

# Looking to the future for unaccompanied minors in Ireland and Europe

4 December 2018 | Dublin





# Introduction



Alan Barrett, Dr Bryan McMahon (left to right)

*Drawing on the findings of the European Migration Network study **Approaches to unaccompanied minors following status determination in the EU plus Norway**, this conference provided an opportunity to discuss the longer-term prospects of unaccompanied minors in Ireland and elsewhere in Europe. This conference summary provides a short overview of all presentations provided on the day.*

All available conference presentations and related publications can be downloaded at [www.emn.ie](http://www.emn.ie).

## Opening

Alan Barrett, Economic and Social Research Institute | [Welcome address](#)

Dr Bryan McMahon, Former Chair, Working Group on Improvements to the Protection Process | [Keynote address](#)

# Keynote address



*Following a welcome to the conference by **Alan Barrett**, Director of the Economic and Social Research Institute, the keynote speech was given by **Dr Bryan McMahon**, former Chair of the Working Group to Report to Government on Improvements to the Protection Process including Direct Provision and Supports to Asylum Seekers.*

Dr Mc Mahon noted the relatively small scale of unaccompanied minors entering Ireland (175 in 2017), but stressed that this did not diminish the importance of appropriate supports for the unaccompanied minors who will have endured hardships and dislocation, including the trauma of war.

Dr McMahon noted that by and large the State has responded well to its international commitments. He outlined three factors which in his view impact on the nature of the task faced by the State, and may in some respects make it easier. Most unaccompanied minors presenting for assistance are in the 16 – 17 year category – this means that the State is dealing with a homogenous group of “older minors” and, second, it means that the State’s mandated obligations to these persons mostly extends to a period of two to three years. Thirdly, the arrivals under the government-led programmes under the Irish Refugee Protection Programme (Greece and Calais) may come from similar cultural backgrounds which may provide social and cultural supports which are not available for individual arrivals.

The presentation described the model of care which exists for unaccompanied minors, who are referred to Tusla, and cared for on the basis of an “equity of care” principle, i.e. on the same basis as Irish children in care. Dr McMahon commented that overall this system is a good one and compares well with other jurisdictions. He drew a contrast, however, with the situation when unaccompanied minors reach 18, and are transitioning out of Tusla care.

The presentation outlined a series of challenges which may be faced by unaccompanied minors who do not yet have an immigration status when they reach 18, and are moved to living in the adult environment of Direct

Provision accommodation. These include the possibility of sharing accommodation with adult strangers, living a long distance from a previous foster home, school and community and limited access to further education and training.

Dr McMahon acknowledged that efforts were being made to soften the transition from Tusla in education and other areas. However, he stated that it was his strongly held view that there should be new transition arrangements made for unaccompanied minors reaching the age of 18, so that the progress made by the unaccompanied minor while in care would not be lost. He referred to the specific recommendation of the Working Group on Improvements to the Protection Process in this regard.

Finally, Dr McMahon addressed the issue of when an international protection application should be made by/on behalf of the unaccompanied minor, noting the suggestion that many of the problems associated with transitioning from care could be addressed by the unaccompanied minors having their immigration status resolved before the age of 18. He said that the application must be made by the social worker together with the child, and there may be factors, clinical or otherwise, which may make the social worker hesitate in making such an application.

However, there are several questions in relation to the minor’s status including when an application should be made and the consequences of delaying such an application which should be considered in the context of any aftercare plan. If status is confirmed before the age of 18, it is to the advantage of the unaccompanied minor, for example in relation to access to education, training, employment and family reunification.

Dr McMahon noted that the Working Group on Improvements to the Protection Process did not reach a firm conclusion on this question, but had recommended that further work should be undertaken with regard to access to the protection process for unaccompanied minors.



