

SCHOOL ATTENDANCE/ TRUANCY REPORT

issued by

**Niamh Bhreathnach, T.D.,
Minister for Education**



**AN ROINN DEPARTMENT OF
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PREAMBLE

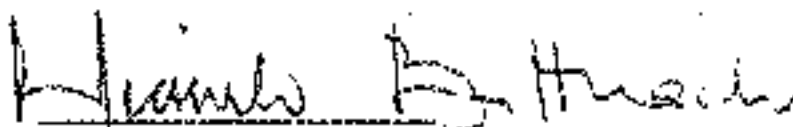
The Green Paper on Education stated that " a review of the working of the School Attendance Act of 1926, including an examination of the roles and responsibilities of the various agencies involved will form part of the preparatory work for new legislation in education." A Working Group in my Department has now completed this review. They have presented me with the "School Attendance/Truancy Report" which I have decided to publish.

The Programme for a Partnership Government affirmed " education as the key to our future prosperity and equality and equal opportunities for all our citizens. "Children, regardless of socio-economic status, physical or intellectual abilities, have the right, not only of access to, but of full participation in, the educational system. The level of school attendance is, of itself, an important measure of the reality of equality of access to education. It can, also, be an predictor of a child's willingness to continue with education after the years of compulsory schooling or of school drop-out without formal educational qualifications.

In this context, it is vital that the legislative and administrative arrangements, which are in place to uphold a child's constitutional right to education, are adequate to the needs of today's society.

It is sixty eight years since the main school attendance legislation was enacted and, in the meantime, amendments of a minor nature only have been passed. This Report provides a basis on which we can frame new legislation and develop new structures and procedures to reflect modern thinking on social, cultural and educational issues.

The issues raised in the Report are complex and are of fundamental concern to all those concerned with education and the welfare of children. I am anxious to tap the knowledge and expertise of all relevant interests in developing my proposals on school attendance and, to this end, I encourage them to submit their considered views on the Report's contents to my Department.



*Niamh Breatnach, T.D.,
Minister for Education*

FOREWORD

The Terms of Reference of this Departmental Working Group were: "to review the operation of the School Attendance Act and to make recommendations for the updating of the legislative provisions in this area".

The members of the Working Group were: Micheál Mac Craith, Principal Officer (Chairperson); George Rowley, Principal Officer (interim Chairperson, Nov. 1992 to Jan. 1993); Pauline Gildea, Assistant Principal Officer (to June 1992); Des O Lochlainn, Assistant Principal Officer (to September, 1993); Des Ormond, Assistant Principal Officer (from September, 1993); Seán O Dubháin, Cigire Sinsiresach; Pádraig Mac Sitric, Cigire Ceantair; John O'Leary, Psychologist; Marian White, Secretary to the Group.

The Working Group met on 22 occasions from 16 January 1992. Members of the Group met representatives of school attendance officers, teachers' unions, management bodies and voluntary agencies working with children affected by poor school attendance. Other Government Departments and State agencies were consulted and members had opportunities to experience at first-hand the operation of School Attendance Committees and the Juvenile Court. A number of visits were paid to school attendance areas outside Dublin.

The Working Group received excellent co-operation from staff within the Department and wishes to place on record its grateful appreciation to all concerned. In particular, it acknowledges the assistance of Tom Boland, the Department's legal advisor.

The members also acknowledge, in particular, the contribution of Marian White, Secretary to the Working Group. To her fell much of the research work on which the report is based and her ability to provide a clear and accurate record of proceedings was of great benefit to the Group's deliberations. We gratefully acknowledge the quality of skills and unstinting dedication shown by Pádraig Mac Sitric, Cigire Ceantair, in compiling this report.

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Summary of Main Recommendations

- The Minister for Education should be empowered to require that children receive at least a minimum education between certain ages, with provision for the ages to be amended by regulation.
- Responsibility should be specifically placed on parents to provide education for their children either by sending them to school or by educating them in their home or elsewhere.
- Where parents intend to provide education for their children other than in a school recognised or established by the State, they should be obliged to inform the regional education council.
- Parents who claim exemption from school attendance on behalf of children with special educational needs should be obliged to prove that they are otherwise providing an adequate education for them.
- The Minister and the proposed regional education councils should be responsible for enforcing school attendance and to that end the Minister should be empowered to make regulations as necessary.
- The proposed regional education councils should establish education welfare sub-committees to carry out functions in relation to school attendance enforcement.
- The Board of Management and principal teacher of a school should be legally responsible for all matters relating to the enrolment, registration and attendance of pupils, including the keeping of records which should be available for inspection by the regional education council and the Department of Education.
- Schools should keep a record and should be required to inform the regional education council of all exclusions of pupils whether through suspension or expulsion.
- A limit should be placed on the period for which a pupil may be suspended from attendance at school and there should be a mechanism for appeals against all exclusions.
- Detailed discussions should be held with the Departments of Health and Justice with a view to determining appropriate powers for school attendance enforcement officers to investigate the circumstances and to take action in the case of unsupervised children of compulsory school-going age, found in public places without good cause, during school hours having regard to the respective responsibilities of health board personnel and the Gardaí in such situations.
- Regional education councils should employ one or more field officers, to be known as Education Welfare Officers, with functions in relation to the

general educational welfare of children with attendance difficulties and with powers to enforce school attendance legislation. Existing School Attendance Officers should be integrated into the new structures.

- Within new arrangements placing responsibility for the administration of school attendance matters on regional education councils, provision should be made for a continued role for the Gardai in school attendance enforcement where local conditions are such that the Gardai are best placed to carry out this function directly.
- Appropriate penalties should be provided for default by parents.
- Section 75 of the Child Care Act should be implemented immediately.
- Children should no longer be committed to custodial care in special schools on the grounds only of non-attendance at school.
- In school attendance cases, courts should have as options:
 - a "school attendance" order by which a parent would be obliged to ensure the child's attendance at school;
 - an "education supervision" order which would allow an appropriate educational welfare service to visit the child periodically to ensure his or her educational welfare and to give advice to the child's parents;
 - a "care" order as provided for in Section 75 of the Child Care Act, 1991 and an order as to the educational conditions that should apply within the appropriate care environment.
- As part of child care provision, the Department of Health and the health boards should provide suitable facilities, with secure environments if necessary, for the care and treatment of young people with serious psychiatric or emotional problems, who come to notice because of non-attendance at school.
- A range of initiatives should be undertaken to meet the needs of disaffected pupils with actual or potential attendance problems, including the creation of special school-based units to accommodate disruptive pupils.
- The revised structures and programmes recommended in this report must be seen as key elements of the Government's strategy for promoting equity in the education system and, accordingly, should be funded as part of the Government's policy of focusing resources on disadvantaged areas and groups.

1 Introduction

1.1 Compulsory education for children is a universal provision in developed countries. The opportunity to develop one's potential through education is a widely recognised personal right. In addition, in Ireland, the State is required under the provisions of the Constitution to provide for a minimum level of education for all children. This review has been undertaken with a view to establishing how the State can best carry out that constitutional duty in the interests of children and the wider community.

