



Coalition of Irish Immigration Centers

Detention Rights Handbook

2009

Table of Contents

I. Introduction

- Coalition of Irish Immigration Centers Detention Rights Working Group

II. What to Do When an Immigrant is Detained

- Information for Irish Center Staff and Volunteers
- Information for Families and Friends

III. Know Your Rights

- Understanding the Criminal Justice System
- ICE Detention Standards
- General Know your rights

IV. Resources for Detainees and their families

- Irish Organizations in the United States
- Resources in the United States
- Resources in Ireland

The information provided should not be considered legal advice for any individual case or situation. No attorney/client relationship is created. We recommend you to consult an immigration attorney if you require legal advice.

Introduction - The Coalition of Irish Immigration Centers Detention Rights Working Group

The Coalition of Irish Immigration Centers (CIIC) has developed this packet of information to assist Irish Centers and the general public to understand what happens when an immigrant is detained by Immigration Customs & Enforcement. The experience is often frightening and confusing and the attached information is designed to help those who work with immigrants as well as families and friends of detainees to understand what will happen, how they can help and when they can expect to see the detainee. We have attempted to provide information that is applicable across the country but you should always check with your local authorities as there may be some regional differences.

The information can be printed as separate handouts or used as a full packet. It contains lists of resources in the United States and in Ireland that can help detainees whatever the outcome of their case is.

Detention Rights Working Group - Members

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Thank you to all of the CIIC working group members who worked hard to put this resource together.

Sheila Gleeson

Executive Director

Coalition of Irish Immigration Centers

January, 2009



Detention and Deportation

Information for Irish Center Staff and Volunteers

When a friend or family member calls to report that an Irish immigrant has been detained by Immigration Customs and Enforcement they are often very distressed, confused and looking for answers. They want to know where the detainee is being held. How long will they be there? What happens next? Will they be released or deported soon?

First Steps

Ask the caller for the full name and Date of Birth of the detainee; this information will help you to get information about the detainee. Ask if they have information on where the detainee was picked up or is being held; the detainee may have been moved but that is a good place to start.

To get information about a detainee who is being held call the ICE Detention and Removal office in your area. Contact information for detention and removal field offices around the United States is available at: www.ice.gov/about/dro/contact.htm

Ask if the Irish Consulate has been informed about the detainee; offer to call them if they are not aware of the case. The Consulate, as the Irish Government representatives, can get information on the location of the detainee, will help to look out for their welfare while they are in prison and will provide the necessary paperwork if they are being deported.

What can you do?

Inform the caller of services your Center offers to detainees and their families. Let them know that your Center will accept collect calls from the detainee and will make an appropriate referral if the detainee is looking for legal representation and provide a list of attorneys to the detainee. Let them know if you have a prisoner visitation program and ask about the health and mental state of the prisoner. Some of the centers have a clergy person who may be able to visit a detainee. It will often take up to 10 days before friends or families are approved to visit. Clergy may be able to visit sooner

Inform the caller that the facility will allow collect calls from the detainee to the Irish Consulate. Private calls to legal representatives are allowed. Most other calls are monitored. Many facilities do not allow calls to Ireland but friends can check the facility rules to verify this.

Advise visitors to check the rules of the facilities and to comply with all the rules regarding visitors. Advise all visitors to bring proof of legal status when visiting a prison even if the rules do not specify this.

Let family and friend know what the general timelines are in your area for deportation cases. Be sure to stress that timelines are approximate and depend on individual circumstances and factors that are outside of the control of the Center and the Consulate.

If you visit the detainee then offer to call family in Ireland to reassure them as to the welfare of their loved one.

Refer to the CIIC Fact Sheet on detentions and deportations for more detailed information on, detention facilities, resources in the United States and Ireland and prisoner rights and responsibilities.

Provide information on resources and services in Ireland that the detainee may need upon their return.



Detained in the USA

Information for Friends and Families of Detainees

When an immigrant is detained by Immigration Customs and Enforcement (ICE) it can be overwhelming and frightening for families and friends. The prison system in the US is large and confusing and those who are unfamiliar with it will need information and resources to assist them. Irish Immigration Centers in the US work with the Irish Consulates to provide support for families, to keep detainees and their families informed about what is happening and to provide assistance, advocacy and information when requested. This fact sheet is designed to provide practical suggestions and tips to friends and families of detainees.