# Session 1: Unaccompanied minors in the International Context



Samantha Arnold, Jyothi Kanics, Sarah Groarke, Maria Hennessy, Michele Clarke (left to right)

**Chair: Michele Clarke, Department of Children and Youth Affairs**

## Speakers

**Samantha Arnold and Sarah Groarke, EMN Ireland / Economic and Social Research Institute | [Approaches to unaccompanied minors following status determination: Ireland in an EU context](#)**

**Jyothi Kanics, Faculty of Law, University of Lucerne | [Promising practices for working with separated children and youth to secure comprehensive solutions](#)**

**Maria Hennessy, UNHCR Ireland - the UN Refugee Agency | [The best interests of the child and the protection system](#)**

# Approaches to unaccompanied minors following status determination: Ireland in an EU context



Samantha Arnold and Sarah Groarke, EMN Ireland/Economic and Social Research Institute

*The speakers presented the findings of the Irish national contribution to the 2018 EMN Study **Approaches to unaccompanied minors following status determination in the EU plus Norway**, and set these within an overall EU context, drawing on the findings of the EU-level EMN study.*

The presentation gave an overview of relevant international and EU legal instruments in relation to unaccompanied minors and outlined the scale of arrivals as a proportion of total asylum applications submitted by children/applicants under the age of 18 in the EU from 2014 -2017. Apart from 2015, where UAMs made up 25% of the total asylum applications lodged in the EU by children, the proportion of UAM applications was 15 – 16 %.

The top five countries of origin at EU-level:

- \* Afghanistan
- \* Syria
- \* Eritrea
- \* Iraq
- \* Somalia

The top five countries of destination in the EU were:

- \* Germany
- \* Sweden
- \* Italy
- \* Austria
- \* Hungary

Only 11% of applicants were girls and the age profile of male applicants was predominantly 16 – 17 years. The presentation pointed out the data needs that exist in relation to unaccompanied minors. Data in relation to unaccompanied minors not applying for asylum is unavailable or unreported by Member States, and different definitions adopted in Member States of unaccompanied minors (for example in the context of relocation) leads to inconsistencies in the data reported.

The presentation focussed on Ireland under six thematic headings from the Irish national report:

- \* data trends;
- \* pathways to status;
- \* care and aftercare;
- \* access to education;
- \* family reunification and
- \* return.

There was a small increase in the number of unaccompanied minors referred to Tusla over the period from 2010, with 175 referrals made in 2017.

Countries of origin have shifted over the period and the impact of the government led schemes under the Irish Refugee Protection Programme (IRPP) is apparent, with the top countries of origin in 2017 being:-

- \* Afghanistan
- \* Eritrea
- \* Iraq
- \* Syria
- \* Ethiopia

More than 50 per cent of referrals in 2017 were aged between 16 and 17, and there were more males, in line with EU trends.

**50% of referrals were aged between 16 and 17 and more were male**

Pathways to status include the Irish Refugee Protection Programme, making an international protection application or immigration registration under the Immigration Act 2004.

Most unaccompanied minors arriving under the IRPP have been granted (programme) refugee status on, or following, arrival. The majority of unaccompanied minors arrive spontaneously, however most international protection applications are not made until the applicant is approaching 18 years of age.

The Irish study found that immigration status is rarely applied for in practice, as Tusla does not consider it in the child's best interests as the child is under the care of the Child Care Act 1991.

The presentation noted the recommendation of the UN Committee on the Rights of the Child that Ireland should provide ensure clear and accessible formal procedures for granting immigration status for children in an irregular migration situation.

The presentation placed Ireland's provisions in relation to care, aftercare, education, family reunification and return in the context of other EU Member States. For example, Ireland's equity of care principle means that UAMs are placed in residential care, foster care or supported lodgings.

In most other Member States, UAMS are housed in specific UAM accommodation centres while, in eleven Member



# Approaches to unaccompanied minors following status determination: Ireland in an EU context

*continued...*

States, they are housed in designated UAM areas in general reception facilities. Ireland, along with ten other EU Member States and Norway, provide preparatory language classes, for attendance at school.

There is no EU guidance on aftercare. Ireland, along with eight other EU Member States, has specific measures in place for children transitioning out of care. However, the presentation highlighted challenges associated with UAMs in Ireland who do not have an immigration status, who move to direct provision accommodation as adults, including lack of certainty about the future. UAMs without status also do not have an automatic entitlement to free third level education.

Challenges are also faced in relation to family reunification by this group of over 18s (where the eligible family member entitlement is for spouse/partner and minor children), although the presentation noted the possibility of being reunited with parents and siblings and the vulnerability provision in the International Protection Act 2015.

