

OMBUDSMAN FOR CHILDREN / DO LEANAÍ

ANNUAL REPORT / TUARASCÁIL BHLIANTÚIL 2010



Ombudsman for Children Annual Report 2010



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MESSAGE FROM THE OMBUDSMAN FOR CHILDREN



I am pleased to submit to the Oireachtas my annual report for the period January 1 to December 31 2010, pursuant to Section 13 (7) of the Ombudsman for Children Act, 2002.

Having completed a first term of six years it is important to reflect on the development of the Office and whether it has met the high expectations identified by many. The genesis of the Office dates back to 1996 when the establishment of an Ombudsman for Children was first raised in the Oireachtas. I am pleased to report on the contribution my Office has made since its establishment in 2004, to the advancing of children's rights and welfare in Ireland.

Establishment of the Ombudsman for Children's Office

The Ombudsman for Children's Office (OCO) is now one of thirty seven dedicated human rights institutions across forty three Council of Europe member states. It has a demonstrable strong domestic and international reputation.

The establishment of the Ombudsman for Children's Office represented a strong political response to the recommendation made by the UN Committee on the Rights of the Child in 1998.

The 2002 Act requires the Ombudsman for Children to promote awareness among members of the public of matters relating to the rights and welfare of children and makes express reference to the principles and provisions of the United Nations Convention on the Rights of the Child.

Advancing the realisation of children's rights is about putting in place the necessary conditions for children to live with dignity and respect.

Through our work we see the obstacles that children and families face in trying to achieve this, both in the course of investigating complaints brought to the Office and in direct work with children and young people. By highlighting these practical difficulties, the OCO aims to ensure that decision-makers and society more generally are aware of problems that might otherwise remain unnoticed and unaddressed.

The core UNCRC principles that I regularly seek to have incorporated into law, policy and practice relating to children are:

- Non-discrimination;
- Best interests as a primary consideration in all decisions affecting them; and
- Children’s right to express their views freely in matters affecting them.

Six Years of Progress

It is the intention that this report should illustrate the achievements of my Office in that first six years and articulate a commitment to the spirit of the legislation which obliges me to ‘encourage’ public bodies to develop policies that promote respect for children’s rights.

The Challenge

A recent analysis of the casework at OCO provides supporting evidence for the need for public sector reform. It is a dominant feature of our investigations that with few exceptions they highlight a lack of awareness about the impact of civil and public administrative decision-making on the lives and rights of children and their families. In this respect, the individual children appeared to be largely invisible in the decision-making process. The result of this has on occasion been an excessively bureaucratic approach to public decision-making, and often a disconnect between administrative decision-makers and those affected by their decisions. A particular aspect of this is the absence of an appreciation of how quickly harm can be done to children – by depriving them of education, separating them from their parents, providing for their care etc. – and the relationship between timely decision-making and good administration.

In addition to there being insufficient attention given to the direct or indirect impact of decisions on children, it is clear from our investigations that such decisions are also not routinely informed by children’s rights principles. In particular, the core principles of the UNCRC highlighted above – which should act as important parameters for decision-making affecting children – are not used to guide the administrative actions of public bodies to any great extent if at all. On a more general level, my Office has observed a serious lack of awareness of international human rights instruments to which Ireland is party in the course of its investigatory work.

A further worrying theme common to many of the cases examined by my Office is the failure to ensure the implementation of national law and policy. For example, the failure to rigorously apply the best interests principle and to ensure children’s voices are heard, as the Child Care Act 1991 requires, is of serious concern, as is the failure to ensure consistent adherence to the Children First National Guidelines across the country.

In short, there is an absence of child impact analyses, broadly conceived, evident in much of the public decision-making regarding children; one of the consequences of this is that the operation of policies do not always meet the needs of the public generally, and children in particular.

My Office has played an important role in highlighting these deficits through the course of its work. In many cases, it is my view that without the intervention of my Office, it is unlikely that any review of the area of decision-making complained of would have been initiated. It is important in these strained economic times to remember the principles upon which my Office was established. Accessibility to an independent mechanism of redress for people who cannot avail of redress in the courts is fundamental to a well functioning democracy. The investigation of these cases averted litigation against the State by offering parents and children an alternative mechanism of resolution. The manner in which the cases are investigated is non-adversarial, generally speedier than the courts, and, importantly in these difficult fiscal times, less costly.

Legislation and Children

Over the past six years, my Office has provided extensive advice to the Government and Oireachtas on a range of issues affecting children, including: the proposals to amend to the Constitution (four reports to the Oireachtas 2005-2008), the Criminal Law (Sexual offences) Bill 2006, the General Scheme of the Criminal Law (Trafficking in Persons and Sexual Offences) Bill 2006, the Immigration, Residence and Protection Bill 2008, the Adoption Bill 2009, the Child Care (Amendment) Bill 2009, the Health (Amendment) Bill 2010; and the Civil Partnership Bill 2009.

The advice provided has frequently been referenced and debated in the course of the Oireachtas' consideration of Bills affecting the rights and welfare of children. The OCO's work on legislative review during 2010 highlighted that, at times, the Oireachtas does not have the opportunity to consider broader issues that have a direct bearing on children which are related to the substance of a Bill but not explicitly addressed in it.

In addition, it continues to be the case that legislation affecting children can be framed in a way that clearly does not operate in their best interests. An example of this in 2010 was the Civil Partnership Bill. Many provisions of the Bill were derived from other areas of family law where there is an obligation on the courts to consider the needs of dependent children of the family. However, in the equivalent sections of the Civil Partnership Bill, references to the need to provide for any dependent children of the family were deliberately removed.