What should you do when an immigrant is detained?

When an immigrant is first detained the friends/family should make contact with the Irish Consulate and the Irish Center in the area where the detainee is being held. The Consulate and the Centers can provide information specific to the individual situation and will accept a collect call from any Irish citizen who is detained. Please be aware that calls from prisons, other than calls to an attorney, will be monitored. Individual prisons/detention centers have their own rules but most do not allow immigrants to call family in another country. The Irish Consulate and the Irish Centers can help to keep families in Ireland updated or on certain occasions arrange for telephone contact.

Where will they be detained?

One of the difficulties facing families and friends when an immigrant is detained can be finding where the person is being held. Immigrants picked up for immigration violations will usually be detained by Immigration Customs Enforcement (ICE) at one of their facilities or in a local jail/prison where they rent space. Immigrants who are charged with a crime/offence may be held at a local police station or jail. The first step is to call the local police in the town/location where the arrest/detention happened.

A detainee will be allowed a phone call and will usually call a family member or friend. It is important to get as much information about who is detaining them, what the charge is and if there is a court date.

Ask if ICE is involved as they may move the detainee to a different location once they are in ICE custody. If an immigrant is in ICE custody you can locate them by calling the local ICE office. Contact information for detention and removal field offices around the United States is available at: www.ice.gov/about/dro/contact.htm

When can I visit?

Please be patient and courteous when seeking information on a detainee. It may take a number of days to get a detainee's name into the system and it can be frustrating when family and friends do not know what is happening. It usually takes 7-10 days before a detainee is allowed any visitors. Attorneys and clergy may be able to visit sooner so check with your local Irish Center to see if they are able to arrange for a clergy person or an attorney to visit especially, if you are worried about a detainee.

Who can visit detainees?

Immigrants who are being held in a location that is accessible to one of the Irish Centers can request a visit from a staff member or volunteer. Prison restrictions and rules can make organizing a visit a difficult and often lengthy process so it is important to advise detainees to expect a significant delay before anyone can visit them. Each facility will have procedures for visitors so check with the individual prison to find out what this process is. Many institutions require detainees to list potential visitors to aid security clearance.

Irish Centers can help detainees by reassuring friends and family, keeping them informed about the process and the next steps, as well as assisting them to prepare for deportation. It is helpful if one friend or family member is designated as the key contact with the Consulate and Irish Centers. This person can keep other family and friends informed and let them know how the case is progressing.

It is important to be aware that prisons may perform background checks and will require identification documents from visitors. Visitors are advised to bring picture ID and evidence of legal status in the United States before traveling to the prison. Criminal background checks may be performed on visitors and there will also be regulations regarding dress, items that you can bring in, and visitors under 18 years. Be sure to check out the regulations for visiting the facility by contacting the facility or checking the appropriate website.

Will detainees need money while they are in prison?

It is helpful for detainees to have some money while they are in prison to cover the cost of necessities that are not provided like toiletries, stamps and phone cards. Family and friends can deposit funds directly with the institution; check with the prison or the Irish Center for the proper procedures for sending money. Money cannot be given directly to the detainee.

What about Travel Documents and Passports

The Irish Consulate will deal with the issue of travel documents for detainees who will be deported. Talk to the Irish Consulate in the area where the detainee is being held regarding passports and travel documents. ICE will accept a small bag (less than 40 lbs) for each deportee and you can also leave cash at the appropriate ICE office that the detainee might need when they get home. Be sure to get a receipt for the cash from ICE. When a family member/friend takes the bag to ICE facility they will need the deportee name, the prison the person is being held in and also the Detainees Identification Number which can be obtained from the prison. It is always advisable to bring evidence of legal status when going to an ICE facility.

Will a detainee need an attorney?

Generally, immigrants who entered the United States on the Visa Waiver program do not have the right to a hearing before a judge and the expense of hiring an attorney may not be justified. However, there are rare exceptions to this so it is very important that detainees check with an Irish Center or an experienced and reputable immigration attorney to determine the best course of action.

Irish Centers can provide referrals to reliable and experienced immigration attorneys so that detainees can get legal advice and decide on the best strategy. Detainees retain many basic rights while they are incarcerated and generally are advised not to sign anything until they have had an opportunity to review it and, if necessary, discuss it with someone who can explain the consequences of signing the document.