The presentation outlined that there is a more restrictive definition of eligible family member for family reunification of minor protection beneficiaries in Ireland (parents and siblings under 18 under the International Protection Act 2015) than in other EU MS under the Family Reunification Directive. Half of EU Member States have a broader definition of eligible family member for unaccompanied minors. One of the conclusions of the Irish study was that the work of the Tusla Social Work Team for Separated Children Seeking Asylum (SWTSCSA) is increasingly focused on family reunification in Ireland, and that this poses challenges in terms of sourcing housing and supports for families.

Ireland, along with 11 other EU Member States and Norway, does not deport unaccompanied minors. It is possible that the Minister for Justice may wait to effect a deportation order until the minor has turned 18. The presentation noted the low uptake of assisted voluntary return by unaccompanied minors in Ireland.



Sarah Groarke, Samantha Arnold (left to right)

# Promising practices for working with separated children & youth to secure comprehensive solutions



Jyothi Kanics of the Faculty of Law, University of Lucerne

This presentation focussed on the need for a comprehensive rights based approach when working with separated children and youth with regard to the principles of the UN Convention on the Rights of the Child (UNCRC). A comprehensive solution is still needed after a decision on status or return. Promising practices are still possible even in the case of eventual return.

The presentation defined a comprehensive solution as one that to the ***greatest extent possible, caters to the long-term best interests and welfare of the child and is sustainable and secure from that perspective. The outcome should aim to ensure that the child is able to develop into adulthood, in an environment that will meet his or her needs and fulfill his or her rights as defined by the Convention on the Rights of the Child (CRC).*** This is different to a durable solution. The comprehensive solution is not about status, but holistically about rights, stability and a long-term perspective.

Four key principles from the UNCRC were highlighted:

- \* Article 2 - non-discrimination (for example, Ireland's equity of care principle);
- \* Article 3 - best interests of the child;
- \* Article 6 - right to life, survival and development (the need for long-term planning);
- \* Article 12 - right to be heard and to have due weight given to one's views in line with one's age and maturity.

When seeking solutions, the presentation posited that States should identify the main challenges, have regard to international commitments and standards, and look to European developments and tools which could be beneficial for developing promising practices.

The presentation focussed on four areas where challenges arise:

- \* Registration, residency, legal identity and nationality; Guardianship, care and aftercare;
- \* Education, vocational training and work;
- \* Return when in the child's best interests, and
- \* Outlined the obligations, resources and promising practices under each cluster.

Difficulties in relation to status and nationality have been identified as a challenge by the Global Refugee Youth Consultation (GRYC) reports. Lack of status

and documentation undermines stability as well as access to rights. International obligations include the Refugee and Statelessness Conventions and, more recently, the Sustainable Development Goal to provide legal identity for all by 2030 including free birth registration. The presenter noted that the SDGs are a universal commitment and should be considered more in Europe. Promising practices in this area include the SUMMIT project toolkit for practitioners (which included participation by Ireland), and the entitlement to naturalisation for refugees and the development of statelessness determination procedures, by some countries.

The GYRC identified practical and protection risks associated with a lack of professional guardianship for unaccompanied children, including disappearances, trafficking and exploitation. The presenter emphasised that guardianship needs to be strengthened, through the appointment of a legal guardian. Obligations and guidelines in international law and the EU asylum acquis were highlighted, as well as several resources published by the Council of Europe. Promising practices in this area include a European Guardianship Network/ ProGuard project and the UNHCR/EU funded project Strengthening Policies and Practices for unaccompanied children in Western Europe.

Most UAMs arriving in Europe are in the 15 - 18 age group and are beyond the age of compulsory schooling. Challenges identified by the GYRC relate to lack of opportunities for skill-building and few youth employment and training opportunities. Apprenticeship schemes in Austria, Germany and Switzerland are one example of good practice in this area.

Return is possible when in the best interests of the child. Challenges identified in research include the postponement of the return decision until the person has aged out; lack of safeguards for children; lack of consideration of the best interests of the child and lack of child-specific Country of Origin Information. The presentation highlighted the provisions in the EU Return Directive regarding the best interests of the child in general and specifically in relation to the return of unaccompanied minors (Article 10). The EU developed the Return Directive Handbook as a resource in 2017.

The presentation gave a list of advocacy and monitoring tools which could be used to inform the development of promising practices in the area of return.



