



Supporting LGBTI+
Young People in Ireland

**BeLong To Youth Services Submission on the Draft Combined Fifth
and Sixth State Report of Ireland to the UN Committee on the
Rights of the Child**

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**Contact: Moninne Griffith (Moninne@belongto.org), Neasa Candon
(Neasa@belongto.org)**

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Introduction

BeLonG To Youth Services

www.belongto.org

BeLonG To Youth Services is the national organisation supporting lesbian, gay, bisexual, transgender, and intersex (LGBTI+) young people in Ireland. Since 2003, the organisation has worked with LGBTI+ young people, between 14 and 23 years, to create a world where they are equal, safe, and valued in the diversity of their identities and experiences. BeLonG To also advocates and campaigns on behalf of young LGBTI+ people, and offers a specialised LGBTI+ youth service with a focus on mental and sexual health, alongside drug and alcohol support. BeLonG To responds to the needs of LGBTI+ young people in Ireland and helps them thrive.

A. General measures of implementation (arts. 4, 42 and 44 (6))

Legislation

- **4(b) Conduct an assessment on the extent to which national legislation and practices comply with the Convention**

The Equal Status Acts 2010-2018 prohibit discrimination in the provision of goods, services, accommodation and education. The nine protected grounds including gender and sexual orientation. However, as criticised by the UN Committee on the Elimination of Discrimination against Women, the Acts preclude the use of the equality framework to challenge discriminatory laws.¹

As such, the Equal Status Acts 2010-2018 should be amended to ensure that an effective remedy with a legislative basis is provided for victims of discrimination. Additionally, as part of the ongoing review of equality legislation, the State should ensure that the Employment Equality Act and Equal Status Acts provide explicit protection for trans and non-binary people in line with the non-discrimination principle of the Convention.

¹ UN Committee on the Elimination of Discrimination against Women, Concluding Observations on the combined sixth and seventh periodic reports of Ireland, 9 March 2017, CEDAW/C/IRL/CO/67, para. 12. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/IRL/CO/6-7&Lang=En.

Children's rights and the business sector

- **10(a) Strengthen its regulatory framework for industries and enterprises to ensure that their activities do not adversely impact children's rights;**

We welcome the drafting of the Online Safety and Media Regulation (OSMR) Bill, which will establish a regulatory framework for online safety.

Currently Part 4 of the OSMR Heads of Bill provides for Media Commissioners for online safety. Head 52b also has a 'systemic complaints system' for the notification of systemic issues with relevant and designated online services from nominated bodies, such as NGOs. The Children's Rights Alliance has highlighted the need for both an Online Safety Commissioner and an individual complaints mechanism under the OSMR Bill, which we support also in the context of the protection and safety of LGBTI+ children and young people.²

Additionally, the 'reasonable and effective measures' which a body corporate is expected to put in place to prevent the dissemination of hate speech are not defined in the General Scheme of the Bill currently under consideration. It could be the role of an Online Safety Commissioner to define such measures. Further details of proposals by the Children's Rights Alliance are cited in the below footnote.³

In this regard we would like to draw attention to the German NetzDG which was adopted in 2017 and generally aims to hold social media platforms more responsible for the content spread within them. The NetzDG obliges social networks to implement a notice- and-action procedure for handling complaints concerning illegal content.⁴ For this to be effective in the Irish context, it is vital that abusive, threatening, hateful and prejudicial content spread online is considered illegal. We have previously expressed concern that much of this content would not come within the scope of the Criminal Justice (Hate Crime) Bill.⁵ It is therefore necessary to consider the outlawing of such content under the Online Safety and Media Regulation (OSMR) Bill and/or the upcoming Digital Services Act.

² See: [Online Safety Individual Complaints Mechanism Concept Paper 0.pdf \(childrensrights.ie\)](#)

³ See: [Children's Rights Alliance Submission on the General Scheme of the Online Safety and Media Regulation Bill.pdf \(childrensrights.ie\)](#)

⁴ See p. 25, 69: [Hate speech and hate crime in the EU and the evaluation of online content regulation approaches \(europa.eu\)](#)

⁵ BeLong To Submission on the General Scheme of the Criminal Justice (Hate Crime) Bill, 2020. Submitted 13th August 2021. Not yet published on Department of Justice website.