It is concerning that such an approach could underpin our lawmaking process, given that it is so out of step with the principle set out in Article 3 of the UNCRC – that the best interests of the child should be a paramount consideration in all matters affecting them.

Looking Forward

Whilst some progress has been made in the past six years the fact remains that many children and young people in Ireland continue to face barriers and challenges in the realisation of their rights and in accessing a range of basic services.

This will require continued concerted efforts on the part of the government, public policy makers and all agencies that have a responsibility for children's care, welfare, protection and support. In this regard, it is encouraging that the new Minister for Children has been given executive powers, a recommendation by the UN Committee on the Rights of the Child during the examination of Ireland's last report to the Committee in September 2006.

Looking to the immediate future, the commitment of all parties in the Oireachtas to the holding of a referendum on the rights of children is welcome.

However, earlier this year we heard how civil servants in three Departments – health, justice and education – all expressed concern about the proposed wording published in February 2010 by the Oireachtas Committee on the Constitutional Amendment on Children. Concern was expressed about the 'unintended consequences' of such an amendment, including the consequences of enshrining the best interests principle in the Constitution. It is clear to me as Ombudsman for Children that the inclusion of the general principles of the United Nations Convention on the Rights of the Child is a human rights imperative and that any attempt to diminish children's best interests should be resisted by Government when proposing to amend the Constitution.

Children's rights, contrary to what is believed in some quarters, is not an 'agenda' or an 'issue' to support or oppose. Children's rights and children's welfare are synonymous with creating a culture where children are treated properly. Promoting and supporting children's rights is about supporting children as members of families – affording each individual child the care, respect, dignity and love that each of us wants for our own children, nieces, nephews and grandchildren – and ensuring that those children who are living apart from their families receive the support they need from the State to allow them to grow-up to reach their full potential. One of the main benefits of these recessionary times is that we are now starting to reclaim our society and return to our core values. Children's rights will only have real meaning and bring about real change when we act collectively – as parents, grandparents, neighbours, friends, professionals, public policy formulators and other decision-makers – to ensure that any and every child is treated no less than we would want the child we love treated. Great opportunities lie ahead to ensure that law, policy and practice reflect the values that we ascribe to ourselves, and treat our children the way they deserve. Now is a time of hope for the future. What happens next will determine what becomes of that hope and our shared future.



Emily Logan

Ombudsman for Children

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OMBUDSMAN FOR CHILDREN'S OFFICE AS THE STATUTORY, NATIONAL HUMAN RIGHTS INSTITUTION FOR CHILDREN – THE FIRST SIX YEARS

Ombudsman for Children's Office as the statutory human rights organisation for children.

A Broad Set of Statutory Functions

The Ombudsman for Children's Office was established by the Oireachtas as an independent statutory body with a mandate to promote the rights and welfare of children. It was provided with a set of comprehensive functions, namely:

- the traditional complaints-handling function of an independent Ombudsman;
- advising Government Ministers on law and policy relating to children;
- encouraging public bodies to improve their practices and procedures in the interests of children;
- highlighting issues that are of concern to children and young people themselves; and
- promoting awareness of issues relating to the rights and welfare of children and how these rights can be enforced.

The functions of the Ombudsman for Children are set out in the 2002 Act.

The Convention on the Rights of the Child

The creation of the Ombudsman for Children's Office firmly positioned Ireland alongside States that have a national human rights institution dedicated to the advancement of children's rights and the safeguarding of their welfare. It represented a strong response by Ireland to the recommendation of the United Nations Committee on the Rights of the Child that every State needs such an institution to be able to monitor, promote and protect children's rights in an independent and systematic way. This development was of fundamental importance to fostering of those rights as set out in the UN Convention on the Rights of the Child (CRC).

The 2002 Act requires the Ombudsman for Children to promote awareness among members of the public of matters relating to the rights and welfare of children and how these rights can be enforced. In that regard, the 2002 Act makes express reference to the principles and provisions of the CRC.

The CRC is the most widely ratified international human rights treaty. When Ireland ratified the CRC in 1992, it took on a legal obligation to implement the provisions of the Convention. These provisions set out the minimum standards that need to be addressed in, and by, all States in order to ensure that children's rights are respected. The principles and provisions of the CRC underpin all of the Ombudsman for Children's Office work and it is the main benchmark used by the Office – and indeed by others – to assess how well the State is progressing as regards meeting its obligations in relation to children's rights. The OCO works to give effect and visibility to the provisions of the Convention in our system of public administration.

The task of advancing the realisation of children's rights is about putting in place the necessary conditions for children to live with dignity and respect; for them to be recognised as the holders of rights; to fulfil their potential; and to ensure that they are happy, healthy and safe. Through its work the OCO sees the obstacles that children and families face in trying to achieve this, both in the course of investigating complaints brought to the Office and in direct work with children and young people. By illuminating these concrete and practical difficulties, the Ombudsman for Children's Office aims to ensure that decision-makers and society at large are aware of problems that might otherwise remain unnoticed and unaddressed. The work of the OCO is also very much focused on providing solutions to the problems identified, and in that respect it provides guidance on how problems can be addressed in the interests of children.

Core Principles of the CRC

In advancing the realisation of the rights set out in the CRC, the Ombudsman for Children's Office recognises that there are a number of core principles of the Convention that are of special importance. These principles have an elevated status because the UN Committee on the Rights of the Child has identified them as cross-cutting concerns relevant to the implementation of all of the other Convention provisions.