1.2 The operation of the School Attendance Act¹ has been highlighted in several major reports over the past 20 years. This report draws on those earlier reports and on other references to school attendance in reviews of aspects of the educational system. The following issues have in particular been highlighted in those earlier commentaries:

- the absence of a definition for the term "minimum education" as used in the Constitution, particularly in the context of the existing School Attendance Act;

- the lack of a school attendance service in some major centres of population and the statutory prohibitions placed on a redistribution of existing services to cater for demographic changes;

- the role of the Gardai as a school attendance enforcement agency;

- the fact that the period of compulsory education now includes the junior cycle at post-primary level and the attendance problems associated with the transfer of pupils from first to second level schools;

- the role of schools in school attendance issues;

- the need for a form of educational welfare service and for links between school and childcare services, including health, social and community input;

- the need for flexible and responsive alternative educational programmes to cater for children who cannot cope adequately within the mainstream school system;

- the role of custodial/residential care in school attendance cases dealt with by the courts;

- the special attendance difficulties of children with disabilities and children of travellers;

- implications arising from the raising of the school-leaving age to 16, as proposed in the Green Paper.

¹ In this report the use of the word "parent" embraces the position of "guardian" where appropriate. The term "School Attendance Act", when cited alone, represents the School Attendance Acts, 1926 to 1967.

2 Legal Issues Raised by Compulsory School Attendance

- 2.1 Any legislative provisions relating to school attendance must have regard to the rights and obligations contained in the Constitution, particularly Article 42. The relationship between school attendance legislation and the Constitution has been a somewhat unhappy one.
- 2.2 The School Attendance Bill, 1942 was the first Bill found to be unconstitutional under a reference, pursuant to Article 26 of the Constitution, of a bill to the Supreme Court by the President. The difficulty for school attendance legislation lies in the fact that, while the Constitution in Article 42.3.2 provides that the State shall require that each child receive a certain minimum education, there is no definition of the expression "minimum education". Tension can also arise between the State's obligation as to minimum education and the role of the family, enshrined in Article 42.1, as "the primary and natural educator of the child".
- 2.3 Notwithstanding these difficulties, there seems little doubt but that the State can enact school attendance legislation with the aim of ensuring that children receive a minimum level of education. Where children are to be educated in school, the State, in carrying out its constitutional duty, must also be in a position to decide such matters as the period during which a child must attend school, the length of the school day, the subject matter to be taught and the manner of the teaching. Children and parents must abide by the school regime, subject only to parents' rights to withdraw their children from religious instruction.
- 2.4 In establishing minimum standards of education, the State would be expected to base that standard on such matters as expert advice and opinion, best practice in countries with whom Ireland shares similar economic and social conditions, and the actual circumstances which prevail in society. Consideration of actual circumstances would also require that special regard be had to the needs of children with learning difficulties.
- 2.5 Legislation on school attendance and educational standards must have regard to the rights of those parents who want to educate their children otherwise than in a school recognised or established by the State. This can be done by specifically acknowledging that right in school attendance legislation. In addition, in fixing minimum standards, they must not be so high as to effectively prevent the average parent from exercising his or her constitutional rights to educate their children at home.
- 2.6 The State must, if it is to discharge its constitutional duty, be in a position to verify if children are achieving minimum standards, whether they are educated at home or in schools. This poses some further legal difficulties in cases where children are educated otherwise than in schools recognised or established by the State and particularly when they are educated at home. In the judgement on the School Attendance Bill,

1942 Reference the Supreme Court was firmly of the view that the manner in which education is given in the home or in a private school, and the manner in which it is received are not matters in which the State can get involved. This limits the role which the State can have in purely private education to one of assessment and verification of standards. These constitutional restrictions would not, however, prevent the State from offering guidance, on a purely voluntary basis, to parents who are educating their children at home.

2.7 Another possible source of legal conflict between the State and parents in the context of school attendance arises from the conscientious objections of parents to particular schools. Parents have a constitutional right to refuse to send children to school on grounds of conscience. However, in exercising that right, they cannot ignore the right of their children to receive an education and the obligation of the State to ensure that they receive at least a minimum standard of education. That right must be vindicated and the obligation discharged by whatever alternative arrangements parents make.

3 The Scale of Non-attendance

3.1 The Department of Education formerly published in its annual report the figure for the average annual attendance of children in national schools for each school year. For the years 1973/74 up to 1983/84, the last year for which the figure was given, the average daily attendance was fairly constant, varying only from 90.2% to 91.5%. Data on which average annual attendances were calculated are no longer sought from schools by the Department. Data available for the school-year 1992/93 for schools in a sample of categories and areas reveal average attendance figures set out in the table below.

Area/ Category	Average Daily Attendance	Average No. of Days Schools Open
Co. Carlow	93.66	177
Dublin City	93.03	180
Co. Leitrim	92.95	179
Co. Mayo	92.70	180
Co. Waterford	94.43	181
Co. Westmeath	93.10	179
Average	93.31	179
Disadvantaged Schools	89.29	180
Special Schools	88.37	179

- 3.2 The figures for the areas listed are higher on average by almost two percentage points than the national figures last published for the school-year 1983/84. The national figures included both special and disadvantaged schools. These were not included in compiling the Table. This factor does not fully account for the apparent improvement. The figures for disadvantaged schools, which are four percentage points lower than ordinary schools, seem to support the common perception of poorer attendance by children in disadvantaged areas. The still lower figure for special schools is not unexpected, given the difficulties attributable to the disabilities with which the children have to contend. The figures given in the Table for the number of days schools were open in 1992/93, show that, in Co Carlow for example, children attended school for seven days less than their entitlement of 184 school days even before account is taken of absences.
- 3.3 Aggregate attendance figures, when translated into actual rates of absences in schools, give no basis for complacency. A 91% attendance rate means that students on average are absent from school some 16 or 17 days a year, in addition to the days that the school is short of the minimum 184 days owing to exceptional closings plus the unofficial half days for holidays, staff meetings and parent meetings. If half the students are absent on average for only five days in the school year, then the remaining half would be absent on average for almost six weeks in the school year.
- 3.4 The Department of Education has not produced comparable school attendance data for post-primary schools. A common view that attendance rates at second-level schools are lower than those for first level schools is supported by official data on Scottish schools. In Scotland for January 1993 the attendance rate for primary school pupils was 90.1%, while for secondary school pupils it was 84.1%. The corresponding attendance figures in 1983 were 92.5% for primary and 89% for secondary schools.
- 3.5 School attendance committees set up under the School Attendance Act produce average annual attendance figures for children aged 6-15 as a rough measure of the problem of non-attendance and as a means of monitoring the effectiveness of their service from year to year. According to these figures, the average attendance for national schools in Dublin city for the school year 1992/93 was 91%. The equivalent figure provided for Dun Laoghaire was 92.7%. The average attendance for pupils in primary and post-primary schools in Cork city for the same year was 93.2% and the figure for Waterford was 94%.
- 3.6 A survey of non-attendance cases in Dublin in November, 1992 revealed that 17% of children had come to the notice of attendance officers for the first time while 83% were repeat cases. Of the children involved 15% had been suspended from school and 1.5% had been expelled. Some 50% of the children came from one-parent families and only 13% of the families involved had a parent working outside the home. Almost 65% of the

families were in receipt of social welfare payments while 22% did not divulge their income. The vast majority of the families (56%) lived in Corporation flats, a further 32% lived in Corporation houses, 8% lived in mobile homes and only 3% lived in privately owned houses.