# The best interests of the child and the protection system

**Maria Hennessy, UNHCR Ireland**

This presentation focussed on how the best interests of the child principle should be embedded throughout the international protection procedure. Procedural aspects need to be tailored to children and take into account the specific vulnerabilities of children. These include, for example, the promptness of the procedure, child-friendly credibility assessment which takes into account the capacity of the child to articulate the fear of persecution, and allowing the child's views to be heard.

The presentation opened with key statistics from the UN Global Trends Report. For 2017, there is a conservative estimate of 173,800 unaccompanied and separated children, both those reported as making applications for protection by 67 countries, and refugees and asylum seekers reported by UNHCR operations. This is considered to be a conservative estimate due to under-reporting. Of the 45,500 protection applications, 33,000 were from children aged 15 - 17 years, and a substantial minority of 12,200 were aged 14 or younger.

## **33,000 protection applications were from children aged 15 - 17 years**

The presentation also outlined daily data from the Mediterranean routes for 2018. A total of 109,073 persons arrived up to 23 November 2018, with 2,075 dead or missing. Of this total, 21% were children. The presentation also provided a breakdown of the three Mediterranean routes (arrivals in Spain, Italy or Greece) in January - September for each of the years 2016 - 2018, and provided a demographic breakdown for the three routes.

Children accounted for

- \* 12% of arrivals by sea and land to Spain;
- \* 19% of arrivals by sea to Italy; and
- \* 37% of arrivals by sea to Greece.

Italy is still the main route for unaccompanied children. A lot of children arriving on the Greek route are accompanied.

The presentation highlighted the particular risks which refugee children arriving in Europe have faced, based on data gathered by UNHCR, UNICEF and IOM. These include sexual and gender-based violence and abuse; exploitation; physical and psychological harm; detention; harm to the child's fullest development (limited access to education and recreational activities); family separation and challenges to family unity; smuggling and trafficking; financial dependency, and security risks. These risks suggest the types of psychosocial needs that children may have on arrival in Ireland.

The presentation drew attention to Article 22 of the UNCRC, which provides that States should provide protection and humanitarian assistance to ensure that refugee seeking or refugee children, whether accompanied or unaccompanied, enjoy the rights set out in the UNCRC or other applicable human rights instruments.

Embedding a best interests of the child principle in the international protection procedure is therefore of key importance. Procedural guarantees may need to have a specific child focus including when it comes to the provision of information. Prompt access to the asylum procedure following a best interest assessment is key. The views of children shall be given due weight in accordance with Art. 12 UNCRC. Quality staff who have expertise both in child specific and asylum law must be engaged in the protection process and there should be independent review for all decisions including age assessment decisions as noted in the UN Committee of the Rights of the Child *N.B.F. v Spain* decision. Time delays can have a particular impact on children. The presenter noted that the International Protection Office's prioritisation procedure is a good practice, but prioritisation should extend beyond the scheduling of interviews to all aspects of the procedure.

Legal reasoning in a decision needs to demonstrate that the best interests of the child principle has been taken into account. The refugee definition should be interpreted in an age-sensitive and gender-sensitive manner. Credibility Assessment needs to take into account the capacity of the child to articulate the harm. The formulation provided for in section 28(5) of the International Protection Act 2015 - *level of understanding that could reasonably be expected of a child of that age - was noted as a positive provision.*

Best interests should also be taken into account regarding the transition to adulthood. Children should be provided with adequate information in relation to the consequences of turning 18, in terms of their rights and responsibilities. There should also be adequate psychosocial support regarding the transition to adulthood and access to appropriate guarantees and education. Specific guarantees in the asylum procedure should be extended.

The presentation also noted the passage into law of the Reception Conditions regulations, and the inclusion of the best interests of the child as a "primary consideration" in providing reception conditions, and that the regulations provide for family tracing. The presenter referenced new [UNHCR Guidelines on Assessing and Determining the Best Interests of the Child](#), replacing the 2008 Guidelines and 2011 Field Handbook.