The core principles that the Ombudsman for Children's Office regularly seeks to have incorporated into law, policy and practice relating to children are the principles of:

- non-discrimination;
- best interests as a primary consideration in all decisions affecting them; and
- children's right to express their views in all matters affecting them.

The Challenge

Ireland still has a long way to go in developing a strong culture of respect for children's rights. In the context of civil and public administration and the work of public bodies specifically, this means that the principles mentioned above are not routinely borne in mind when law and policy affecting children is being formulated, when administrative decisions about them are being made, and when services are being designed for and delivered to children and young people. In the experience of this Office, the failure to respect and protect these principles is at the root of many of the difficulties faced by children in Ireland today.

The Ombudsman for Children has seen time and again how the core principles of the CRC have not been observed consistently. There are instances of good practice in which organs of the State have conducted themselves in a manner consistent with them; there are many others, however, in which there has been no systematic attempt to apply those principles. Engendering a genuine culture of respect for children's rights is fundamentally about changing attitudes and behaviour so that the principles of non-discrimination, best interests, and meaningful participation are integrated into all decision-making affecting children and young people.

Perhaps the most critical omission across the whole civil and public service when it comes to children and young people is the failure to respect their right to be heard and have their views taken into account when decisions are being made that affect them. The OCO has observed the impact of this failure to respect the voice of the child in diverse cases including ones in which:

- there has been no provision made for children to be heard;
- there has been a lack of transparency regarding the manner in which the young person's views are taken into account in decision-making processes and in appeals;
- there have been shortcomings in seeking to ascertain the most up-to-date information about the child's situation;
- in certain cases of children without parental support, there has been a failure or delay in the appointment of social workers, resulting in inadequate care planning and advocacy; and
- the process utilised in dealing with complaints or concerns raised by a child or an advocate on their behalf has not provided an adequate forum for the voice of the child to be represented, sometimes compounding the adverse effect.

The Ombudsman for Children is Working for Change

The Ombudsman for Children has used the powers given to her to promote the rights and welfare of children and to examine and investigate complaints against public bodies, schools and voluntary hospitals, to recommend change and embed learning from the lived experience of young people. Further details on the key areas of work are provided later in this report.

On a wider plain, the Ombudsman for Children's Office has acted as an effective agent for change in a range of areas, including a systemic investigation into the implementation of Children First: the National Guidelines for the Protection and Welfare of Children, focusing on the situation of separated children seeking asylum in Ireland, and addressing the need for the establishment of a standing child death review mechanism in Ireland.

While the OCO is well positioned to promote and facilitate the necessary change in favour of children and young people, the Ombudsman for Children reiterates her concerns expressed in previous annual reports about:

- The impact of resource constraints on its ability to deliver the kind of response needed in the face of sharply increasing demand in the complaints area, where modest additional resources would provide a good return in terms of responding to demand and better informing the policy and practice of public bodies; and
- The constraints on the capacity of the Office to address the concerns of children and young people arising from exclusions contained in the 2002 Act, particularly as regards the limitations on the number of public bodies it is mandated to investigate.

In addition to the above shortcomings, a lack of resources effectively prevents the Ombudsman for Children from accepting complaints that relate solely to the payment of social protection allowances, grants, etc, in respect of children. Such complaints are currently directed to the general Ombudsman's Office. The Ombudsman for Children notes that while the payments in question are made to adults for obvious reasons, they are specifically for the care and maintenance of children. She notes that the adverse effect of any maladministration in the making of these payments impacts directly on the child concerned. Therefore, she considers that resourcing her Office to address such complaints would represent a more holistic approach to achieving a child-centred perspective in such cases and would be more congruent with the functions and duties of an office specifically established, *inter alia*, to examine and investigate complaints made by, or on behalf of, children.

Completion of the First Strategic Plan 2007-2010

The OCO's first Strategic Plan reached its conclusion in 2010. It is appropriate in this report to provide an overview of the OCO's progress towards the achievement of key objectives set in that Plan. These reflected the need for an entirely new body to quickly build up capacity to discharge its statutory functions, to raise awareness of its role, and establish trust with children and young people, the wider public and with the relevant public bodies. The particular areas of note in this regard are as follows:

Establishing a Trusted Organisation

The OCO operated with a modest budget of just over €2.1million in 2010 and a total staff of 15 persons, including the Ombudsman for Children. It is now firmly established as the independent statutory monitor of the actions of public bodies in relation to the rights and welfare of children.

Preparing a Solid Knowledge Base

Of equal importance to securing the operational infrastructure, during this period, was the task of establishing the knowledge base which would inform and guide the work ahead to deliver the best results for children and young people. To that end, the OCO commissioned baseline research on children's rights in Ireland in order to assist with setting its work priorities, as had been done in other jurisdictions. This focused on outlining the principal barriers to the realisation of children's rights and on identifying particularly vulnerable groups of children and young people whose enjoyment of their rights is hindered by multiple barriers. Three of the most significant problems identified in the baseline research were:

- the invisibility of children in law, policy and decision-making, due to the lack of integrated structures to hear children's views, the absence of mechanisms to child-proof law, policy and budgets, and the absence of effective structures to coordinate the implementation of children's rights which cut across areas of government responsibility;
- the fact that children's rights are not explicitly protected in the Constitution and in primary legislation with the effect that they are often ignored in decision-making processes that affect them; and
- the absence of effective advocacy mechanisms to represent children and their rights, and to monitor services designed to meet their needs.