- 3.7 Research findings from various sources suggest, that in Dublin schools one pupil in seven is affected to some degree by school attendance difficulties, the comparable figure for Cork being one in nine. Approximately one-fifth of these pupils are classed as truants, which implies a premeditated decision not to attend school.
- 3.8 Indications are that up to 8% of primary school leavers may not transfer to second-level schools at all. While the Green Paper on Education states that 93% of 16-year-olds were still in full-time education, such a figure masks cases of severe drop-out rates in some schools serving socio-economically disadvantaged areas. One case cited in research shows that in a particular school 55% of its base-year intake had failed to complete the first four years of their post-primary programme, boys being the main sufferers in this instance.
- 3.9 The Working Group views the absence of more detailed information on the scale and nature of irregular school attendance as a serious obstacle to a balanced analysis of this issue, particularly in the light of recent public interest in the subject of truancy and the potential for juvenile crime arising from it. There is no clear formula available to school attendance enforcement authorities by which effective data can be collected and analysed for policy or administrative purposes. Data available from schools through official returns are no longer considered worthy of publication, and schools themselves have not made use of this information in forming policy on school attendance issues.
- 3.10 The Working Group recommends that

accurate data on school attendance should form part of the official returns from schools to education authorities

school attendance enforcement authorities should be required to publish detailed annual analytical reports on school attendance and to submit such reports to the Department of Education;

a formal registration-cum-tracking system for all pupils within the compulsory schooling age-group should be put in place without delay, so designed as to enable schools and other relevant authorities to monitor the progress of children through the educational system.

the Pupil Number assignment system, associated with the post-primary pupil database, should be extended to apply to all pupils in 6th classes in primary schools as a basis for tracking pupil transfer to post-primary schools

analysis of effective school attendance data should form part of official reports by the Department of Education on the school system

generally and on the work of individual schools. National research surveys should be carried out regularly and should focus, in particular, on children who are at risk of "dropping out" of school at critical points in their education.

4 Truanc

- 4.1 The public face of non-attendance is the appearance of unsupervised children of compulsory school-age on the streets of our cities and towns, without good cause, during school hours. This is a phenomenon which is receiving close attention in the media following recent disturbing events in Britain. There is a tendency among commentators, however, to categorise all non-attendance problems as "truancy", a term which, in the view of the Working Group, fails to acknowledge the complex nature of non-attendance problems and the possible underlying causes.
- 4.2 The Working Group considers that the act of truancy, which can involve casual or extended absence from school, is a specific form of non-attendance where unauthorised absence, for any period, results from premeditated action on the part of the pupil. Truancy ultimately may be linked to problems relating to family, peer pressure, juvenile crime or school-related difficulties, and such causes should be investigated by appropriate personnel. This category can include children who are out of the control of parents; children who may have emotional problems; or those who refuse to attend for a variety of reasons such as difficulty in "keeping up" with school work, disciplinary problems, bullying, school phobia or the inability to participate in school activity for family financial reasons
- 4.3 However, truants may be motivated more by the attractions of the world outside school than by the effects of deep-rooted social, personal or educational problems. Non-attendance at school is often linked to the incidence of delinquent behaviour associated with loitering, alcohol/drug abuse and other potential crime-related situations. There is also a view that a reduction in levels of non-attendance will limit the incidence of juvenile crime in our cities and towns. The potential link between the two issues is acknowledged, but it should be noted that opportunities for juvenile delinquency are not confined to school-hours alone. Excessive emphasis on problems caused by truants may deflect attention from the underlying causes of truancy.
- 4.4 The Working Group recommends that
- *in the case of persistent truants, the court should have the power to make an education supervision order aimed at re-establishing regular attendance at school;*
 - *detailed discussions be held with the Departments of Health and Justice with a view to determining appropriate powers for school attendance enforcement officers to investigate the circumstances and take action in the case of unsupervised children of compulsory*

school-going age found in public places without good cause, during school hours, having regard to the respective responsibilities of health board personnel and the Gardaí in such situations.

5 Non-attenders - Some Background

- 5.1 The unanimous view emerging from the Working Group's discussions with relevant agencies and interest groups is that serious non-attendance, in the vast majority of cases, is linked to disadvantage. The experience of school attendance officers is that the problem of truancy or persistent non-attendance at school is concentrated in areas of economic and social disadvantage where families are experiencing complex and difficult problems, often centred on issues of poverty and relationships. Single-parent families appear particularly vulnerable; non-attendance data from Dublin, for example, reveal a high representation of children from such families. Most children attending alternative educational facilities, such as Youth Encounter Projects, come from disadvantaged families where there is often a lack of parental control or competence.
- 5.2 A research project conducted for St. Joseph's Special School, Ferryhouse, Clonmel, provides valuable information on the socio-economic and educational background of persistent non-attenders. The research project found that while only 20% of boys would have been committed for non-attendance, the vast majority were non-attenders before going to Ferryhouse. Only one boy out of 69 was said to be a regular attender at school. Sixty-one percent of boys had been expelled from at least one school. Interviews carried out with 35 past pupils living in the Dublin area revealed that the vast majority of the boys (91%) were non-attenders and 67% had been expelled from at least one school.
- 5.3 The majority of the pupils in the survey came from urban areas. More than half of the families of origin, and almost all those from Dublin, lived in local authority housing. All were considered to be at risk while they were living with their natural family and the most common risk was of general neglect, arising from severe parental disharmony and conflict, high unemployment levels and alcohol abuse, often resulting in very poor parent-child relationships. The majority had been involved in lawbreaking activities (although they may not necessarily have been convicted) and half had appeared in court and had been on probation. Almost half the group were reported to abuse solvents, 42% had attended a child guidance clinic and 28% had received remedial teaching before going to Ferryhouse. Sixteen of the boys had one or more siblings in residential care. The majority had delinquent peers.

6 School Drop-outs

- 6.1 Two surveys of participants on the Youthreach programme, which caters for young people from ages 15 to 18 who have dropped out of school or who have no formal educational qualification, provided considerable data on the target group relevant to the issue of school attendance. In examining the previous educational experience of those involved in the programme, it was found that 85% had failed to complete three years in post-primary education, and a further 15% had spent three years or more in post-primary education without obtaining qualifications. The socio-economic circumstances of these young people often induced behavioural difficulties which may have resulted in trouble with the law, living away from home, and the abuse of alcohol, drugs and other substances. Many were victims of a difficult domestic or community environment such as ongoing violence, intimidation or sexual abuse. In the opinion of the Youthreach coordinators, there was significant evidence of potentially serious learning difficulties and very poor motivation, while one in four of the youths were classified as "disturbed".
- 6.2 An analysis of data relating to Youth Trainees in the City of Dublin VEC area indicated that 60% had reading ages below the level of functional literacy, and 21% had reading ages below 10 years of age. Some 34% of trainees did not have both parents at home; one parent had either died, had left home, or was in prison or residential care. Of these trainees, only 32% had fathers in employment, 30% had been before the courts at least once, and 8% revealed that they had been sexually abused.
- 6.3 The most recent estimates (for 1991/92) from the Department of Education indicate that, out of a total of 65,000 school leavers, 4,100 had no qualifications, while 10,600 left with junior cycle qualifications only. These statistics do not reflect drop-out from primary level, or between primary and second level.

7 Socio-economic Disadvantage and Non-attendance

- 7.1 The National Youth Policy Committee Report, 1984, provided the most comprehensive analysis of the reasons for persistent non-attendance at school. It found the more widely based reasons for non-attendance to be hidden disabilities, such as brutality, hunger, or moral danger within the home; broken homes arising from alcoholism or domestic violence; delinquency due to alcohol and drug abuse and trouble with the law.
- 7.2 Consultations and discussions with the various interest groups supported the findings of the National Youth Policy Committee and provided further elaboration on reasons for non-attendance at school:

stress on parents, sometimes involving alcohol/ substance abuse;

family break-up, resulting in single-parent care, or involving new relationships, where the child may have difficulty in bonding with an

unfamiliar mother- or father-figure;

children who are spoilt materially or who lack sufficient care and attention from parents;

children forced, because of poverty and pride, to play truant from school in order, for instance, to avoid paying for school trips or ingredients for home economics classes;

a greater prevalence of aggression in family life;

bullying, both in and outside school;

parents' lack of confidence in the value of education;

the present education system being seen as mono-cultural;

the growing incidence of children who are out of their parents' control.