B. General Principles (arts. 2, 3, 6 and 12)

Non-discrimination

- **11(a) The impact of relevant strategies in eliminating discrimination against children such as the National Traveller and Roma Inclusion Strategy 2017-2021, the Migrant Integration Strategy, the LGBTI+ Youth Strategy 2018-2020 and the National Disability Inclusion Strategy 2017-2021;**

In 2019, we welcomed the publication of the First Annual Report on the Implementation of the LGBTI+ National Youth Strategy 2018-2020. We call for the actions contained in both the National LGBTI+ Inclusion Strategy and the LGBTI+ National Youth Strategy to be fully implemented, and for a successor strategy to the LGBTI+ National Youth Strategy 2018-2020 to be devised.

Research related to the above mentioned strategies, and all other research conducted or commissioned by the State should ensure that collected data is disaggregated by gender identity, sexuality, ethnicity, disability, and age to ensure that policies and programmes are human rights compliant, evidence informed, and targeted in addressing the needs and upholding the rights of specific minority groups.

- **11(b) Progress achieved in updating hate crime legislation and developing a national action plan against racism*, and whether such processes include the participation of children;**

BeLonG To's submission to the Oireachtas Justice Committee on the General Scheme of the Criminal Justice (Hate Crime) Bill 2021 was informed by a focus group conducted with young LGBTI+ people from BeLonG To's Dublin-based youth groups and from the National Network of LGBTI+ youth groups. Many of the young people consulted were unaware of the proposed legislation until this focus group, and felt the government should have held public consultations on this legislation and should be more forthcoming with the fact that the legislation is being actualised.

During our focus group, a primary issue raised by LGBTI+ young people with regard to the draft legislation was the protection of trans and non-binary identities under the legislation, and a concern that victims would be required to 'prove' their identity so as to access justice. The focus group also highlighted the poor relationship between Gardaí and marginalised communities, including working-class, Black, Traveller, Roma and LGBTI+ people in Ireland. Relatedly, the group expressed a collective concern regarding the under-reporting of crimes committed

against marginalised communities, and conveyed their own distrust in Gardaí as members of the LGBTI+ community.

Finally, the focus group recommended alternative reporting methods, for example through NGOs, so as to ease the burden on victims of hate crime, along with alternative sentencing methods and restorative justice pathways, so as to focus on the acknowledgement and reparation of harm rather than punishment alone for hate crimes committed.

Best interests of the child

- **12 Please inform the Committee about the measures taken to ensure that the right of the child to have his or her best interests taken as a primary consideration is appropriately integrated into and consistently applied in all legislative, administrative and judicial proceedings and decisions, in particular those regarding alternative care**

As noted under Section G, 24(c), the Mental Health Act, 2001, does not grant young people aged 16 and 17 years of age the right to consent to and refuse treatment for their mental health. In the best interests of young people aged 16 and 17, an amendment to the Mental Health Act, 2001, is required so as to allow persons over the age of 16 to consent to or refuse mental health care, in line with Section 23 of the Non-Fatal Offences against the Person Act, 1997 which grants similar rights to persons over the age of 16 for treatment relating to physical health.

As detailed under Section D, 20(b), an expert group has recommended that an administrative process be provided for persons over the age of 16 to have their gender legally recognised. We support this recommendation in the best interests of trans and non-binary young people.

Right to life, survival and development

- **13 Please provide information on the measures taken to prevent and address the root causes of suicide among children and adolescents**

In 2016, the LGBTIreland report found that reported rates of attempting suicide were three times higher for LGBTI+ young people than their non-LGBTI+ peers.⁶ Of the LGBTI+ young people aged 14-25 who

⁶ Higgins A. et al. (2016) [The LGBTIreland Report: national study of the mental health and wellbeing of lesbian, gay, bisexual, transgender and intersex people in Ireland](#). Dublin: GLEN and BeLonG To Youth Services.

participated in the research, one in five had attempted suicide at some point in their lives. Among participants aged 14-18, this figure rose to one in three. Trans and intersex young people were over twice as likely to have attempted suicide than cisgender LGBTI+ young people.

The LGBTIreland report further found that those who experienced LGBTI bullying in school were 12% more likely to self-harm, 18% more likely to have seriously considered ending their life, and 19% more likely to have attempted suicide than those who had not experienced LGBTI bullying in school. One measure urgently required to address the root cause of suicide among LGBTI+ young people is to review and update the National Action Plan on Bullying (2013) as outlined in the 2020 Programme for Government and the LGBTI+ Youth Strategy.⁷

C. Civil rights and freedoms (arts. 7, 8 and 13–17)

Access to appropriate information

- **18(c) Strengthen the regulatory framework for monitoring and investigating information and communications technology-related violations of children's rights.**

We welcome the drafting of the Online Safety and Media Regulation (OSMR) Bill, which will establish a regulatory framework for online safety.