A determination to address such structural and systemic barriers has shaped the work of the OCO across all of its functions and underpinned the approach adopted when making recommendations to the Oireachtas, to Government Ministers and to public bodies.

Providing for Children's Participation

A further influence on the OCO's priorities has been the work it has undertaken to hear and involve children and young people. As reported in previous Annual Reports, initiatives in this regard have included:

- the Big Ballot, in which almost 75,000 children participated;
- the establishment of youth advisory panels;
- visits to OCO rights education workshops by children and young people from schools and youth clubs from all around the country;
- targeted consultations with young people who are among the most at risk of not being heard such as separated children in the care of the State; and
- direct engagement with young people being detained in St. Patrick's Institution.

Examining and Investigating Complaints

One area for priority attention during the period of the Strategic Plan, was the development of the examination and investigation function to handle complaints from, or on behalf of, children about the actions of public bodies. An indication of impact in this area is the significant year-on-year growth in complaints, showing an increase of almost 65% between 2007 and 2010. This work has resulted in recommendations for change being made to, and in many cases accepted by, the public bodies concerned in areas such as:

- Education – special education provision, school transport, and handling of complaints by schools;
- Health – child protection, decisions on children in care, and access to and adequacy of services; and
- Local Government – housing provision.

The OCO's experience with individual complaints has also informed the initiation of special investigations into specific aspects of policy or practice on the part of public bodies. Action by OCO in this regard has resulted in the preparation of system-wide reports on housing provision for children with disabilities and on the Implementation of Children First: National Guidelines for the Protection and Welfare of Children.

Carrying Out Targeted Initiatives

In addition to its traditional 'ombuds' complaints and investigation powers as set out in the 2002 Act, Section 7 of the Act, deems that the Ombudsman for Children has the statutory mandate and authority to encourage the State to develop and adhere to policies that consider children's rights and welfare; to advise Government Ministers on any matter relating to children's rights and welfare; to comment on legislation; and to consult children directly and make public their concerns.

During this period under review, the OCO has also undertaken specific initiatives concerning separated children seeking asylum and options for establishing a child death review mechanism in Ireland.

Separated Children Project

The Ombudsman for Children's Office undertook a project with separated children living in Ireland to consult with them on their experiences of the State, and therefore to identify gaps in how the State was protecting this vulnerable group. The Ombudsman for Children called for the inferior care for separated children to stop and published a report in November 2009 with detailed concerns such as:

- the lower standard of care afforded to them compared with those in the mainstream care system;
- the lack of inspection of the hostels in which they were placed;
- the lack of appropriate supervision by care staff in the hostels;
- the number of separated children going missing from care;
- the lack of adequate complaints mechanisms; and
- the lack of a guardian or advisor to assist them.

The Ombudsman for Children also made recommendations which included:

- The cessation of inferior care provided to separated children living in unregistered hostel accommodation;
- The review of the Joint Protocol between An Garda Síochána and the Health Service Executive and its adaptation to take account of the particular circumstances of separated children who go missing;
- The allocation of a social worker for these children; and
- That the best interests of the child should guide any forthcoming Immigration, Residence and Protection Bill affecting these children.

During the course of this intervention, the HSE took steps to improve how these children were cared for and by December 2010, all unregistered hostels for separated children were closed, with children being placed for assessment and subsequent foster care.

Child Death Review

In 2007, the Ombudsman for Children contacted the then Minister for Health and Children, Mary Harney TD, to express her concerns at the absence of a child death review mechanism in Ireland. Following this contact the Children's Ombudsman and her team undertook significant work on the development of a child death review model for Ireland. This included extensive stakeholder engagement with relevant statutory agencies such as the HSE, HIQA, An Garda Síochána, the CSO, the Director of Public Prosecutions Office and the Dublin City Coroner. The outcome of this was an options paper which proposed a number of models that Ireland could adopt. This paper was submitted to Government in February 2009 and to the Oireachtas Committee on Health and Children in June 2009.

In the Ryan Implementation Plan, the Government committed to putting in place guidance for reviewing the deaths of children in care and in detention. In March 2010, the HIQA published guidance for the HSE, as mandated by the Ryan Implementation Plan. HIQA acknowledging the depth and scope of the work previously undertaken by the Office, actively engaged with the OCO in the preparation of this guidance and the OCO was pleased that the Options Paper we developed was drawn on by HIQA in framing the guidance.

Advising and Influencing

Under the 2002 Act, the Ombudsman for Children is provided with a valuable opportunity to advise and influence the Government and the Oireachtas in relation to the potential impact of proposed legislation on the position of children and young people. In carrying out this function, the Ombudsman for Children is guided by the international human rights standards to which the State is party. She assesses the extent to which the proposed legislation conforms to the requirements of those standards and she recommends change to address any shortcomings identified. During the period involved, the OCO has provided comprehensive advice on proposals to amend the Constitution, child trafficking, asylum and immigration, adoption, children in care, and civil partnership. The advice provided by the Ombudsman for Children contributed to and influenced Oireachtas debate on Bills affecting the rights and welfare of children.

Gaining an International Reputation

The OCO has been an active participant in international networks of Ombudspersons for Children, specifically the British and Irish Network of Ombudsmen and Commissioners for Children (BINOCC) and the European Network of Ombudspersons for Children (ENOC). Through this engagement the OCO has established a strong reputation as an effective institution working to advance children's rights. The Ombudsman for Children was elected chair of ENOC during the period and, on a number of occasions, has been invited by the Council of Europe and UNICEF to contribute to international children's rights conferences and to speak about the Irish experience of the establishment and development of an Ombudsman for Children's Office, and work that advances children's rights more generally.

