL partners are the Centre for Child Law at the University of Pretoria, Child Rights International Network, the European Centre for Constitutional and Human Rights, the Follow-up programme of the UN Global Study on Children Deprived of Liberty based at the Global Campus of Human Rights, the Pedro Arrupe Institute of Human Rights, the University of Deusto, HRLN, and Impact – Law for Social Justice, with leadership provided by the University of Nottingham Human Rights Law Centre. The project formed part of the Global Campus and Right Livelihood Cooperation.
249. Liefwaard, T., Access to Justice for Children: Towards a Specific Research and Implementation Agenda. *The International Journal of Children's Rights*, 27(2), (2019), pp.195- 227.
250. Nolan, A. and Skelton, A., "The Case for Child Rights-Consistent Strategic Litigation Practice", *Human Rights Law Review*, (2022), 22, p.1–20.
251. A. Nolan, A. Skelton and K. Ozah, *Advancing Child Rights-Consistent Strategic Litigation Practice (ACRiSL)*, (2022).
252. Ibid, chapter 4. The key rights identified were: the right to be heard (Article 12); the right to freedom of expression: to seek, receive and impart information and ideas of all kinds (Article 13); The right to information: access to diverse sources of information is essential for children's well-being (Article 17); evolving capacities of children in the exercise of their rights (Article 5); freedom from discrimination of all kinds (Article 2); the right to protection from all forms of physical or mental violence, injury, abuse, neglect and exploitation (Article 19); Freedom from unlawful interference with their privacy (Article 16); the right to life, survival and developments (Article 6); the right to protection from exploitation and the right to recovery and reintegration for children who have suffered neglect, exploitation or abuse (Article 39).
253. Ibid, p.83.
254. See [Resources – ACRiSL](#).
255. Ibid; resources include a series of four toolkits about child rights strategic litigation and corresponding animations, made with the Child and Youth Advisory Group of the project, providing practical tips and ideas for children and practitioners. The four guides can be used by as empowerment tools to increase children's engagement in and understanding of strategic litigation, as well as by lawyers and others seeking to support children through the strategic litigation process.
256. The ACRiSL network is made up of academics, legal professionals, NGOs, IGOs, NHRIs and others interested in CRSL work from a wide range of perspectives and facilitates events and sharing of information about children's rights strategic litigation.
257. Guidelines of the Committee of Ministers of the Council of Europe on Child-Friendly Justice (2010) p.7-8.
258. Ibid pp. 7-8 and 23. See also UNCRC Committee General Comment No. 14 The Rights of the Child to Have His or Her Best Interests Taken as a Primary Consideration (2013) UN Doc CRC/C/GC/12 at p.19.

259. UNCRC Committee, General Comment No. 5 General Measures of Implementation for the Convention on the Rights of the Child (2003) UN Doc. CRC/GC/2003/5, p.13.
260. [IDEA Child Rights | University College Cork](#) Dr Conor O'Mahony from the School of Law and Dr Kenneth Burns from the School of Applied Social Studies. The project was led by University College Cork and co-founded by the Rights, Equality and Citizenship programme of the European Union. Videos and other resources from the project are archived on the project website. Resources included various tools and quick reference guides such as a child participation and advocacy tool and a tool providing practical suggestions and guidance on communicating with children in court. [Resources | University College Cork](#).
261. Ireland, Finland, Sweden, Estonia and Hungary.
262. <https://www.project-tale.org/>
263. See Burns, E., De Bhailís, C., Eilionóir, E., Exploring the Need for a Representative Advocacy Service for Children with Intellectual Disabilities in Ireland, Centre for Disability Law and Policy, (2025), (Commissioned by Inclusion Ireland).
264. See also Amplifying Voices: Enshrining the Right to Independent Advocacy, EPIC (Empowering People in Care) (2023)
265. Kilkelly, U., Barriers to the Realisation of Children's Rights in Ireland, Ombudsman for Children at p.174. Phelan recommends that consideration should be given to the establishment of a Child Advocacy Service to support children seeking to be heard in decision making processes and to provide useful support to children as vulnerable witnesses and as parties in criminal proceedings. See Chapter 2 in Children's Rights Alliance/Law Centre for Children and Young People, Making Rights Real for Children: A Children's Rights Audit of Irish Law. 2015.
266. See FLAC Submission to Civil Legal Aid Review (2023), at p.123-124. Also CLM & Others [Submission to the Review of the Civil Legal Aid Scheme - Community Law](#), eg at page 12. Irish Refugee Council's Independent Law Centre's early legal advice service is a good example of the effectiveness of this service in Ireland. (Irish Refugee Council, Early Legal Advice.
267. FLAC Submission to Civil Legal Aid Review (2023), at p.123-124. For instance, one study showed that 25% of individuals receiving early advice resolved their issues within 3-4 months, compared to 9 months for those who did not. Ipsos MORI and The Law Society, Analysis of the potential effects of early legal advice/intervention, (2017), p.2.
268. Ibid. See also Minnoch, C., What does 'early advice' actually mean? Might we be advocating for something we don't want? Legal Action Group (2019).
269. FLAC, Submission to Civil Legal Aid Review, (2023), p.128.
270. FLAC, Submission to Civil Legal Aid Review (2023), p.131.
271. FLAC, p.131, Liz Curran (2007), Ensuring Justice and Enhancing Human Rights: Improving Legal Aid Service Delivery to Reach Vulnerable and Disadvantaged People, p.68.
272. J Beqiraj and L McNamara, Children and Access to Justice: National Practices, International Challenges (Bingham Centre for the Rule of Law Report 02/2016), International Bar Association, October 2016, p. 2.
273. A. Nolan, A. Skelton and K. Ozah, 'Advancing Child Rights-Consistent Strategic Litigation Practice (ACRiSL, 2022). See www.acrisl.org.
274. Ibid, p.17.
275. A. Nolan, A. Skelton and K. Ozah, 'Advancing Child Rights-Consistent Strategic Litigation Practice (ACRiSL, 2022), p.91.
276. Interview with Paddy Kelly, Director, CLC on 23.04.24. For more information see CLC Annual Reports: [Annual Reports – Children's Law Centre](#), including Children's Law Centre, Annual Report 20223-24 (2024), p.27.
277. Ibid.
278. Ibid, p.107.
279. Ibid.
280. Interview with Paddy Kelly, Director of Children's Law Centre Belfast, on 23.04.24.
281. Just for Kids, Impact and Learning Report 2020-2021 [J4KL IMPACT-2021-DIGITAL.pdf](#)
282. The website of the Centre for Child Law Pretoria contains databases of caselaw, research papers and submissions as well as annual reports and other resources. See [Home - Centre For Child Law](#).
283. A. Nolan, A. Skelton and K. Ozah, Advancing Child Rights-Consistent Strategic Litigation Practice (ACRiSL), 2022, p.45.
284. Ibid, p.80.
285. Terre des hommes Lausanne Foundation. Policy Paper on Systemic child participation in justice. Global Initiative on Justice with Children, (2023), p.4.
286. Department of Children, Equality, Disability, Integration and Youth, (2023).
287. Ibid.
288. The decision-making tool was authored by Shauneen Lambe and Aoife Nolan, drawing on the research of the Advancing Child Rights Strategic Litigation (ACRiSL) project. See www.acrisl.org.
289. Ibid. The project does not advocate a 'one-size-fits-all' approach to CRSL but rather recognises the importance of context and of evaluating concrete experiences so that CRSL practice can move beyond abstract rights-framing to reality.



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