Currently Part 4 of the OSMR Heads of Bill provides for Media Commissioners for online safety. Head 52b also has a 'systemic complaints system' for the notification of systemic issues with relevant and designated online services from nominated bodies, such as NGOs. The Children's Rights Alliance has highlighted the need for both an Online Safety Commissioner and an individual complaints mechanism under the OSMR Bill, which we support also in the context of the protection and safety of LGBTI+ children and young people.⁸

Additionally, the 'reasonable and effective measures' which a body corporate is expected to put in place to prevent the dissemination of hate speech are not defined in the General Scheme of the Bill currently under consideration. It could be the role of an Online Safety

⁷ [gov.ie](http://www.gov.ie) - Programme for Government: Our Shared Future (www.gov.ie), [gov.ie](http://www.gov.ie) - LGBTI+ National Youth Strategy 2018-2020 (www.gov.ie)

⁸ See: [Online Safety Individual Complaints Mechanism Concept Paper 0.pdf](#) (childrensrights.ie)

Commissioner to define such measures. Further details of proposals by the Children's Rights Alliance are cited in the below footnote.⁹

In this regard we would like to draw attention to the German NetzDG which was adopted in 2017 and generally aims to hold social media platforms more responsible for the content spread within them. The NetzDG obliges social networks to implement a notice- and-action procedure for handling complaints concerning illegal content.¹⁰ For this to be effective in the Irish context, it is vital that abusive, threatening, hateful and prejudicial content spread online is considered illegal. We have previously expressed concern that much of this content would not come within the scope of the Criminal Justice (Hate Crime) Bill.¹¹ It is therefore necessary to consider the outlawing of such content under the Online Safety and Media Regulation (OSMR) Bill and/or the upcoming Digital Services Act.

D. Violence against children (arts. 19, 24(3), 28(2), 34, 37(a) and 39)

Freedom of the child from all forms of violence, including abuse, neglect and sexual exploitation and abuse

- **19(a) Prevent and protect children from all forms of violence, including neglect, domestic violence, sexual exploitation and abuse, as well as online sexual exploitation; and the investigation and prosecution of reported cases;**

In 2018 the Prohibition of Conversion Therapies Bill was presented before Seanad Éireann.¹² The Bill is currently stalled, and the Department of Children, Equality, Disability, Integration and Youth commissioned research on the topic in August of this year.

So as to effectively outlaw the use of anti-LGBTI+ conversion practices, or 'conversion therapy', any legislation introduced in the Republic of Ireland must be accompanied by complementary legislation introduced in Northern Ireland. We call for the Prohibition of Conversion Therapies

⁹ See: [Children's Rights Alliance Submission on the General Scheme of the Online Safety and Media Regulation Bill.pdf \(childrensrightrights.ie\)](https://www.childrensrightrights.ie/Childrens-Rights-Alliance-Submission-on-the-General-Scheme-of-the-Online-Safety-and-Media-Regulation-Bill.pdf)

¹⁰ See p. 25, 69: [Hate speech and hate crime in the EU and the evaluation of online content regulation approaches \(europa.eu\)](https://ec.europa.eu/justice/eu-justice-portal/en/hate-speech-and-hate-crime-in-the-eu-and-the-evaluation-of-online-content-regulation-approaches)

¹¹ BeLonG To Submission on the General Scheme of the Criminal Justice (Hate Crime) Bill, 2020. Submitted 13th August 2021. Not yet published on Department of Justice website.

¹² [Prohibition of Conversion Therapies Bill 2018 – No. 39 of 2018 – Houses of the Oireachtas](#)

Bill to be enacted and for the State to engage with politicians in Northern Ireland to ensure an all-island ban on the practice. Additionally, the State should ratify Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as part of the introduction of this legislation.

- **19(h) Tackle bullying, especially cyber-bullying and in schools.**

As detailed under Section B, 13, we call for the National Action Plan on Bullying (2013) to be reviewed and updated, as outlined in the 2020 Programme for Government and the LGBTI+ Youth Strategy.¹³ This action is particularly important for LGBTI+ school-aged children and young people, as experiences of LGBTI+ bullying in school has been shown to increase the incidence of self-harm, suicidal ideation and suicide attempts among LGBTI+ young people in Ireland.¹⁴

Regarding the Online Safety and Media Regulation Bill, discussed in more detail at Section A, 10(a) and Section C, 18(c), the introduction of an individual complaints mechanism would allow for a non-judicial pathway to which schools could refer parents and young people experiencing cyber-bullying that is either beyond the scope of the school's Anti-Bullying Policy, or has failed to be addressed by the same.¹⁵