## Session 2: Care, aftercare and integration of unaccompanied minors



Jessica Farnan, Barbara Monaghan, Thomas Dunning, Shirley Martin (left to right)

**Chair: Shirley Martin, Co-Director, Early Years and Childhood Studies, University College Cork**

### **Speakers**

**Barbara Monaghan and Thomas Dunning, Tusla Social Work Team for Separated Children Seeking Asylum | [Social Work and Aftercare Services for Separated Children in Ireland](#)**

**Marie Bengtsson, Swedish EMN National Contact Point, Swedish Migration Agency | [Unaccompanied minors in Sweden](#)**

**Jessica Farnan, Youth and Education Service for Refugees and Migrants, CDETB | [‘More than a new language’ - addressing the education and training needs of unaccompanied minors in Ireland](#)**



# Social Work and Aftercare Services for Separated Children in Ireland

## Thomas Dunning, Barbara Monaghan, Tusla Social Work Team for Separated Children Seeking Asylum

The presentation opened by drawing a contrast between the number of referrals in the early days of the service and now. In 2001, 1,085 separated children arrived in Ireland. This was a crisis situation and it prompted the setting up of specialist social work teams within the Health Boards. At this time, these children were accommodated in hostels, which have not been in use since 2010.

This contrasts with the current structure of the service for unaccompanied minors arriving in Ireland and the number of referrals received by the Tusla Social Work Team for Separated Children Seeking Asylum (SWTSCSA) in 2017 (175).

### **175 unaccompanied minors referred to SWTSCSA in 2017**

The equity of care principle, whereby separated children are treated on a par with other children in care, was implemented from 2010, and a national service for separated children was established within Tusla's child protection services in 2012.

Separated children are now placed in foster care or supported lodgings. It was noted that it is important to note the improvements in the development of the system. Similarly, the 80% increase in the number of referrals in 2017 (175) over 2016 (126) needs to be seen in the context of the overall history of the development of the service. The presenter stated that the service would welcome as many children as Ireland could take, with the appropriate resources.

The issue of the timing of making an international protection application on behalf of the unaccompanied minor was also addressed. The presenter commented that the emphasis on accessing the international protection procedure immediately is an European approach which may negatively therapeutically impact on children in Ireland.

He emphasised that the decision of when to make the international protection claim is a clinical decision which is taken by the social worker. The priority is to meet the clinical needs of the child at the particular

point in time. However, when the decision is made to lodge an application, the SWTSCSA team has worked with the International Protection Office (IPO) to make the process as child-friendly as possible.

The presentation also outlined the assessment pathways for the persons referred. Some children are immediately reunified with family in Ireland. Some are received into care and may be subsequently reunified with family in Ireland or abroad under Dublin III or enter into the care system. Some children may be returned to the country of origin by IOM after a best interest assessment.

When persons are received into care, an age assessment may take place – of the 175 referrals in 2017, not all were accepted as minors. On average there is one age assessment every two weeks. Non-medical, non-invasive methods of age assessment are used.

Aftercare planning is conducted as appropriate, without overwhelming the child. A needs assessment takes place before the age of 18. The aftercare service does a lot of work related to family reunification. Statistics presented indicated that 91 aftercare cases were currently allocated to aftercare workers. There are also 10-12 calls per month to the aftercare Drop-In service, which provides help with administrative formalities, for example, obtaining an immigration residence card.

### **91 aftercare cases allocated to aftercare workers**

The presentation also outlined specific challenges in relation to aftercare support. These included the eligibility criteria to access aftercare as the child needs to be in the care system for 12 months in order to access aftercare. Parallel care planning alongside the length of the asylum process is another challenge.

The presentation concluded with saying that these separated children are not just defined by vulnerability and one traumatic episode in their lives – their resilience and their full personalities as children also need to be acknowledged.

# Unaccompanied minors in Sweden



## Marie Bengtsson, Swedish European Migration Network National Contact Point, Swedish Migration Agency

*The presentation drew on Sweden's contribution to the 2018 EMN study **Approaches to unaccompanied minors following status determination in the EU plus Norway.***

The presentation compared data from the peak of arrivals of unaccompanied minors to Sweden in late 2015, with over 34,000 arrivals in total in 2015. This had reduced to 726 arrivals from January to September 2018. There is a 28% reduction of unaccompanied minor asylum applicants in the first three quarters of 2018 (798) over the same period in 2017 (1,102).

Arrival of unaccompanied minors in Sweden:

\* 2015: + 34,000

\* 2018 (Jan - Sept): 726

The only pathway to a legal status for an unaccompanied minor in Sweden is via an asylum application.

### The only legal pathway to legal status for UAMs is via asylum application

The goal is that asylum applications should be processed within three months leading to a decision on a residence permit or return. Unaccompanied minors are entitled to legal counsel and a legal guardian and the asylum decision can be appealed.