Deportation

In most cases, ICE must make a determination within 48 hours regarding a detainee's status and custody. Generally after 72 hours, they must serve a detainee with paperwork detailing the charges and rights to a hearing before a judge. It is important to get the name and number of the Deportation and Removal Officer assigned to the detainee's case along with his/her Alien Registration number (A#) to pass on to those helping you with his/her case along with any documents. This charging document (notice to appear) is the most important document for an attorney representing the detainee to have.

The length of time before an immigrant is deported varies with individual circumstances and the part of the country where the detainee is being held. The local Irish Center may be able to provide you with more information. An immigrant who is deported to Ireland should keep his deportation paperwork in a safe place as this may be required when he gets home in order to access social welfare benefits and/or if he files an application to enter the United States in the future (for example, if he is married to a U.S. citizen and/or has U.S. citizen children or parents).

Can someone who had been deported ever return to the United States?

Immigrants who are deported will have a bar to reentry imposed on them. In some cases it may be possible to file an application to enter the United States in the future. However, anyone considering filing an application should consult a reputable immigration attorney to determine if he/she is eligible to apply.



U.S. Criminal Justice System – Overview

Today the United States has 2.3 million people detained behind bars, more than any other nation. This means that 1 in 100 adults are locked up. In 2006, 27,634 detainees were under the jurisdiction of U.S. Immigration and Customs Enforcement (ICE). This represents a 41% increase from year end 2005. Over half (50.7%) of the detainees were held on immigration law violations alone; there were no criminal charges.

Places of incarceration are either jails or prisons. Jails are run by city or county administrations. Jails are the locations where people are held when arrested until their trial or until they can make bail. Defendants who are found guilty will usually serve their time in a local jail if the sentence is short, generally 12/13 months or less. This time varies by state so check the local statutes for the regulations in your area.

Prisons are operated either by the State or Federal Government. People convicted of crimes against the State will serve their time in a prison of the State where they were convicted. These cases are handled in the State courts while Federal offenses are handled by Federal Courts. After a Federal conviction, irrespective of length of sentence, time will be served in a Federal institution. Inmates can be housed in any Federal Prison, anywhere in the United States, no matter where the conviction occurred.

The Office of Detention and Removal Operations (DRO) is part of U.S. Immigration and Customs Enforcement (ICE), the largest investigative arm of the Department of Homeland Security (DHS). This office is responsible for identifying, detaining and removing immigrants who are in violation of the immigration laws. DRO secures bed space in detention facilities (jails and prisons) throughout the United States. If someone is detained on an immigration violation he/she may be sent anywhere ICE has space available. The length of time he will be detained varies according to the individual situation, and the location where he are detained.



Immigration Customs & Enforcement

Detention and Removal Standards

The DRO secures bed space in detention facilities, and sets standards that specify the living conditions appropriate for detainees. The [Detention Operations Manual \(Detention Standards\)](#) outlines the recommended policies and procedures concerning the treatment of individuals detained by ICE. These standards are recommended and are not mandatory but it is ICE policy to see that these standards are met.

Each facility that contracts with ICE has to develop and implement standard operating procedures (SOP) that address detainee grievances. Among other things, each facility must establish a reasonable time limit processing, investigating, and responding to grievances and providing written responses to detainees who filed formal grievances, including the basis for the decision. All grievances should receive supervisory review and include guarantees against reprisal. If possible you should contact an attorney or an Irish Immigration Center with local knowledge for advice on filing a grievance.

A short summary of some of ICE Detention Standards is below.

Visits by Legal Representatives

Legal visitation must be permitted 7 days a week for a minimum of 8 hours on weekdays and 4 hours on weekends and holidays. Legal visitations should not be terminated for meals or routine official counts. An attorney or legal representative should be provided with a private room to conduct a meeting with possible visual but no audio observation.

Visits by Family and Friends

Visiting hours should be clearly posted and permitted during set hours on weekends and holidays. Special arrangements should be available for family members who are unable to visit during regular visiting hours. Visits should be for at least 30 minutes. Other than limitations due to visiting room capacity, no limitation should be imposed on the number of visitors per detainee. Immediate family, relatives, friends, and associates may visit. Detainees should be able to request visits free from audio monitoring. A visitor may be subjected to a pat down search as well as a search of his/her belongings before and after a contact visit. Money from visitors for detainees should be given to a designated staff member, who should provide the donor with a receipt.