Harmful practices

- **20(a) Prevent the unnecessary medical or surgical treatment of intersex children; investigate related cases; and provide adequate counselling, support and access to effective remedies for children subjected to such treatment**

Objective 14 of the LGBTI+ National Youth Strategy 2018-2020 contains one action, to "[e]stablish a working group on intersex healthcare for children and young people with a view to considering how Resolution 2191/2017 Council of Europe and other relevant health care recommendations can be taken account of in healthcare provision in Ireland."¹⁶ While this action was due to be commenced in 2018, no working group has been formed to date. A recent research landscaping

¹³ gov.ie - Programme for Government: Our Shared Future (www.gov.ie), gov.ie - LGBTI+ National Youth Strategy 2018-2020 (www.gov.ie)

¹⁴ Higgins A. et al. (2016) [The LGBTIreland Report: national study of the mental health and wellbeing of lesbian, gay, bisexual, transgender and intersex people in Ireland](#). Dublin: GLEN and BeLonG To Youth Services.

¹⁵ For more information on the proposed individual complaints mechanism, see: [Online Safety Individual Complaints Mechanism Concept Paper 0.pdf \(childrensrights.ie\)](#)

¹⁶ gov.ie - LGBTI+ National Youth Strategy 2018-2020 (www.gov.ie)

report described the very poor coverage of research on Objective 14, with only one identified study involving a sample of intersex youth.¹⁷

We call for a working group to be established in line with the LGBTI+ National Youth Strategy 2018-2020, involving intersex people living in Ireland. This working group should inform the direction and nature of research into intersex healthcare in Ireland.

- **20(b) Allow children below the age of 16 years to achieve legal recognition of their preferred gender including simplifying of the relevant procedures.**

In 2017, a review of the Gender Recognition Act 2015 was carried out by a review group consisting of trans people and representatives from community organisations and relevant state departments. The review group made several recommendations based on their review of the existing legislation.¹⁸ We urgently call for the recommendations based on the review of the Gender Recognition Act 2015 to be fully implemented and a review of the legislation to be carried out every two years as outlined within the review of terms of reference.

Of the above-cited recommendations, we call in particular for the Gender Recognition Act to be amended to provide an administrative process for the legal gender recognition for under 18-year-olds. Additionally, the Act should be amended to make legal gender recognition available to people who are non-binary. All measures are taken to improve access to gender recognition, both with regard to age and gender identity (either binary or non-binary), should also provide access for intersex individuals.

E. Family environment and alternative care (arts. 5, 9–11, 18(1) and (2), 20, 21, 25 and 27(4))

No observations under this section.

¹⁷ Költő et al (2021) [LGBTI+ Youth in Ireland and across Europe: A two-phased Landscape and Research Gap Analysis](#). Department of Children, Equality, Disability, Integration and Youth and the Health Promotion Research Centre, NUI Galway.

¹⁸ <https://assets.gov.ie/36889/825dd1e75f1b43b284a1a245a1710e1c.pdf>

F. Children with disabilities (art. 23)

No observations under this section.

G. Basic health and welfare (arts. 6, 18 (3), 24, 26, 27 (1)–(3) and 33)

Health and health services

- **24(c) Enact legislation that explicitly and comprehensively provides for children’s consent to and refusal of medical treatment;**

The Non-Fatal Offences against the Person Act, 1997 (Section 23) provides that a person over the age of 16 years can give consent to surgical, medical or dental treatment. However, the Mental Health Act, 2001, does not grant young people aged 16 and 17 years of age the right to consent to and refuse treatment for their mental health.

An amendment to the Mental Health Act, 2001, is required so as to allow persons over the age of 16 to consent to or refuse mental health care. This amendment is particularly important for LGBTI+ young people, who are twice more likely to self-harm, three times more likely to experience suicide ideation and four times more likely to experience anxiety and depression compared to their non-LGBTI+ friends.¹⁹ This situation has become more stark in the wake of the Covid-19 pandemic, with 97% of LGBTI+ young people surveyed by BeLonG To in April 2021 sharing their struggles with anxiety, stress and depression in the previous 12 months.²⁰

Adolescent health

- **25(c) Ensure comprehensive, age-appropriate education on sexual and reproductive health and rights, including information on family planning, contraceptives and the risks related to early pregnancies, as well as the prevention and treatment of sexually transmitted infections**

Part of the Equality Act 2010 known as the Public Sector Equality Duty (PSED or ‘Equality Duty’) requires schools to consider how their policies,

¹⁹ Higgins A. et al. (2016) [The LGBTIreland Report: national study of the mental health and wellbeing of lesbian, gay, bisexual, transgender and intersex people in Ireland](#). Dublin: GLEN and BeLonG To Youth Services.