8 Education-related Causes of Non-attendance

8.1 Among the education-related reasons for non-attendance given by the National Youth Policy Committee were:

belief on the part of the child or the parents that the educational system had nothing of value to offer;

lack of educational attainment leading to frustration and non-attendance;

family tradition of attending primary level only and lack of adequate arrangements for ensuring entry to second level;

personality differences with teachers or fellow pupils;

the perceived irrelevance of existing curricula to the actual needs of certain children and to their prospects of obtaining employment;

personal disabilities in children, either intellectual, social, physical, sensory or emotional, which make it difficult for them to benefit from educational programmes geared to the needs of the average child.

8.2 The Working Group acknowledges the role of educational facilities such as the Youth Encounter Projects and Youthreach in attending to the needs of children and young people whose educational experience, for whatever reason, has been so negative as to alienate them from mainstream provision. Some curriculum development, at second level in particular, has been aimed specifically at low achievers, with the objective of providing an acceptable form of certification of educational achievement. The Home/School/Community Liaison Scheme has been successful in highlighting the requirements of socially disadvantaged children in mainstream schools, and additional teachers and resources allocated to schools in disadvantaged areas has assisted them in meeting the needs of these children.

8.3 The Working Group recommends the following range of initiatives to meet the needs of disaffected pupils with actual or potential school attendance problems:

- *pre-school initiatives in disadvantaged areas;*
- *extra time at infant level for certain pupils;*
- *a reception-type year at the transition stage between primary and post-primary school;*
- *special school-based units to accommodate disruptive pupils who have attendance problems;*
- *separate alternative provision to mainstream schooling for primary and post-primary pupils;*
- *adoption of flexible teaching methodologies and adaptable approaches to curriculum;*
- *programmes of a Youthreach nature for pupils under 16 years of age;*
- *appropriate in-career training for teachers.*

9 The Care and Protection of Children

9.1 School attendance problems are often associated with children who are not receiving adequate care and protection within the meaning of the Child Care Act, 1991. In such cases, issues of poverty, child abuse, deprivation, moral danger and family instability may be key factors contributing to non-attendance. In extreme situations, parents may wilfully neglect a child's schooling, may deliberately condone truancy or may prevent the child from attending school. Such families require assistance from welfare services and it is clear that a child's school attendance difficulties cannot be attended to effectively in the absence of such intervention.

9.2 This category also includes homeless children who are outside the control and supervision of adults. They clearly absent themselves from school without the knowledge and consent of their parents. There is increasing concern that homelessness is a growing problem, especially in our urban areas, with a potential for danger to children far beyond the loss of school-time.

9.3 Also at risk are children whose parents are negligent in the matter of school attendance but are caring in relation to their physical and material needs. Non-attendance in these cases often reflects negative parental attitudes to the value of schooling, particularly after primary level. A particular form of parental negligence manifests itself in an attitude that children may be kept from school for reasons such as family circumstances (e.g. minding younger children, shopping trips, foreign

holidays), or economic necessity (helping with "selling" at particular times of year). This often results in the child missing significant amounts of school-time.

- 9.4 A serious problem exists in school attendance cases where the cause of non-attendance can be attributed to underlying problems with a psychiatric or emotional disturbance base. The assessment of such children would indicate that they require immediate medical and/or psychological/psychiatric intervention. Such intervention and resultant care could involve placement in a residential environment. The health boards contend that they do not have suitable facilities to provide the care needed in a secure environment. Invariably the more difficult of these children are placed by the courts in special schools for young offenders which present an unsuitable setting and lack the medical and psychological expertise to deal adequately with their specific needs.

- 9.5 The Working Group recommends that

where school attendance problems are clearly the consequence of a lack of care for and protection of the child, the matter should be referred to the health board, as a child care issue, requiring appropriate interventions under the Child Care Act 1991;

in the case of young people who have serious underlying psychiatric or emotional disturbance problems and who come to notice through non-attendance at school, the Department of Health and the health boards should provide suitable facilities, with secure environments if necessary, for their care and treatment;

10 Suspension and Expulsion from School

- 10.1 There is general acceptance that the number of pupils being suspended or expelled from school has increased in recent years. Severe behavioural problems, deliberate truancy, refusal to abide by school rules, personality clashes with teachers and incidences of delinquency - all contribute to a growing prevalence of exclusion of pupils from schools. It is not possible at present to give any reliable measure of this phenomenon.

- 10.2 Under the terms of Departmental guidelines on school discipline the need for sanctions involving different forms of exclusion has been acknowledged and criteria for their application have been set down. While appreciating the difficulties being experienced by schools in dealing with disruptive pupils, the Working Group has concluded that, in pursuing policies of exclusion in its various forms, schools themselves are contributing significantly, though not deliberately, to non-attendance. This can happen when implementation of discipline policy arrives too quickly at a point where exclusion is the only effective sanction available. Also, the use of indefinite or rolling suspension is tantamount to permanent exclusion and appears to absolve schools from their responsibilities in regard to certain pupils. Parents of pupils who have

been excluded have little opportunity to appeal such decisions outside the normal school management structures.

10.3 Particular problems have been noted in relation to the re-enrolment of pupils who may have been suspended indefinitely or expelled from school, or who, in the case of certain post-primary schools, may have been refused permission to reregister at the start of a new school year.

10.4 The Working Group recommends that

- *the rights and responsibilities of school authorities in relation to the enrolment and registration of pupils should be clarified and set down in regulations;*
- *children registered in a school should be regarded as enrolled in that school unless and until enrolled in another school;*
- *the rights and responsibilities of school authorities in relation to school discipline and associated sanctions should be set down unambiguously in regulations;*
- *schools should be obliged to keep official records of exclusions and should be required to make such data available as part of official returns;*
- *a limit should be placed on the amount of time during which a pupil may be suspended from school;*
- *post-primary schools should discontinue the practice of the annual registration of pupils, and should be required to register pupils for the full duration of a particular post-primary cycle;*
- *regional education councils should establish, or where appropriate, should require the establishment of appeals forum procedures for dealing with exclusions from school;*
- *current arrangements, whereby school authorities facilitate each other in dealing with the placement of disruptive pupils should be developed;*
- *regional education councils should be given the authority to ensure alternative placement for pupils expelled from school.*

11 Children of the Travelling Community

11.1 Special difficulties arise with regard to regular school attendance of children of the travelling community, largely due to their lifestyle and culture. The Working Group acknowledges the invaluable work of statutory and voluntary groups in facilitating continuity in the education of these children. The most serious problem applies to children in the 12-15 year age cohort, only about one in five of whom are in education. School attendance by traveller children may be affected by conditions such as unsettled home circumstances and the lack of suitable living

accommodation; movement within and outside the jurisdiction; attitudes among the traveller community to the need for post-primary education; the lack of facilities in mainstream post-primary schools; resistance to the enrolment of traveller children in mainstream schools and the lack of a responsive school attendance service.

11.2 The Working Group recommends that

the terms of any future school attendance legislation and services should apply equally to the children of the travelling community, having regard to their particular social circumstances, so as to ensure continuity in their education.

12 Pupils with Special Educational Needs

12.1 The recently published Special Education Review Body Report highlights the particular educational requirements of children with special needs, in both special and mainstream schools. In dealing with the possible causes of early drop-out among such pupils, the Report refers to the difficulties of transition from primary to post-primary level; the lack of special support in mainstream schools for such pupils and the difficulties of mainstream schools, especially at post-primary level, in adapting to the special requirements of these pupils. The Working Group acknowledges the difficulties for parents of such children in providing adequate education for them, especially in cases where suitable educational facilities may not be readily available. The education system should facilitate these parents in coming to well-informed decisions about their children's schooling.