Highlighting the Rights of Vulnerable Children

Over the period of the Strategic Plan, the Ombudsman for Children has called attention to various issues of key importance to vulnerable children that have yet to be satisfactorily addressed. This report underscores the commitment of the Ombudsman for Children to maintain a focus on a number of these issues and to continue to engage with the relevant public bodies in the pursuit of change in the areas concerned:

- **Aftercare:** The OCO has on numerous occasions highlighted concerns raised with it, including by children and young people, that a consistent approach is not taken to aftercare provision throughout the country. Although work is underway in both the statutory and voluntary sectors to improve aftercare provision, the OCO continues to receive complaints primarily from children and young people in relation to a lack of, or inadequate, aftercare provision for them when they leave care. Concerns relate to delays in aftercare planning, inadequate planning generally, lack of provision of aftercare support and the lack of an allocated social worker. During the course of examining these complaints, the OCO became aware of a wide variation in aftercare service provision nationally, with some areas having an aftercare policy and dedicated staff to work with children and young people leaving care, while others had no clear policy and limited services available. The Ombudsman for Children recommended in her advice to Government on the Child Care (Amendment) Bill 2009 that the Child Care Act 1991 be amended to impose a positive obligation on the State to provide aftercare for every child in care whether they are in voluntary care, or in care under a care order, supervision order or under a special care order, at least until they are 21.
- **Access to special care placements:** The Ombudsman for Children's Office has recently completed a number of investigations into HSE service provision for young people for whom special care placements have been sought. These investigations have given rise to particular concerns regarding difficulties in accessing special care placements and the interface between special care and other measures taken to ensure the welfare of young people in need of care and protection. In particular, it is a matter of serious concern to the Ombudsman for Children that young people charged with a criminal offence but who were also in need of special care have had to wait for the relevant criminal proceedings to conclude before the special care proceedings could commence. The Ombudsman for Children raised these concerns with the Oireachtas in her 2009 Annual Report and in her advice on the Child Care (Amendment) Bill 2009, as well as with the HSE in the context of the her investigatory work.
- **Fragmentation of service delivery:** When children and their families rely on support from a range of different services, the burden on the family in terms of coordinating those services increases, as does the possibility that the various service providers will fail to communicate effectively with each other in the delivery of services to the child and/or family. This has had an adverse effect on children in a number of cases brought to the attention of this Office.

- **Development of an out-of-hours service:** The absence of a national, 24-hour out of hours service is a matter of serious concern to the OCO. It leaves children and young people in a situation where in the event of a crisis, there may be no access to the support of trained social care professionals, depending on the location involved and the time at which such an incident occurs. This can and does result in children being placed in wholly inappropriate places.
- **Inspection of residential services for children:** The inspection of residential services for children against national standards is an essential element of providing quality services that fully respect those children's rights. The OCO has consistently raised concerns regarding the fact that not all residential and respite services for children, in particular for children with disabilities, are monitored and inspected in this way.

Advising on Strong Constitutional Change

Since the inception of this Office, the Ombudsman for Children has been calling for, and providing advice, in accordance with her statutory mandate, to successive Government Ministers and Oireachtas Committees on the need for an amendment to the Constitution to give greater protection to children's rights. Such an Amendment is of central importance to providing a strong framework for addressing issues of the kind identified above and other issues affecting children. The extensive advices published by the Ombudsman for Children have emphasised the need to give expression in any such Constitutional amendment to the general principles in the UN Convention on the Rights of the Child as highlighted earlier in this report.

The Ombudsman for Children reiterates her strongly held view that the following elements are essential if meaningful change in the situation of children and young people is to be derived from an amendment to the Constitution:

- an express statement on the rights of the child, to include freedom from discrimination and the right to participate in matters affecting him/her;
- the child's right to have his/her best interests regarded as a primary consideration in matters affecting them;
- a statutory duty on the State to support families and to act in a proportionate manner in that regard; and
- soft information.

New Strategic Plan (2011-2016)

Work commenced during 2010 on the preparation of a new Strategic Plan, to be published early in 2011, which will guide the work of the Office up to 2016.

3 ORGANISATIONAL DEVELOPMENT

The Ombudsman for Children was in its sixth year of operation in 2010.

Reappointment of the Ombudsman for Children

Emily Logan's first six-year term as Ombudsman for Children expired on 17th December 2009. Emily was subsequently reappointed to this post for a further six years following resolutions passed by both Houses of the Oireachtas. The Ombudsman for Children is a presidential appointment and reports directly to the Oireachtas. This report is the Ombudsman for Children's sixth Annual Report overall and the first report of her second term.

Human Resources

The scope and scale of the work carried out by the OCO has grown significantly since its establishment due to a number of factors, including increasing public awareness and understanding of its role and remit and greater interest in and awareness of the rights and welfare of children; a growing international dimension to activities; expanding education, participation and policy activities and the changing socio-demographics of Ireland. In light of this, the Ombudsman for Children, with the support of the Department of Health and Children, has made a strong case to the Department of Finance for the provision of modest additional resources to ensure that it can provide the speed and depth of response that the serious issues it handles demand. In 2010 the reliance on an investigation panel has had to increase, in line with the significant increase in complaints.

The OCO is fortunate to retain staff with a wide range of experience and expertise which includes child health, education, social work, law, human rights law, psychotherapy, social policy, health promotion, youth participation, communications, new media, human rights education, and public administration.

