

Separated and Missing Children Information Leaflet

The ISPCC continues to raise awareness around the issue of missing children, and separated children, with regards to gaps in legislation and lack of adequate service provision.

A separated child is a child under the age of 18 who is outside their country of nationality or, if stateless, outside their country of habitual residence and who is separated from both parents, or from their previous legal or customary primary caregiver (as per [UNHCR](#) and UN Committee on the Rights of the Child).

In Ireland, there were 599 unaccompanied minor applications from 2003–2006 representing approximately 3% of all asylum applications . Most of these applications came from the following countries: Nigeria, Somalia Afghanistan, Democratic Republic of Congo, Kenya and Angola. Separated children are a small group in Irish society and worldwide, Europe is the destination for only a small proportion of separated children .

Because all children have fewer rights than adults to begin with, separated children are placed on a vulnerable footing from the start. These children, who become separated from their parents or guardians, and who are outside their country of origin, are certainly among the most vulnerable of all children. In addition, as refugees and asylum seekers, they are potential targets for many forms of ethnic, religious or linguistic discrimination. In the case of Ireland and the majority of other countries, it is the State with the responsibility to advocate for the rights and protection of these children; to act *in loco parentis*, ensuring their needs and rights are met.

Overview of legislation

The onus on the Irish state is high: there is a legal and ethical obligation for a satisfactory outcome. In Ireland, the desire to protect all young people is a firmly established norm, perhaps best exemplified in the Irish Proclamation of Independence which “declares its resolve to pursue the happiness and prosperity of the whole nation and all of its parts, cherishing all of the children of the nation equally.”

In addition, the high importance of the family in the Irish Constitution points to what should be a strong focus on family re-unification , with the State only acting as

guardian in exceptional cases and “...always with due regard for the natural and imprescriptible rights of the child.”

The [National Children's Strategy, 2000](#) commits the Government to treating separated children in accordance with international best practice, and includes a commitment to undertake research into the needs of refugee children and to provide an independent Guardian ad Litem to look after the best interests of each separated child.

The care of all separated children falls under the remit of the Health Services Executive (HSE) whose role is laid out in the [Refugee Act, 1996](#) and the [Child Care Act, 1991](#). But it is unclear under which part of these legal provisions separated children fall under. In fact, the definition for an “unaccompanied minor” does not even exist in Irish law. It is obvious that this lack of clear legislation compounds their vulnerability significantly. Separated children may apply for asylum on the recommendation of the HSE but for those who have not, or for those who have not presented themselves to the authorities or who may have been trafficked, “there is an absence of legal definition and clarity, and so a lack of acknowledgement of their existence and absence of protection rights”.

There have been a number of calls for the concept of separated children to be introduced into Irish law and with it the introduction of broad protections for such children. The announcement of a new [Immigration, Residency and Protection Bill, 2008](#) initially provided hope for some resolutions, but since being published in January of this year it has fallen under heavy criticism by the UN High Commission for Refugees, NGOs, the Law Society and others.

Separated children who go missing

Since 2001, 496 separated children have gone missing in Ireland. Of these, 434 remain unaccounted for. Once missing, these children are incredibly vulnerable and at risk. While some of these children may have been reunified with family, there is clear evidence to suggest that some of these children have been trafficked for the purpose of sexual and labour exploitation.

The ISPCC believes that Ireland should take measures to address the disappearance of missing and exploited children and are recommending the following:

- Accommodation should be safe and secure and meet the needs of the child
- A multi-agency outreach programme is needed at all points of entry to Ireland that offers support and protective information to all separated children entering the jurisdiction.
- There should be a comprehensive follow-up support service in place for all asylum-seeking children including those who are reunited with their families.

- The remit of the Ombudsman's Office should be extended to include separated and asylum seeking children.
- There is need for child-sensitive immigration policies so that children are not at risk of falling into trafficker's hands when looking to reunite with family members here.
- Separated children should be afforded a *Guardian ad Litem* to ensure that all decisions taken are in the child's best interests and to ensure that the views of the child are heard.
- There needs to be accurate and up-to-date databases of all children who have gone missing in Ireland.

The ISPCC believe that the government and all other stakeholders need to take action in terms of responding to the issue of missing children to ensure that we have robust legislation in conjunction with the necessary service provision to both prevent and respond to the issue of missing children

Recent Developments

A national plan is currently being developed by the HSE in how to deal with the issue of separated children. As it stands, there is a disparity of care between separated children and Irish children in the care system.

This plan will include guidelines, best practice and a framework that is more in keeping with services that non-separated children (Irish children) in the care system receive.

The HSE and An Garda Siochana are currently finalising protocols for addressing the issue of missing children in Ireland.