12.2 The category of children with special educational needs includes those of exceptional ability and talent. Parents of such children may find the normal school system frustrating and unfulfilling and may decide to withdraw them from school periodically in order to provide other more appropriate educational experiences for them. This can disrupt normal school attendance, in some cases quite severely. Such action raises the possibility of proceedings under the School Attendance Act.

12.3 The Working Group recommends that

in the case of a child with physical and/or mental handicap, exemption from school attendance should be allowed on the basis of medical and/or psychological evidence that the child's condition precludes his or her regular attendance at school;

where exemption from school attendance is claimed by a parent on behalf of a child with special educational needs, the State should facilitate the parent in providing a minimum education for the child;

parents who claim exemption from school attendance on behalf of children with special educational needs should be obliged to prove

that they are providing a minimum education for their children within the resources available to them;

in the case of children who are exceptionally able or talented, cognisance should be taken of educational provision associated with enrichment and acceleration of learning which may necessitate occasional prolonged absences from school.

13 The Length of the School Year and School Attendance

- 13.1 In the case of primary schools, poor school attendance figures are exacerbated by exceptional and unofficial closure of schools which may significantly reduce the prescribed minimum of 184 school-days (1992/93). The attendance average given in Department of Education statistics represents the level of attendance of pupils for the days on which schools are officially open. If attendance averages were calculated on the basis of the minimum school year and unofficial half-days were taken into account, the results would be much more disturbing. The Working Group considers that comment on records of non-attendance and the associated causes would be incomplete without highlighting these facts.
- 13.2 The effective length of the school year for pupils at post-primary level is 168 days, allowing for the fact that days set aside for State examinations are considered to be part of the official school year (180 days). Less than 20% of post-primary pupils actually take state examinations during those 12 days; the majority of pupils, therefore, cannot avail of these days for actual school attendance. The incidence of other intermittent school closures at post-primary level is substantial, by all accounts, thus further diminishing official teaching time. There is no documented evidence of exceptional closures of post-primary schools.
- 13.3 The Working Group recommends that
- arrangements for ensuring the integrity of the minimum required pupil-days in the official school year should be implemented as soon as possible.*

14 Obligations on Parents

- 14.1 The main focus of the School Attendance Act is the responsibility of parents to ensure that their children attend school, except where exemptions are allowed. Given that the Constitution enshrines the principle of parental supremacy in relation to the education of their children, it is reasonable to expect that, in the exercise of their duties in this regard, parents should be held accountable for their actions. The parent is culpable in any case of non-compliance with the terms of the Act, not only for his/her own action or inaction in respect of the child's non-attendance, but also for any intentional act of the child in not attending school. While the School Attendance Act acknowledges the

possibility of insubordination by children up to 14 years of age, it does not appear to be sensitive to the increase in the incidence of children who are out of the control of parents, especially in regard to school attendance. Proceedings against such parents may achieve little in solving attendance problems. Cases against parents under new legislation should proceed to court only in the most serious of circumstances, and then only after in-depth investigation by an appropriate authority.

- 14.2 The School Attendance Act places certain responsibilities on the parent concerning the provision of information relevant to a child's school attendance, though few of these requirements are now strictly observed. Under new legislation, the parent should continue to be required to provide documentary evidence to the relevant authority in matters related to a child's domicile, changes of residence, school history both within and outside the jurisdiction and causes of absence from school. Such information will be particularly relevant to the registration process in schools.
- 14.3 A minority of parents exercise their right to educate their children in a manner other than in the State-aided school sector. The number of children being educated in private primary-level schools has fallen from 15,000 in 1981/82 (approximately 2.7% of all primary pupils) to 8,600 in 1992/92 (approximately 1.5% of all primary pupils). There are no statistics on the level of home-education, but it appears to be minimal.
- 14.4 Under the terms of the School Attendance Act, it is open to the designated enforcing authority for a school attendance area to prosecute any parents or guardians of children between the ages of 6 and 15 being educated other than in school, where it appears that alternative educational arrangements are not satisfactory. In such cases the burden of proof lies with the person prosecuted, and the court decides on the issue. Where the question arises as to the suitability of the alternative arrangements, the court may satisfy itself by seeking expert opinion, usually that of the Department's Inspectorate, or in some cases, of psychologists. The Department does not become actively involved in such cases, unless specifically directed by the Court to provide a professional assessment of the education being provided. This is on the basis that the Department is not an enforcing authority under the School Attendance Act.
- 14.5 From time to time, the Department of Education receives requests from parents choosing home-education regarding the definition of the terms "suitable elementary education" or "minimum education" as referred to in the School Attendance Act and the Constitution respectively, presumably in an effort to ensure that they are, in fact, fulfilling their obligations under the Act. It has been the practice to define these terms as "satisfactory attendance at a school recognised by the Minister for Education or alternative arrangements which satisfy the Minister on the advice of the Department's Inspectorate". The Department should clarify

its attitude to those who choose this option.

14.6 The Working Group recommends that

in restating the constitutional rights and duties of parents regarding their children's education, new legislation should highlight specific issues of conscience and lawful preference;

relevant exemptions from school attendance obligations, if any, should be specified in legislation;

a system of registration should be put in place for pupils who are being educated other than in schools certified as suitable for the purposes of school attendance, with provision for assessment by qualified personnel of the education being provided for those pupils;

the State should make guidelines available to parents choosing to educate their children in a manner other than in school.

15 Schools

15.1 The School Attendance Act makes provision for the certification of schools as suitable for the purposes of school attendance requirements under powers assigned to the Minister for Education. National Schools were, de facto, suitable schools and there is documentary evidence that certification was applied in respect of private schools and some post-primary schools in the early years of the Act's operation. In the cases of post-primary schools not formally certified in this respect, it can be assumed that the award of State grants to such schools implies suitability for school attendance purposes. It is unclear, however, whether all existing non-aided schools were formally certified under the Act. A process of certification, therefore, remains relevant, particularly given the increase in alternative forms of education for pupils who cannot adapt to the normal school setting, attendance at which should be validated under new legislation.

15.2 Administrative arrangements in post-primary schools for recording and processing attendance data are not as consistent as those in use in primary schools. In these schools, the practice of making returns to the Department of Education has fallen into disuse, hence the absence of accurate data on school attendance rates at post-primary level. The tracking of pupils through the educational system will require consistency of approach to the collection, storage, processing and transmission of school attendance data and, where possible, common administrative arrangements in all schools.

15.3 Under the School Attendance Act, school Principals are required to forward general information on attendance of pupils to the enforcing authority. This practice has fallen into disuse at primary level, and may be said never to have been applied in other schools. Where School Attendance Officers pay frequent visits to schools, such information is

readily available; in areas outside the jurisdiction of School Attendance Committees, however, such information may be passed to the Gardaí only in respect of children with persistent attendance problems.