Strategic Plan 2011-2016

The OCO commenced the development of its new strategic plan in the fourth quarter of 2010. The plan will build on the strategic objectives and values of the first strategy. It will also refine the strategic mission and vision of a developing and dynamic organisation that now has six years experience and a significant body of evidence on the realities of children's lives in Ireland today.

Website and New Media

Pursuant to a competitive tender process, *CombinedMedia* developed an Open-Source Content Management System which has allowed the OCO to take the vast majority of its website management in-house. This approach has significantly reduced costs associated with the website. It also allows the Office to communicate directly with its key constituency groups in a manner that is relevant, accessible and timely to these audiences. It has also enhanced the online presence of the OCO and its capacity for website interactivity ensuring that the OCO is more accessible to the public. Analysis of web traffic to www.oco.ie indicates that 80% visitors browse through approximately 8 pages of the website over a three minute period. Analysis of popular navigational journeys indicates that visitors are inclined to view the home page first, and then turn their attention to the different ways to engage with the OCO, which means that the website is fulfilling its purpose as a portal to the services we provide.

Transforming Public Service

Following a high level meeting at the Department of Health and Children, the Ombudsman for Children developed a paper on Transforming Public Services which she submitted to the Secretaries General at the Department of An Taoiseach and the Department of Health and Children. In this document the Ombudsman for Children set out her views on how current efforts to transform public services could be an invaluable opportunity for the State to better serve the rights and welfare of children and their families.

Staff Training and Professional Development

The OCO recognises the importance of ongoing professional development for all of its staff. To support this objective the Office initiated a leadership development programme for its senior staff during 2010. The programme's focus was on leadership from a personal, organisational and strategic perspective, as well as on role development. The overall aim was to maintain and develop the capabilities of the staff involved in the context of providing strong team leadership for the Office.

Media

As with previous years, there was significant media interest in, and wide-spread coverage of, the OCO's work. In particular, in 2010 the issue of the death of children in the care of the State received enormous media interest. In addition to proactively making statements, and responding to media queries, the Ombudsman for Children's options paper on the need for an independent child death review mechanism, developed in 2007/2008, became a much requested and referenced resource for many of those in the media.

The Ombudsman for Children's national investigation into the implementation of the Children First National Guidelines was published in May 2010 and was followed by extensive national and local media coverage. This among other pieces of work by the Office, was afforded time in Oireachtas debates.

Financial Control

The Ombudsman for Children's Office original allocation was €2.223m at the start of 2010. In line with the reduction of budgets across the public sector, this was reduced later in the year to €2.163m. Taking account of reductions in allocations over previous years, the OCO has sustained a cumulative decrease in its budget of 10.21% in the 2008 to 2010 period.

The Ombudsman for Children is responsible for preparing Financial Statements as set out in the 2002 Act and for ensuring the regularity of transactions. The Financial Statements are prepared in accordance with Generally Accepted Accounting Practice in Ireland. The accounting responsibilities of the Ombudsman for Children are set out in the 2002 Act. The Office is responsible for the operational elements of its finances. This includes day-to-day financial procedures including payments, tendering processes, the operation of payroll and compilation of monthly returns, all in accordance with best audit practice.

The Financial Statements are subject to audit by the Office of the Comptroller and Auditor General and the audit for 2009 took place in December 2010. Financial Statements are generally not audited at the time of publication of the annual report. However, once approved by the Office of the Comptroller and Auditor General, the accounts are published on the OCO's website – www.oco.ie

Crowleys DFK provides accountancy services to the Ombudsman for Children's Office.

Resources and a Reduced Budget

In light of prevailing financial constraints, during 2010, the OCO continued to avail of the services of a small number of interns to support its Complaints and Investigation work and its Participation and Education function. It was also grateful to have the assistance of volunteers to enhance other aspects of its work. The volume of applications and the calibre of applicants to both the intern and volunteer programme has been exceptionally high.

Legal Services

Ronan Daly Jermyn continue to provide legal services to the Ombudsman for Children's Office since being awarded a three-year contract in 2008 following a tender competition.

4

POLICY AND LEGISLATION

Section 7 of the 2002 Act sets out the policy, research and legislative mandate and functions of the Office. In particular, it provides that the Ombudsman for Children shall:

- advise Ministers on the development and co-ordination of policy relating to children;
- advise Ministers on any matter relating to the rights and welfare of children, including the probable effect on children of proposals for legislation;
- undertake, promote and publish research into any matter relating to the rights and welfare of children; and
- exchange information and co-operate with Ombudspersons for Children of other states.

In the year under review, the Ombudsman for Children provided advice in relation to proposed legislation in a range of areas of considerable importance to the rights and welfare of children. The OCO's work on legislative review during the year highlighted that, at times, the Oireachtas does not have the opportunity to consider broader issues that have a direct bearing on children which are related to the substance of a Bill but not explicitly addressed in it. In addition, it continues to be the case that legislation affecting children can be framed in a way that clearly does not operate in their best interests.

As regards the relationship between the OCO and Government Departments, it would be preferable if they availed of the opportunity to consult with the Ombudsman for Children more consistently and at an earlier stage in the process of preparing legislation.