²⁰ [LGBTI-Life-in-Lockdown-1-Year-Later BeLonG-To-Youth-Services.pdf \(belongto.org\)](#)

practices and day-to-day activities impact on staff and pupils. In accordance with the PSED, schools must treat all current and prospective pupils, parents and guardians, employees and community members in a fair and non-discriminatory manner that does not put individuals or groups of individuals at a disadvantage.

In 2019 the Oireachtas Joint Committee on Education and Skills produced a report on Relationships and Sexuality Education. The report details a series of recommendations to inform the update of the curriculum and delivery of RSE in primary and second level schools in Ireland. The committee gave particular attention to the importance of LGBTI+ inclusion in RSE.²¹ The recommendations of this report must be implemented so as to ensure the health and wellbeing of LGBTI+ young people.

Mental health

- **26(a)Address the mental health needs of children, including through the implementation of the national mental health policy, amend the Mental Health Act 2001 and implement the Mental Health (Amendment) Act 2018;**

As noted under Section B 12 and Section G, 24(c), the Mental Health Act, 2001, does not grant young people aged 16 and 17 years of age the right to consent to and refuse treatment for their mental health. In the best interests of young people aged 16 and 17, an amendment to the Mental Health Act, 2001, is required so as to allow persons over the age of 16 to consent to or refuse mental health care, in line with Section 23 of the Non-Fatal Offences against the Person Act, 1997 which grants similar rights to persons over the age of 16 for treatment relating to physical health.

- **26(b)Improve the capacity and quality of mental health-care services for children and adolescents, including inpatient treatment, out-of-hours facilities and facilities for treating eating disorders**

The provision of healthcare to trans and non-binary young people is processed through referrals to the Child and Adolescent Mental Health Service (CAMHS). TENI, the national organisation for trans and non-binary people in Ireland, has highlighted reports of some CAMHS

²¹https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_education_and_skills/reports/2019/2019-01-29_report-on-relationships-and-sexuality-education_en.pdf

teams only accepting a child's referral if "significant comorbid mental health concerns are present".²² Those young people accepted by CAMHS could be referred for gender-affirming healthcare abroad until December 2020, when referrals between the HSE and UK clinic ended. As of February 2021, the Gender Identity Adolescent Service at Crumlin Children's Hospital is no longer receiving new referrals from either CAMHS or the Gender Identity Development Service in the UK.

An interim service must be urgently established so as to provide gender-affirming care to under 17s in Ireland. Additionally, the recommendations of the report issued by the Steering Committee on the Development of HSE Transgender Identity Services,²³ must be fully implemented in a timely manner. As part of this process, a psycho-social community led service for over 18s that is not based on 'Gender Identity Disorder/gender dysphoria' diagnosis or psychological opinion should be introduced in Ireland.

H. Education, leisure and cultural activities (arts. 28–31)

Education

- **28(e) Revise the content of sexual and reproductive health education to include material on non-discrimination, contraception, gender stereotypes, and sexual orientation and gender identity;**

Part of the Equality Act 2010 known as the Public Sector Equality Duty (PSED or 'Equality Duty') requires schools to consider how their policies, practices and day-to-day activities impact on staff and pupils. In accordance with the PSED, schools must treat all current and prospective pupils, parents and guardians, employees and community members in a fair and non-discriminatory manner that does not put individuals or groups of individuals at a disadvantage.

In 2019 the Oireachtas Joint Committee on Education and Skills produced a report on Relationships and Sexuality Education. The report details a series of recommendations to inform the update of the curriculum and delivery of RSE in primary and second level schools in

²² [Information-for-General-Practitioners-Working-with-Transgender-People.pdf \(teni.ie\)](https://www.teni.ie/information-for-general-practitioners-working-with-transgender-people.pdf)

²³ <https://www.hse.ie/eng/about/who/primarycare/socialinclusion/other-areas/lgbti/final-report-of-the-steering-committee-on-the-development-of-hse-transgender-identity-services.pdf>

Ireland. The committee gave particular attention to the importance of LGBTI+ inclusion in RSE.²⁴ The recommendations of this report must be implemented so as to ensure the health and wellbeing of LGBTI+ young people.

I. Special protection measures (arts. 22, 30, 32, 33, 35, 36, 37 (b)–(d) and 38–40)

No observations under this section.

Optional Protocol on the involvement of children in armed conflict

No observations under this section.

²⁴ [2019-01-29_report-on-relationships-and-sexuality-education_en.pdf \(oireachtas.ie\)](#)