- 15.4 It appears that where schools positively promote the virtues of regular attendance and handle attendance problems consistently, there is a beneficial effect on the overall levels of attendance in those schools. There is need for schools to deal with the issue of school attendance as a policy matter within an overall school plan and to accommodate solutions for combatting poor attendance. The school plan should outline strategies for creating a climate which encourages school attendance and should give a high priority to ways of handling attendance problems of whatever magnitude. The school curriculum should respond to the particular needs of problem attenders. New regional education councils, when given responsibility for school attendance issues, should encourage schools to tackle serious attendance difficulties by offering financial support for attendance improvement initiatives as part of disadvantaged funding.
- 15.5 The current official system of recording pupil attendance does not allow for distinctions to be made between different causes of absence. Detailed information on the nature of absence from school would enable schools and other authorities to make more informed decisions regarding attendance problems and to formulate effective policies to deal with such problems. A form of record which would distinguish between various types of absence but which would not place undue administrative burdens on schools and on individual teachers would be appropriate.
- 15.6 The Working Group recommends that
- the Board of Management and Principal Teacher of a school should be legally responsible for all matters relating to the enrolment, registration and attendance of pupils, as set out in regulations to be made by the Minister for Education under new legislation;*
 - the manner of monitoring and recording pupil attendance should be examined separately, in consultation with relevant interests, and should be updated where necessary. Consideration should be given to a system of recording absences which distinguishes between authorised and unauthorised absences and which incorporates absences due to suspensions. A standardised approach to these tasks should apply in all schools;*
 - in cases where schools fail to comply with the relevant provisions of school attendance legislation, regional education councils should be empowered to apply appropriate sanctions, or to recommend such to the Minister;*
 - as an interim measure, the responsibilities of school authorities under the existing School Attendance Act should be restated.*

16 The Role of Local Authorities

- 16.1 At present, four urban local authorities have statutory responsibility for the creation of school attendance areas and for the setting up of School Attendance Committees and may appoint some members of such committees within their jurisdiction. Each has further duties in relation to the approval of certain decisions of these committees and to the payment of appropriate salaries and expenses. These local authorities, however, have no role in determining the function or activities of School Attendance Committees or their officers, nor do they have any executive function with regard to school attendance enforcement.
- 16.2 The Working Group considers that the role of local authorities as defined in the School Attendance Act is marginal to the system of school attendance enforcement and contributes little to the effective functioning of such a system. There is no clear line of responsibility to the Minister for Education for the provision of school attendance services. However, it believes that an effective school attendance service should be clearly independent of the Department of Education and of the schools themselves, and that any future service should be based within a regional education council with responsibility for all matters relating to school attendance matters.

17 School Attendance Areas

- 17.1 Following recent reform of local authority boundaries in the Dublin area, certain anomalous situations have arisen regarding responsibility for school attendance enforcement in parts of County Dublin. There is no specific provision in the School Attendance Act for the reorganisation, by amalgamation, of school attendance areas as indicated by subdivisions of borough areas or by shifts in population. Such inflexibility has prevented the redeployment of school attendance personnel in the Dublin Corporation area, for example, where officers are assigned permanently to one of five School Attendance Committees and may not operate in another area where posts have not been filled or where colleagues are absent. Given the shift in the school-going population from the inner city to densely inhabited areas like Tallaght and Clondalkin, where there is no formal school attendance service, it is now considered that the whole Dublin Corporation administrative area could operate effectively as a single school attendance area. No orders were ever made under the Act to alter the 109 Garda Districts established, in 1926, as school attendance areas.

- 17.2 The Working Group recommends that

under new legislation assigning responsibility for school attendance matters to regional education councils, it should be the prerogative of any such council to organise its administrative area for school attendance enforcement purposes as required.

18 School Attendance Committees

18.1 School attendance committees, comprising five nominees of the Minister for Education and 5 nominees of the local authority, and representing teachers, school management and other interests, meet once a month for ten months of the year. At these meetings the workload of the various school attendance officers is reviewed, cases likely to be the subject of court proceedings are discussed and guidance on the approach to be adopted is given to the officer and, in the case of Dublin committees, efforts are made to resolve matters by inviting parents and children to appear before the committee in the hope that a court appearance might be avoided. Committees also have a function in the appointment and remuneration of School Attendance Officers. The full quota of places on some committees has not been filled, and the effectiveness of other committees has been diminished by poor attendance at meetings.

18.2 The application of the School Attendance Act can be viewed as a serious intervention in the life of the parent and child. The Working Group believes that, as a basic principle, such an intervention, though founded in law, should not be taken lightly and should allow the parent ample opportunity to defend his/her actions in relation to the specific responsibility of ensuring attendance of a child at school. To that end, the Working Group sees great value in the role of the existing School Attendance Committees as a form of buffer between the child and parent on the one hand and the enforcement agency on the other, and, in future arrangements for school attendance enforcement, favours a similar intervention. It is envisaged that this buffer, in the form of a small representative group of educational, school management and welfare professionals and parents, would, in general:

- function as an advisory group to field officers in matters of general policy on school attendance enforcement;

- receive reports from school attendance field officers on individual cases, review the evidence provided and make recommendations as to further proceedings, if required;

- act as a forum of appeal in order to afford parents the opportunity to plead their case prior to more serious proceedings, if required;

- advise such parents on matters pertaining to their children's school attendance;

- act as a conduit for information on general matters of school attendance with a function to advise the regional education council accordingly;

- act as a subcommittee of a regional educational council, with responsibility for reporting on matters of school attendance generally.

18.3 The Working Group recommends that

the proposed regional educational councils should establish Education Welfare Subcommittees to carry out functions in relation to school attendance enforcement.

19 School Attendance Officers

19.1 School Attendance Officers are employed by School Attendance Committees in Dublin City, Cork City, Waterford City and Dun Laoghaire. In recent years a number of vacancies have not been filled due to financial and staffing cut-backs in the local authorities. Inevitably the level of service provided in the areas affected has fallen.

19.2 As stated in their response to the Green Paper, School Attendance Officers "have built an education welfare dimension around the statutory enforcement of compulsory school attendance" in an attempt to overcome problems concerning "the educational handicaps which social and economic disadvantages impose". The education welfare aspect of their work has been noted and supported in a number of reports over a period of 25 years. With the increasing link between poor school attendance and social disadvantage, there is a strong justification for such an approach and for recognising it in law. The Working Group believes that the aim of any intervention on school attendance must be to ensure continuity in the child's education by appropriate means and that the apportioning of blame, is of secondary importance.

19.3 School Attendance Officers see their main function as ensuring the fundamental right of all children to education. They identify problem attenders by visiting schools regularly and by constantly monitoring attendance records. Cases are often referred by them to welfare agencies for assistance in dealing with other social and health problems associated with poor school attendance. The link between poor school attendance and disadvantage is now so marked that officers have become more involved in rescuing children at risk in the wider community. The provisions of the School Attendance Act is used to gain access to independent professional assessment of the child's needs in order to assist the courts in making decisions on the most appropriate solution to the child's problems.

19.4 School Attendance Officers attempt to deal with persistent cases of non-attendance by building a trustworthy relationship with parent and child. If this does not result in an improvement in attendance, the parents may be invited to attend a meeting of the School Attendance Committee though they cannot be required to do so. If there is no change in behaviour, parents are issued with a warning and finally are brought to court. This step is regarded as a last resort when all other avenues have been tried and failed. In cases of long-term suspension or exclusion of pupils, officers may assist parents in approaching other schools for

places. Their role here, however, is one of persuading, rather than obliging schools to enrol a child, especially where the child may have a record of difficult behaviour.

19.5 The education welfare dimension of attendance officers' work appears to overlap with some of the functions of Home/School/Community Liaison teachers. Though common concerns will emerge, the functions of each service are quite distinct. Home/School/Community Liaison teachers are charged, *inter alia*, with the task of improving mutual understanding, respect and communication between home and school. In this role they may intervene with, and support, families where the children's school attendance is a serious problem and can provide useful background information on such children. While schools themselves should be expected to pursue a vigorous policy in relation to school attendance issues, an enforcement dimension is inappropriate to the role of Home/School/Community Liaison teachers. The role of school attendance personnel in linking home and school would be solely on issues relating to attendance. The nature and extent of their contact with schools would change in the context of the increased pupil attendance responsibilities being proposed for schools by the Working Group.