Telephone Calls

Even if telephone service is generally limited to collect calls, the facility must permit direct (not collect) calls to a local immigration court, the Board of Immigration Appeals, Federal and State courts where the detainee is or may be involved in a proceeding, to consular officials, to legal service providers, to a government office to obtain information about the detainee's immigration case, and in a personal or family emergency. Indigent detainees will not be required to pay for these calls if they are local calls, or if there is a compelling need. All ICE detainees, including those in segregation, must be able to make free calls to consular offices and to the legal service providers on the ICE pro bono list, at no charge to the detainee or to the receiving party.

Detainees at an ICE detention facility should have reasonable access to telephones during waking hours. If time limits are necessary for such calls, time for telephone calls should be no shorter than 20 minutes, and the detainee should be allowed to continue the call if desired, at the first available opportunity. There should be one working phone for every 25 detainees. The facility must ensure privacy for legal calls by providing telephones where calls will not be overheard by officers, staff, or other detainees. Legal calls should not be electronically monitored without a court order. If the facility monitors calls, notice of monitoring must be displayed at each monitored phone along with the procedures for requesting an unmonitored call to a legal representative. The facility must take and deliver telephone messages to detainees.

Mail

Incoming mail must be distributed to detainees within 24 hours of receipt by the facility. "Special Correspondence," or legal mail, is written communication with attorneys, legal representatives, judges, courts, news media, members of Congress, embassies, consulates, the Department of Justice, the U.S. Public Health Service, and administrators of grievance procedures. Special correspondence may be inspected for physical contraband, but only in the presence of the detainee. Staff shall neither read nor copy special correspondence.

Outgoing general correspondence and other mail may be inspected in the presence of the detainee if the addressee is another detainee or if there is reason to believe the item might present a threat to the facility's security, endanger the recipient or public, or might facilitate criminal activity. Outgoing mail should be delivered to the postal service no later than the day after it is received by the facility staff, or placed by the detainee in a designated mail depository, excluding weekends and holidays. Incoming and outgoing mail may be rejected to protect the security of the institution, to protect the public, or to deter criminal activity. The facility shall supply writing paper, writing implements, and envelopes at no cost to the detainees.

Staff - Detainee Communication

Procedures must be in place to allow for formal and informal contact between detainees and ICE staff and to permit detainees to make written requests to ICE staff and receive an answer in an acceptable time frame.

Transfers

In deciding whether to transfer a detainee from one facility to another, ICE will consider whether a detainee is represented before the immigration court. If so, ICE will consider whether the attorney is located near the facility, and where immigration court proceedings are taking place. A detainee may be transferred for the following reasons: Medical, Change of Venue, Recreation, Security, or other needs of ICE, including eliminating overcrowding.

Medical Care

Facilities must provide each detainee with an initial medical and dental screening upon arrival, and a health appraisal and physical examination within 14 days of arrival at the facility. Facilities will provide primary medical care and emergency care.

Recreation

Every effort will be made to place detainees in facilities that provide outdoor recreation. If the facility does not have an outdoor area, a large recreation room with exercise equipment and access to sunlight will be provided. Each detainee shall have access to outdoor or indoor recreation for at least one hour daily, five days a week, weather permitting.

Disciplinary Policy

The detainee handbook provided to each detainee shall provide notice of the disciplinary process, prohibited acts, sanctions imposed for violating the rules, and the procedure for appealing disciplinary findings. The handbook must provide notice of the right to protection from personal abuse, corporal punishment, or excessive use of force, and the right to pursue a grievance. Disciplinary action may not be capricious or retaliatory. The facility shall not hold a detainee accountable for his/her conduct if medical authority finds him/her mentally incompetent.

The information provided should not be considered legal advice for any individual case or situation. No attorney/client relationship is created. We recommend you to consult an immigration attorney if you require legal advice.



Know Your Rights - Fact Sheet

Right to an attorney: If you are arrested on a criminal charge, you have the right to be represented by an attorney. This is a key right and you should never assume that you can protect your own legal rights without an attorney. Remember conviction on a criminal offence can have serious implications for your immigration status in the United States, convictions may result in deportation even if you are a legal permanent resident (green card holder) and may affect your ability to re-enter the U.S. in the future.