Sweden introduced a temporary law on asylum for three years from July 2016 to July 2019 in response to the influx of arrivals in 2015. This law restricted certain rights for refugees for example, temporary residence permits and restrictions on family reunification. Applications made before 24 November 2015 benefit from the earlier more generous rules – a refugee has an entitlement to a permanent residence permit. It is unclear what will happen when this law is reviewed in early 2019.

Reception services for unaccompanied minors are organised at municipal level. Children are placed in residential accommodation, a foster family or supported lodgings, and children are enrolled in school as soon as possible. The municipality is responsible for the care of the unaccompanied minor all the way through the

process. Reception costs for unaccompanied minors are borne by central government, and municipalities are reimbursed. Sweden operates an equity of care principle for all children in Sweden.

The Swedish Migration Agency is responsible for the asylum process, family tracing, age assessment and return.

Aging out of unaccompanied minors is a big challenge. The right to stay on at school continues after 18, but other rights no longer apply. Responsibility for the person switches from the municipality to the Swedish Migration Agency. If still in the asylum process, reception is in general reception centres under the aegis of the Swedish Migration Agency, and places available are mostly located in the north of Sweden. The aged out person is displaced and there is no routine access to healthcare.

The asylum process is more difficult and there are no special conditions regarding return. For example, an adult who doesn't cooperate with a voluntary return procedure loses the entitlement to a reception place.

There are several challenges. Age assessment is a big debate in Sweden, for example, the use of medical methods. There are also debates around return - for example, should 18-year-old boys be returned to Afghanistan? Afghanistan can be considered to be safe for return, but, at the same time, not safe enough. Kabul may be safe, but the boys may not come from there.

It is not possible to have an amnesty for 11,660 applications. A compromise has been the new law on upper secondary education - which gives a residence permission for attending upper secondary education on certain conditions. This only applies to persons who made the asylum application on 24 November 2015 or earlier, and who were registered as an unaccompanied minor when making the application for asylum. There are a number of other criteria which restrict eligibility. A total of 3,500 permissions have been granted under the new education law up to November 2018.



# 'More than a new language' – addressing the education and training needs of unaccompanied minors in Ireland

**Jessica Farnan, Youth and Education Service for Refugees and Migrants (YES), CDBET**

This presentation presented the range of education and training supports available to refugee and migrant children, including unaccompanied minors, in Dublin through CDETB (YES).

The Youth and Education service provides an outreach support service and coaching to refugee and migrant children. The Migrant Access Programme (MAP) is a transition programme at post-primary level for newly arrived unaccompanied minors and other young people from refugee and migrant backgrounds.

MAP runs 20 hours per week, 42 weeks per year and offers the subjects below in a semi-formal environment:-

- \* English as an additional language;
- \* mathematics;
- \* life skills;
- \* basic IT skills and
- \* literacy support,

The students are grouped by English language ability, in groups of an approximate size of 6 – 14.

The capacity of the programme is approximately 40.

This is a basic pre-intermediate programme which can lead to QQI Level 2 or 3 accreditation.

The STEP-UP programme offers a follow-on to this for 12 hours per week and covers English for Speakers of Other Languages (ESOL) and maths. There are plans to expand the STEP-UP programme in early 2019. The STEP-UP is designed for those young people who do not progress into mainstream secondary school and can lead on to other education and training options such as Community Training Centres, Youthreach or other Adult and Community Education Programmes.

The Youth and Education Service also offers school supports, including a "Study Buddy" homework club.

In 2017 and 2018, 105 students took part in the Migrant Access Programme (MAP), approximately half of which were unaccompanied minors. A total of 49 students went through MAP in the period September to November 2018.

**105 students took part in  
MAP in 2017 and 2018**

**49 students took part in MAP  
for period Sept - Nov 2018**

This presentation emphasised that these programmes are "more than a new language" and are part of a holistic approach to the needs of young people. The programmes link an education and youth work approach. The youth and education service links with Tusla to provide individualised support for the child.

The presentation emphasised the importance of school life in establishing normality and ordinary life for the child. Routine, a sense of belonging, and a welcoming, friendly and safe environment support the wellbeing and mental health of the refugee/migrant child. One of the aims of the Youth and Education Service is to provide life skills – interpersonal, intercultural communication, rights and entitlements health, fitness, and wellbeing. A range of extracurricular activities is also provided. Part of the holistic approach involves links and cooperation with outside agencies.