19.6 There is a valid case to be made for having a school attendance service with strong legal powers, a service which can also assist parents in becoming involved more effectively in their children's education. This service should be part of a co-operative approach to alleviating the underlying causes of poor attendance, involving home, school, social welfare, health and juvenile liaison and probation personnel. It is envisaged that some type of formal structure would be required to coordinate the work of various agencies dealing with the child and the family in this context. A new service, preferably to be known as an Educational Welfare Service, should have separate functions in relation to the general education welfare of children who are experiencing serious school attendance problems. Specifically, this service, through its officers would

assist in providing relevant information on a pupil's home background;

be aware of possibilities for alternative educational placement, where this is deemed necessary for the child, and advise parents accordingly;

be aware of, and co-operate with, other agencies that are capable of dealing with the needs of child and family;

advise parents about their obligations in relation to their children's school attendance;

monitor the progress of children through the education system and pay particular attention to difficulties at the point of transfer from primary to post-primary school;

maintain personal and sympathetic contact with problem families;

- *be aware of school policies in relation to school attendance and assist parents in complying with those policies;*
 - *review and provide reports on attendance matters generally to the regional education council.*
- 19.7 Education welfare officers should have powers under legislation
- *to seek, receive and process appropriate information on the school attendance of all children in the compulsory schooling age-group;*
 - *to have access to, and report on, school records of attendance;*
 - *to visit families in order to establish the background to attendance problems;*
 - *to issue and serve formal warnings to parents concerning their obligations under school attendance legislation;*
 - *on behalf of the Education Welfare Subcommittee of the regional education council, to summon parents to appear before that subcommittee;*
 - *to institute court proceedings against a parent who fails to comply with previous warnings; and*
 - *to carry out education supervision and school attendance orders issued by the court.*
- 19.8 The qualifications and experience required of personnel involved in school attendance work within the educational welfare field should be broad enough to attract persons working in education, social work, welfare and child-care. This particular work, it is felt, would attract experienced teachers seeking short-term alternative employment in an education-related field.
- 19.9 The Working Group recommends that
- *in the enforcement of future school attendance legislation, regional education councils should have the authority to employ one or more field officers to act as agents for the council, these officers to be known as Education Welfare Officers, with specific functions in relation to the general educational welfare of children experiencing attendance difficulties and with powers to enforce school attendance legislation. Existing school attendance officers should be integrated into new structures.*
- 20 **The Garda Síochána and School Attendance Enforcement**
- 20.1 The Conroy Report, 1960, on the Garda Síochána, stated that school attendance enforcement work was inappropriate to a modern police force. Since then questions relating to this issue have been raised regularly in reports dealing with aspects of child-care, youth policy and education. There appears to be considerable variance in the extent of Garda involvement in school attendance enforcement throughout the country

and the emphasis placed on this particular Garda function by different superior officers seems to reflect the debate as to the relevance of this particular role. In many cases this function is allocated to an individual officer who may also have a wider function in community relations. The work of Juvenile Liaison Officers, whose function is to divert young offenders from the judicial system, is also relevant, in that cases of potential criminality associated with serious truancy come within their brief. Attendance officers, parents and schools can call on the assistance of Junior Liaison personnel if truancy persists.

- 20.2 It is clear from consultations with interested parties that, in disadvantaged areas in particular, the role of the Gardai in enforcing school attendance is problematical. Other functions often bring them into conflict with individuals, groups and communities, and such an atmosphere is unlikely to be conducive to the solution of school attendance problems. From the point of view of the Gardai also, it is understandable that they should query the value of intervention on, what is perceived to be, a relatively minor matter, which may further lose them the confidence of a family or community with whom they may be in conflict. In addition, the processing of school attendance cases requires considerable work and can represent a significant investment of Garda resources.
- 20.3 In other areas, however, the status of the Gardai is such that attendance problems are dealt with very effectively through the establishment of a good working relationship between schools and the Garda, where regular visitation and open communication between young people and the police are actively encouraged.
- 20.4 Given the size of the proposed regional education councils and the relative infrequency of serious school attendance problems in some areas, it is possible that councils might not choose to allocate specialist full-time posts to school attendance duties to cover all areas but might wish to use existing Garda services to deal with cases as they arise. Notwithstanding the general opposition to their involvement in school attendance enforcement, therefore, the Working Group considers that the Gardai have a worthwhile and continuing role to play.
- 20.5 The Working Group recommends that

within new arrangements placing responsibility for the administration of school attendance matters on regional education councils, provision should be made for a continuing Garda role in school attendance enforcement where local conditions are such that the Gardai are best placed to carry out this function directly.

21 Court Proceedings

21.1 In the light of what has been said in this report regarding the circumstances surrounding persistent non-attendance at school, it is clear to the Working Group that evidence of non-attendance should be heard in the context of full consideration of the child's family circumstances. These cases often highlight sensitive family and child-care issues, consideration of which may be inappropriate in open court. Since the parents are the ones being prosecuted, the cases are heard in the District Court but school attendance personnel are reluctant to divulge information about the family circumstances in this forum. The provision of purpose-built juvenile courtrooms in Dublin is regarded as an initial step in responding to the very sensitive nature of proceedings involving children and their family situations. There is a view, however, that the present system of having school attendance cases heard in open court is unsatisfactory, but changes in existing judicial procedures would be required in order to provide alternative arrangements. In general it is felt that an additional alternative form of proceedings would be required to take account of the particular conditions attaching to school attendance matters. Options might include a form of family court in relatively informal surroundings, where parents can participate openly and fully in the proceedings.

21.2 The practice of adjourning school attendance cases has become fairly widespread. The purpose of the adjournment is to provide time and opportunity to the parent to bring about an improvement in the child's attendance. Where there has been no improvement the School Attendance Officer normally recommends to the court that the child be assessed. Adjournments also result in certain cases being lost as the child involved reaches the upper age-limit for compulsory school attendance, a factor that also explains the reluctance of attendance officers or Gardaí to pursue cases where the child is nearing that age-limit.

21.3 The Working Group recommends that

within the context of the Department of Justice's review of the courts system, the feasibility of alterations to judicial procedures in school attendance cases should be examined, to include a form of hearing in which sensitive family and childcare issues can be heard in confidence.

22 Penalties

22.1 Under current legislation, penalties may be applied to parents for failure to comply with the School Attendance Act (in the form of very small fines), to employers found guilty of contravening any regulations ordered by the Minister in relation to the employment of children (also in the form of small fines) and to those (including school authorities) found guilty of falsifying relevant certificates or using such falsified material

(larger fines and/or imprisonment). The maximum fine applicable to a parent under the Act was raised to £5 in 1967.

22.2 The Working Group feels that the level of fines applicable to parents under current legislation fails to indicate the serious nature of the offences involved. In future, the prosecution of a parent for failing to comply with school attendance/compulsory education legislation should be the ultimate step in an exhaustive process which seeks to ameliorate school attendance difficulties through the counselling of parents and other forms of assistance. In that regard, it is felt that the degree of penalty to be applied should reflect the serious nature of the parents' offence. The Working Group has examined efforts made in other jurisdictions to link penalties against parents to the withdrawal of social welfare benefits, but considers such action to be inappropriate.