If you don't have the money to hire your own attorney in a criminal case, an attorney will be appointed for you by a judge at your first court hearing (usually the arraignment hearing).

Right to remain silent: In the United States, every person – whether documented or undocumented – has the constitutional right to remain silent and to refuse to answer questions of the local police or federal officers, including the U.S. Department of Homeland Security (DHS), if they are stopped and questioned. It is important to remember that anything you say to the police/DHS may be used against you in court.

The Right to be Free from Unreasonable Searches and Seizures: Without a warrant, police or government agents may not search your home or office without your consent, and you have the right to refuse to let them in.

Consular rights: As an Irish citizen, you are entitled to consular assistance whether you are detained on an immigration violation or on a criminal charge. One of the functions of the Irish Embassy and Consulates in the United States is to assist Irish citizens and, when an Irish citizen is arrested, to ensure that they receive fair, equal and humane treatment in custody. Consular rights are established by the Vienna Convention on Consular Relations to which the United States and Ireland are both signatories.

The police may not advise Irish citizens of their right to consular assistance so it is important to be aware that you have the right to contact your consul. The Irish Department of Foreign Affairs has an embassy in Washington and consulates in New York, Boston, Chicago and San Francisco. There are also honorary Irish consuls in Reno, Nevada, St. Louis, Missouri, Houston, Texas, Los Angeles, California and Naples, Florida.

Detentions by the Department of Homeland Security (DHS)

Under the law, DHS must have proof you are not from the United States to deport you. They can use the following information against you:

- If you try to run away
- If you tell the DHS where you were born or that you don't have papers
- If you carry false documents, lie or give false information
- If you carry papers from your country

If you are questioned by the DHS, you are not required to reveal any information, such as your name, address, or home country. If you are questioned or detained, however, it usually is a good idea to give your name so that friends, family, or your attorney can locate you. DHS may temporarily arrest and detain you to determine your immigration status.

If you are detained by immigration authorities you have the right to:

- To remain silent and refuse to answer questions. You do not have to reveal immigration status or how and when you entered the country
- To be represented by an attorney (at your own expense) and to receive a list of agencies offering free legal services. It is a good idea to carry the name and phone number of an immigration attorney with you.
- To refuse to sign documents, such as for voluntary departure, without first consulting with an attorney about your case.
- To make a telephone call to an attorney, family member, friend, or your Consulate in the US.

If immigration authorities come to your home:

- Ask the officer to show you the search or arrest warrant, if they do ask them to put it under the door or go outside the door and check it. If they do not have a warrant signed by a judge you do not have to allow them to enter your home or answer their questions.
- If the officers enter without a warrant, ask for their names and badge numbers. If they refuse, write down the identification numbers on their badges.
- Get the names, addresses, and telephone numbers of witnesses.
- Get a receipt for any property taken by the DHS.

This is a very basic description of your rights. **The most important thing to remember is to obtain an attorney at the earliest opportunity and do not volunteer any statements until you have spoken with an attorney.**

The information provided should not be considered legal advice for any individual case or situation. No attorney/client relationship is created. We recommend you to consult an immigration attorney if you require legal advice.



Irish Immigration Centers in the USA

CALIFORNIA

Irish Immigration Pastoral Center
Ph. #: 415-752-6006
E-mail: iipc@pacbell.net
Website: www.sfiipc.org

Irish Outreach San Diego
E-mail help@irishoutreachsd.org
Website: www.irishoutreachsd.org

ILLINOIS

Chicago Irish Immigrant Support
Ph. #: 312-337-8445
E-mail: irishoverhere@sbcglobal.net
Website: www.ci-is.com

MARYLAND

Irish Student Outreach Center
Ph. #: 410-250-0362 and 443-783-7893
E-mail: wilfergus4@aol.com

MASSACHUSETTS

Irish Immigration Center
Ph. #: 617-542-7654
E-mail: gconneely@iicenter.org
Website: www.iicenter.org

Irish Pastoral Center
Ph. #: 617-479-7404
E-mail: ipcbooston@yahoo.com
Website: www.ipcboston.org.