The Health (Amendment) Bill 2010

In March 2010, the Minister for Children and Youth Affairs announced that he had established an Independent Group comprising of Geoffrey Shannon, Special Rapporteur on Child Protection and Norah Gibbons, Director of Advocacy at *Barnardos*, to examine the results of completed reviews of deaths of children in care since 2000. However, the Independent Group encountered difficulties in accessing documentation necessary for the performance of its functions. The Government decided to overcome these obstacles and address the question of the provision of sensitive information by the HSE to investigatory bodies more generally by introducing the Health (Amendment) Bill 2010.

The Ombudsman for Children wrote to the Taoiseach in May 2010 outlining her concerns regarding the operation of the in camera rule, based on the experience of the OCO in investigating complaints regarding children in care. In particular, she urged the Taoiseach to consider the operation of this rule more generally, in order to ensure that it was flexible enough to allow reasonable access to information, where such access would serve the public interest, while ensuring that adequate safeguards are in place to respect the rights of children and the privacy of the parties.

The Health (Amendment) Bill 2010 was published in June 2010 to overcome obstacles to the work of the Independent Group established to examine the results of completed reviews of deaths of children in care since 2000. Although the Ombudsman for Children welcomed the fact that legislation would facilitate the Independent Group in accessing the information required to carry out its task, she expressed her concern at a number of aspects of the Bill:

- It was regrettable that the Independent Group was not given the power to compel documents and information, and had to rely on the Minister for Health and Children to do so;
- The Bill could have been enhanced by providing that the Independent Group could publish reports on its own initiative, rather than vesting that power in the Minister for Health and Children; and
- The Bill did not address the issue of documentation or information derived from in camera proceedings being published in the public interest.

The Ombudsman for Children emphasised that the concerns outlined in the advice did not imply that the Independent Group – which was made up of leading experts in children’s rights and child protection – would be unable to carry out its functions. Rather, the mandate and powers given to Group were not as ample as they should have been.

The Health (Amendment) Bill also raised the wider question of cooperation by public bodies with statutory investigations, such as those carried out by the Ombudsman for Children’s Office. The OCO has on occasion encountered resistance in a small number of significant cases to the provision of information relevant to the conduct of an investigation, when such information related to in camera proceedings. The Ombudsman for Children expressed her concern to the Government that this can serve to shield institutions from a statutory investigation initiated by or on behalf of a child. In this way the interpretation of the in camera rule, which was devised to protect the rights and welfare of children, can clearly act contrary to their best interests.

It is unfortunate that the accelerated passage of the Health (Amendment) Bill through the Houses of the Oireachtas did not allow for a fuller consideration of these broader issues raised by the Bill.

The Civil Partnership Bill 2009

Following a meeting with the Minister for Equality, Integration and Human Rights in April 2010 at which the Ombudsman for Children raised concerns brought to the attention of her Office regarding the omission of children from the Civil Partnership Bill 2009, the Minister invited her to submit advice on the Bill.

The OCO set out its views on the Civil Partnership Bill in July 2010, highlighting the manner in which the Bill failed to include adequate provision for children and setting out how the Bill could make better provision for those that would be affected by it. Of particular concern to the OCO was the specific way in which children were considered in drafting the Bill. Many provisions of the Bill were derived from other areas of family law where there is an obligation on the courts to consider the needs of dependent children of the family, such as in the context of shared home protection, dissolution, maintenance and succession. However, in the equivalent sections of the Civil Partnership Bill, references to the need to provide for any dependent children of the family were deliberately removed.

The distinction created by the Bill between the children of civil partners and children provided for under other parts of family law – such as children in step-families – is arbitrary from the children’s point of view. It is untenable to argue that their need for support, financial security and protection is any less important than the needs of other children, or that this difference in treatment could be justified on the basis of those children’s interests.

It is clear therefore that the best interests of the children of civil partners were not a primary consideration in drafting the provisions of the Civil Partnership Bill that related to them. It is concerning that such an approach, so out of step with the principle set out in Article 3 of the UNCRC (best interests of the child), could underpin our lawmaking process.

Child Care (Amendment) Bill 2009

The Child Care (Amendment) Bill addressed the issue of special care and other related matters, including the legislative basis for appointing a guardian ad litem for children in the context of child care proceedings.

Access to special care, the process involved and the impact of such court orders on young people have all been the subject of examination by the OCO in the course of its complaints work. The absence of a statutory framework within which special care orders could be made has been a source of significant concern to the OCO for some time, particularly with respect to young people in need of special care who have also been charged with a criminal offence – some young people in this situation have not had their care needs addressed adequately as the relevant criminal proceedings have taken precedence over the care proceedings. The Ombudsman for Children raised this matter in her 2009 Annual Report to the Houses of the Oireachtas.

In her advice to Government on the Bill, the Ombudsman for Children reiterated this concern and raised a number of additional points arising from the provisions of the Bill. She recommended that:

- detention on remand should not be used for welfare reasons because of the lack of a suitable care placement;
- with regard to care proceedings, consideration should be given to creating a more unified court process at a regional level with specially trained and properly resourced judicial personnel looking at the full spectrum of children's care needs;
- children involved in care proceedings should have a right to representation by a guardian ad litem, or at the very least there should be a strong presumption in favour of appointment;
- consideration should be given to establishing a regulatory framework for guardians ad litem that is independent of the HSE, that is mindful of the existing work done by voluntary organisations in this area and that will monitor the operation of the system over time; and
- the Bill should contain a positive obligation on the State to provide aftercare for every child in care whether they are in voluntary care, or in care under a care order, supervision order or under a special care order at least until they are 21.

International Networks

A function of the OCO under the 2002 Act is to cooperate with the Ombudspersons for Children of other states. During 2010 the OCO continued its strong and active engagement with the European Network of Ombudspersons for Children (ENOC), as well as the British and Irish Network of Ombudsman and Commissioners for Children (BINOCC).