Some of the challenges identified include the effect of a disrupted education on a child. Increasingly there have been more unaccompanied minors with low or no literacy in their first language. For these children even QQI Level 3 can be very difficult to achieve. Access to education and training for aged out minors is also a challenge, due to access to appropriate providers.

# Session 3: Pathways to status for unaccompanied minors



**Chair: Hilka Becker, Chairperson, International Protection Appeals Tribunal**

## Speakers

**Brian Merriman, Policy Division, Irish Naturalisation and Immigration Service | [Pathways to status for unaccompanied minors](#)**

**Katie Mannion, Irish Refugee Council | [Securing the future: key issues for unaccompanied and separated children in the Irish immigration system](#)**

**Evelyn Petoia, Legal Aid Board | [Unaccompanied minors and international protection – Legal services provided by the Legal Aid Board](#)**



# Pathways to status for unaccompanied minors

## Brian Merriman, Policy Division, Irish Naturalisation and Immigration Service

The presentation opened by emphasising Ireland's role and willing contribution in responding to humanitarian protection needs. Ireland has shown itself capable of a flexible response to specific humanitarian needs, for example, via the Calais Special Project, or by accepting migrants from search and rescue operations in the Mediterranean. There has also been significant legislative reform in recent years. The presenter noted that the debate in this area should be focussed on what is capable of being delivered at a given time with existing resources and those achievements should be a source of pride.

The presentation outlined developments under the Irish Refugee Protection Programme (IRPP) and developments in legislation which provide pathways to status for unaccompanied minors among other categories.

The International Protection Act 2015 provides, for the first time, that the social worker is required to take account of legal advice when making the decision whether or not it is in the best interests of the unaccompanied minor child to make an application for international protection.

The European Communities (Reception Conditions) Regulations, transposing the EU Reception Conditions Directive into Irish law, came into law in June 2018. For the first time, the reception conditions provided to unaccompanied minors in Ireland are placed on a statutory footing subject to EU scrutiny. The Directive provides that the best interests of the child must be a primary consideration when applying the Directive to minors. The Directive also includes important provisions relating to unaccompanied minors, such as the appointment of a representative, the provision of accommodation and family tracing.

The numbers of applications made for international protection by unaccompanied minors from 2012 – 2017 varied between 23 and 34 per year. Some 15 applications had been made up to October 2018.

Applications by unaccompanied minors for international protection:

- \* 2012 - 2017: varied between 23 to 34 per year
- \* 2018 (Jan - Oct): 15 applications

Specific procedures for caseworkers working on protection applications from unaccompanied minors

are in place in the International Protection Office (IPO) and International Protection Appeals Tribunal (IPAT) and take into account any factors and circumstances relevant to vulnerable applicants including unaccompanied minors. These procedures were developed in line with international best practice, including the UNHCR's Separated Children in Europe – A Statement of Good Practice and the EU Children First Programme. A group of experienced interviewers received additional training, facilitated by the UNHCR to assist in working on cases involving unaccompanied minors.

Six unaccompanied minors were relocated from Greece under the Irish Refugee Protection Programme (IRPP). Ireland's relocation programme concluded in March 2018. However, plans were also underway to relocate up to 36 unaccompanied minors from Greece under the Irish Refugee Protection Programme in early 2019. Ireland has given programme refugee status to 41 unaccompanied minors from the former migrant camp in Calais, under the Calais Special Project, led by Tusla. A total of 13 missions to France were undertaken to identify the young people who were willing to come to Ireland.

Throughout 2018, Ireland also agreed to accept migrants from search and rescue missions in the Mediterranean. Ireland has relocated 26 migrants from the MFV Lifeline, which disembarked in Malta. Four unaccompanied minors were included in this total. In addition, a further 16 migrants, which were disembarked in Sicily arrived in Ireland in November 2018 and have entered the protection process. A further group of 17 migrants were expected to be relocated to Ireland in December 2018, following the successful outcome of security assessments.

The second application window of the Irish Humanitarian Admission Programme (IHAP) for family members beyond the immediate family as defined in the International Protection Act 2015, was due to open in December 2018. Other family members, such as aged out minors and grandparents can be captured under this programme. A significantly larger number of applications than had been expected were received by INIS under the first application window during 2018. The first positive decisions were expected to issue in the near future. Successful applicants will receive programme refugee status under the International Protection Act 2015.