NEW YORK

Aisling Irish Community Center
Ph. #: 914-237-5121
E-mail: orla@aislingcenter.org
Website: www.aislingirishcenter.org

Emerald Isle Immigration Center
Ph. #: 718-478-5502
E-mail: siobhand@eiic.org
Website: www.eiic.org

Project Irish Outreach
Ph. #: 212-371-1011, ext. 3640
E-mail: patricia.ocallaghan@archny.org

New York Irish Center
Ph # (718) 482-0909
E-mail: info@newyorkirishcenter.org
Website: www.newyorkirishcenter.org

PENNSYLVANIA

Irish Immigration Pastoral Center
Ph. #: 610-789-6355
E-mail: irishimmigration@aol.com
Website: www.philadelphiairishimmigrants.org

WASHINGTON

Seattle Irish Immigration Support Group
Ph # 425-244-5147
Email: SIISG@IrishClub.org
Website: www.IrishSeattle.com

WISCONSIN

Irish Immigrant Service of Milwaukee
E-mail: gleeson@uwm.edu
Website: www.ichc.net

National Organizations in the US

Coalition of Irish Immigration Centers

Phone/Fax: 617-987-0193

Email: sheila@ciic-usa.org

Website: www.ciic-usa.org

Irish Apostolate USA

Phone/Fax: 301-384-3375

Email: administrator@usairish.org

Website: www.usairish.org

Irish Embassy & Consulates in the United States

Embassy of Ireland Washington D.C

www.embassyofireland.org

Phone: 202-462-3939

New York

Consulate General of Ireland

Phone: 212 319-2555

Email: congenny@aol.com

Boston

Consulate General of Ireland

Phone: 617-267-9330

Email: irlcons@aol.com

Chicago

Consulate General of Ireland

Phone: 312-337-1868

Email: irishconsulate@sbcglobal.net

San Francisco

www.consulateofirelandsanfrancisco.org

Consulate General of Ireland

100 Pine St., Suite 3350, San Francisco, CA 94111

Phone: 415-392-4214

Fax: 415-392-0885

Resources in the USA

Federal Bureau of Prisons

The Federal Bureau of Prisons provides centralized administration of the 114 Federal prisons. You can find information about the prisons and there is also an inmate locator facility on the website www.bop.gov

State Prison Systems

Search under the relevant state Department of Corrections. For example search for “New York Department of Corrections”

County Systems

The information on county jails can be more challenging to find but there is a lot available on line. Be sure to search by the name of the jail, the county where the facility is located or on an official state/government website.

Immigration Facilities

Information on Immigration and Customs Enforcement (ICE) can be found at:

www.ice.gov/pi/dro/

A list of all Immigration Facilities along with their regulations and addresses is available at:

www.ice.gov/pi/dro/facilities.htm

Contact information for detention and removal field offices around the United States is available at: www.ice.gov/about/dro/contact.htm

The Political Asylum Immigration Representation Project (PAIR)

PAIR together with Boston College have put together a self-help manual for people who are in immigration detention in Massachusetts because of a criminal conviction

[Self-Help Manual for People Detained by the Immigration Service.](#)

Resources in Ireland

Irish Commission for Prisoners Overseas
Maynooth, Co. Kildare, Ireland
Tel: 01-5053154

The Irish Council for Prisoners Overseas (ICPO) was established in 1985 to provide services to Irish citizens imprisoned outside of Ireland and their families. ICPO has clients throughout the world but especially in the UK, the US and Europe. They provide a range of services to prisoners and their families including liaising with appropriate authorities, providing reading materials, and assisting prisoners to access support services in Ireland when they return.

Crosscare Migrant Project
Dublin, Ireland
Ph. #: 353-1-873-2844
migrantproject@crosscare.ie
www.migrantproject.ie

Crosscare Migrant Project provides information and assistance to all those returning to Ireland including assistance with accessing benefits and services in Ireland.

The Safe-Home Programme Ireland
Mulranny, Co Mayo, Ireland
Phone: + 353 (0) 98 36036
www.safehomeireland.com
safehomeireland@eircom.net

The Safe-Home Program is a national organization that assists older Irish born emigrants to return to their homeland. They work to secure housing in the voluntary sector that is specifically for the older applicants as near to their original home as possible.

Irish Government Departments

The Department of Trade, Enterprise and Employment
www.entemp.ie
Labor Force Development, employment rights & enterprise development

The Department of Social and Family Affairs
www.dsfa.ie
Social insurance and social assistance programs

Health Services Executive
www.hse.ie
Health care and health services