22.3 The Working Group recommends that

- *the level of penalty to be applied to a parent for failure to comply with school attendance requirements should be increased to reflect the seriousness of this offence;*
- *consideration should be given to forms of community service as an appropriate penalty.*

23 Court Decisions in Relation to the Child

23.1 On the basis of assessments carried out at their direction, judges have confined committals to care under the School Attendance Act (apart from assessments at St. Michael's) to a number of special schools remaining under the responsibility of the Minister for Education - specifically St. Joseph's, Clonmel and St Laurence's, Finglas which cater exclusively for boys. There is no comparable facility for girls. The Child Care Act 1991 provides that the Court may make an order under the School Attendance Act committing a child to the care of a health board as if that order had been made under the Child Care Act. However, this provision has not yet been implemented. Youth Encounter Projects in Dublin, Cork and Limerick provide some leeway to the Court in recommending alternative school placement for older children who have become alienated from the mainstream school system.

23.2 While expressing serious reservations about committals to custodial care in general, the Working Group appreciates the current frustration of the Court in seeking acceptable solutions to school attendance cases. There is concern that school attendance cases should be dealt with by the court in a manner which does not criminalise children or their families, does not add to existing stress and instability but which focuses on the underlying family-related problems. The committal of children to custodial care on school attendance grounds alone is likely to bring them into contact with young offenders involved in more serious criminal activity, many of

whom themselves have very poor school attendance records, and is unlikely to solve the problem. For some children with serious school attendance problems, an alternative solution may be preferable. A unique solution must be found which will address the issues of physical care, emotional security, supervision, education and rehabilitation in an environment as closely aligned as possible to the normal family situation. This may best be achieved through a form of independent supervision of the child.

23.3 Where it has been established that the problem of poor school attendance is linked to severe family difficulties, procedures under the terms of the Child Care Act, 1991 should be initiated. Placement in care should not be characterised as punishment for non-attendance at school nor be categorised in statistical data as such. A "care" order in this instance should be viewed as a solution sympathetic to the family and not as a punishment for poor parenting and should also be in the best educational interest of the child. The child should be in the "care" environment as soon as possible after the institution of proceedings in order to avoid undue interruption to the child's education, and conditions relating to that education should be attached to any "care" order.

23.4 The Working Group recommends that

Section 75 of the Child Care Act, 1991, should be implemented immediately;

children should no longer be committed to custodial care in special schools on the grounds of non-attendance alone;

a reasonable time-limit should be placed on legal and other processes involved in the solution of attendance cases;

in deciding on action in relation to a child who is the centre of a school attendance case, the Court should have the following options:

▫ *to make a "school attendance" order by which a parent, on pain of prosecution, would be obliged to ensure the child's attendance, whether at a mainstream school or in some suitable alternative educational facility;*

▫ *to make an "education supervision" order for a specified period, during which time an appropriate educational welfare service would have authority to visit the child periodically in order to satisfy itself as to its attendance at school and give any necessary advice to the child's parents;*

▫ *having consulted with the appropriate authorities and having referred the matter to the Health Board, to make a "care" order as provided for in Section 75 of the Child Care Act, 1991 and make an order as to the educational conditions that should apply within the care environment.*

24 New Legislative Arrangements

- 24.1 The foregoing analysis of the school attendance environment has pointed to the need for legislative arrangements for dealing with the wider issue of minimum education and the more specific question of compulsory school attendance. This section outlines the proposals of the Working Group with regard to new legislative provision for the purposes of ensuring minimum education and compulsory school attendance.
- 24.2 In order to establish 'clear ground' for new legislative provisions on education, including school attendance requirements, the Working Group recommends that the proposed Education Act should
- *repeal the School Attendance Acts 1926 to 1967;*
 - *place responsibility for meeting the State's constitutional obligation to require "that the child receives a certain minimum education" on the Minister for Education;*
 - *set out a procedure to be followed for determining what "in view of actual conditions" is "a certain minimum education" in consultation with the appropriate interested parties;*
 - *empower the Minister for Education to require that children of certain ages receive at least a minimum education, with provision for the ages to be amended by regulation;*
 - *place legal responsibility on parents to provide education for their children either by causing them to attend school or otherwise;*
 - *provide for the establishment of regional education councils;*
 - *empower the Minister to make regulations for the recognition of schools and for the granting of State aid.*
- 24.3 With regard to the compulsory school attendance of children whose parents choose to educate them in schools recognised for the purpose by the Minister the Working Group recommends that the proposed Education Act should
- *place responsibility on the Minister for Education and on the proposed regional education councils for enforcing school attendance;*
 - *empower the Minister to make regulations giving effect to school attendance provisions in the Act;*
 - *empower the Minister for Education to make regulations establishing the necessary procedural and administrative arrangements deemed necessary for the carrying out of her responsibilities and those of the regional education councils in relation to school attendance;*
 - *place responsibility on parents, once they enrol their children in*

school, to ensure that the children abide by the attendance regulations set down by the Minister;

provide for the granting of exemptions from school attendance;

place responsibility on parents, where they intend to provide education for their children other than in a recognised school, to inform the regional education council accordingly;

empower the courts to regard children who are not attending school regularly, or who are otherwise not being provided with an adequate education, as being in need of care and to make appropriate orders;

provide for the imposition of appropriate penalties by the courts on parents convicted of failing to cause their children to attend school or on persons obstructing the implementation of court orders;

require every school to document its procedures for enrolment and attendance and its strategies for dealing with non-attendance problems;

place a legal requirement on schools to maintain records of the enrolment and attendance of pupils in the manner prescribed by the Department, and to provide such information on enrolment and attendance as may be required by the regional education council and by the Department of Education;

provide for the certification of all schools and education/training centres funded by the State and catering for children in the compulsory school age-group, and other schools, as suitable schools for the purpose of school attendance provisions, and prohibit other schools and centres catering for children of compulsory school-going age from operating without a certificate to be provided by the Minister or by the regional education council.

24.4 In the preparation of relevant legislation and regulations, the Working Group recommends that

detailed discussion should take place with relevant interests in order to ensure maximum cooperation between proposed new educational welfare service and other agencies such as the Gardaí and health boards and to avoid significant overlap in the work of these agencies.

25 New Administrative Arrangements

25.1 This section outlines the proposals of the Working Group for placing responsibility for school attendance matters on the proposed regional education councils.

25.2 The Working Group recommends that

regional education councils should have powers and responsibilities in the matter of school attendance enforcement, as set out by the

Minister in regulations under the proposed Education Act, and provision should be made for the phased recognition of these structures as school attendance enforcement authorities.

25.3 In carrying out its statutory functions in relation to school attendance, the Working Group recommends that a regional education council would

delegate its school attendance/education welfare responsibilities to a subcommittee comprising up to seven persons with experience in education and child welfare and including representation from the appropriate health board(s);

assess the level of non-attendance in their area as a basis for deciding the nature of the school attendance service to be provided, with the approval of the Minister;

have power under the Act to employ officers, subject to the Minister's approval, with responsibility for school attendance enforcement and/or, where justified, contract with the Garda Síochána within their area to investigate school non-attendance cases and, where necessary, bring proceedings against parents/guardians;

trace patterns of non-attendance in its area, as well as deal with individual cases, and monitor the implementation by a school of its attendance and enrolment policies;

review cases of suspension and expulsion of pupils on appeal and matters relating to a child's welfare while the child is of compulsory education age;

fund and operate an Educational Welfare Service within a budget and terms approved by the Minister;

provide extra support and resources to disadvantaged schools on the basis of programmes presented by schools, which must include measures to improve attendance levels;

promote, support and provide a range of alternative education provision within schools or in other centres, to cater for children of school-going age whose needs are not been met by mainstream programmes, including non-attenders; assume responsibility for the management and funding of Youth Encounter Projects and examine the need for, and where it is deemed necessary propose the establishment of, similar projects;

provide educational facilities/visiting teachers to group homes funded by health boards catering for children committed to the care of health boards.