# Securing the future: key issues for unaccompanied and separated children in the Irish immigration system



**Katie Mannion, Irish Refugee Council**

This presentation focussed on alternative pathways to immigration status for unaccompanied minors other than via international protection applications.

The presenter argued that the vulnerabilities of and difficulties faced by children should not mean that they should not engage in migration processes. Pathways to access migration status need to be transparent. At present pathways to status are unclear and inconsistently applied.

Research undertaken by the Immigrant Council of Ireland looked at 32 case studies of young migrants. The research revealed differences in outcomes, which were influenced by insecure immigration status. Some of these young people were exposed to exploitation.

The presentation highlighted that a legal requirement exists for immigration registration for over 16s. There are plans to extend this obligation. Currently, if the child is not registered on reaching 16, there are no clear pathways to regularisation.

## **Legal requirement exists for immigration registration for over 16s**

The presenter stated that an early legal advice appointment should be offered to all unaccompanied minor children, explaining all the options, not just an application for international protection. If the child does not apply for international protection, alternative immigration permissions should be pursued, as appropriate. These can include residence permission under section 4 of the Immigration Act 2004, or a trafficking-related residence permission, if appropriate.

Refugee children have a right to family reunification with parents and minor siblings. If an international protection application is not lodged until the person turns 18, s/he will lose out on that right.

## **Refugee children have a right to family reunification**

In the case A and S (C-550/16), the Court of Justice of the European Union ruled that unaccompanied minors who turn 18 during the asylum application process may retain the right to family unity in accordance with certain conditions.

## **Following CJEU ruling UAMs who turn 18 during the asylum application process may retain the right to family unity in accordance with certain conditions**

Following this judgment, the Irish Naturalisation and Immigration Service (INIS) accepted an application for family reunification from an aged out minor. Prior to this, such applications were only accepted following extensive legal representation. The presenter considered there was a need for the Department of Justice to set out procedural guidelines in this area.

The presentation also highlighted significant barriers to naturalisation for children whose immigration status is not resolved. A key issue here is that time in the State which is undocumented does not count as reckonable residence to be eligible for naturalisation.



# Unaccompanied minors and international protection – Legal services provided by the Legal Aid Board

## Evelyn Petoia, Legal Aid Board

This presentation described the legal services provided by the International Protection Section of the Legal Aid Board to unaccompanied minors/children separated from an adult, who are making applications for international protection. Two solicitors and three caseworkers provide these services.

### **2 solicitors and 3 caseworkers provide legal services to UAMs / separated children applying for international protection**

Most of the clients are in the care of Tusla. In some instances, the clients are age-disputed and applications are not accepted by the International Protection Office (IPO). The IPO does not accept independent applications. Such an applicant will be referred to Tusla and always will be allocated a social worker.

The standard €10 charge paid by protection applicants for legal services from the Legal Aid Board, is paid by Tusla, or by the child if not in the care of Tusla.

The Legal Aid Board service starts before the protection application is made. The child attends with the social worker and possible options are explained. These include the possibility of being united with family members in Ireland, or in another EU Member State under the Dublin III Regulation, or the possibility of voluntary return. The experience is that the return option is rarely taken. The legal aid service provides help with the application questionnaire and the grounds for the protection application.

Once the Tusla social worker has decided that it is in the child's best interests for a protection application to be made, the social worker goes with the child to the IPO and lodges the application.

The Legal Aid Board schedules another consultation with the child, once the protection questionnaire has been returned and the interview is scheduled. It is not usual for the Legal Aid Board to attend the interview with the child, but this is possible if the child is especially vulnerable.

The Legal Aid Board can also make submissions on behalf of the child for family unity with family members in a particular EU Member State, under the Dublin III Regulation.

### **Family unity submission can be made on behalf of the child under the Dublin III Regulation**

Minors can be aged out by the time it comes to the appeals stage. The experience of the Legal Aid Board, is that a Tusla aftercare worker supports these individuals in the aftercare process.

The presentation also noted that the Legal Aid Board has not had any experience of a deportation order being issued to an unaccompanied minor. Also, it has been a very long time since the Legal Aid Board has had experience of a deportation order being issued to an aged out minor.

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