The Ombudsman for Children was a member of the executive of ENOC until September 2010 and was subsequently appointed as the Chairperson of the Network's Working Group on Statutes and Standards for 2011.

5

COMPLAINTS AND INVESTIGATIONS

The complaints and investigation function is a core and busy function of the Office. Under the Ombudsman for Children's Act 2002, the OCO can investigate complaints made by children and young people, or by adults on their behalf, about public organisations, schools or hospitals. This is a free, independent and impartial service.

Distinct Provisions

The 2002 Act provides for the operation of complaints and investigations functions by the Ombudsman for Children. These legislative provisions set out standard maladministration grounds for the review of complaints and the conduct of investigations. Given that the effect of an action on a child must be the subject of any investigation conducted by the Ombudsman for Children and that children themselves can bring complaints to the Office, the Act sets out a range of specific legislative provisions which take account of the particular vulnerability of children.

1. Obligation to have regard to best interests of the child

The Act provides that in the performance of her complaints and investigations functions, the Ombudsman for Children shall have regard to the best interests of the child.

2. Obligation to give due consideration to the child's wishes

The Act provides that in the performance of her complaints and investigation functions, the Ombudsman for Children shall, in so far as is practicable, give due consideration, having regard to the age and understanding of the child, to his or her wishes.

Overview

The extensive casework experience built up by the Office provides a unique insight into the lived experience of children and their families. It also offers a valuable opportunity for public bodies to take stock of the actual impact of policies and practices on the ground, as regards achieving the desired outcome of improving the situation of children on foot of publicly funded services.

Over the past year the Office has seen a positive response from public bodies at an early stage in the complaints process with a considerable number of complaints being resolved at that stage. This reflects a focus on the part of the Office to encourage the achievement of local redress between parties where it considers a good basis exists for this to occur. It is often the case that appropriate or efficient redress can be best achieved directly between the parties involved.

Where appropriate, the Office has continued to make interventions to public bodies regarding steps that can be taken to improve and refine policy, practice and procedure so as to achieve the best outcomes for children. Predominantly, the Office has received a positive response to recommendations made, which impact not just on the child at the centre of the complaint but on other children seeking or in receipt of those services.

In particular, key recommendations relating to education, health and housing included:

- Clarity and communication about service provision, eligibility and entitlements, the application for accessing same and the actions of the public body in this regard.
- Policy and practice review and improvement. Specific encouragements provided in the areas of:
 - Housing – in relation to anti-social behaviour policies, housing grants application process, transparency in relation to the housing allocations process and transfer processes, including liaison with voluntary housing associations.
 - Education – in relation to school transport policy, the home tuition grant application process, transition planning and clarity regarding school policies, anti-bullying policies, class streaming.
 - Health – in relation to provision for children to be accompanied by an adult when attending treatment abroad; development of policy and procedural guidance specifically in relation to audiology services; and care planning, including early development of care plans and involvement of young people in this process and in any transition planning.
- Clear procedural guidance for staff in discharging their administrative functions in order to ensure equity of the process, and to assist staff in ensuring that all the required steps are considered, for example ensuring that all the required information pertinent to the decision is obtained.
- Standards of the local complaints and appeals procedures, particularly with regard to visibility, accessibility, equity, expeditiousness, and transparency.

Specific recommendations were also made in some cases regarding redress and resolution for the particular child at the centre of the complaint.

Record Growth in Complaints in 2010

In keeping with previous years, 2010 saw a significant rise in the number of complaints received by the OCO with 1,223 complaints handled over the course of the year representing 1,144 new complaints and 79 carried over from 2009. This amounts to a 34% increase in 2010 and is the largest annual increase in complaints received by the Office since becoming operational. From 2008 to 2010 there was a 65% increase in complaints.

Analysis of Complaints Increase

Analysis of the complaints dealt with in 2010, compared to 2009, shows the following:

- An overall increase in the number of complaints received in each category;
- Education and Health remain the highest complaint categories;
- Education related complaints increased and represented 38% of all complaints received. The largest sub category related to actions of teachers/principals, in addition to which there was an increased number of complaints about Boards of Management, special needs allocation, and handling of allegations of bullying;
- Health related complaints represented 37% of the total. The highest proportion of such complaints related to decisions regarding children in care, representing 25% of the total in this category. Adequacy of HSE services also represented a significant proportion, as did complaints relating to child protection. Areas where there were key increases in the number of complaints received included decisions regarding children in care, childcare/public preschool/crèches, accessing HSE services and actions of HSE staff. Complaints relating to preschool included a number regarding the Early Childhood Care and Education (ECCE) Scheme;
- Housing related complaints increased from 4% to 5% of the total – a large number of these complaints raised concerns about the suitability of current housing and the application process for transfers to alternative housing; and
- Other category complaints rose from 8% to 12%, with the most significant increase relating to allowances/payments.

As indicated above, the Office has received a number of complaints pertaining to the operation of the ECCE Scheme which was launched in 2009 by the Office of the Minister for Children and Youth Affairs (OMCYA). From an early stage, and throughout 2010, complaints were received from parents on behalf of their children with respect to such matters as the rationale for the age criteria applied under the scheme and the clarity of communication and information being provided to the public by the OMCYA. While some of the complaints received have been examined and a determination made not to proceed to investigation, others are ongoing and are at preliminary examination stage with the public body.

Need for System Learning

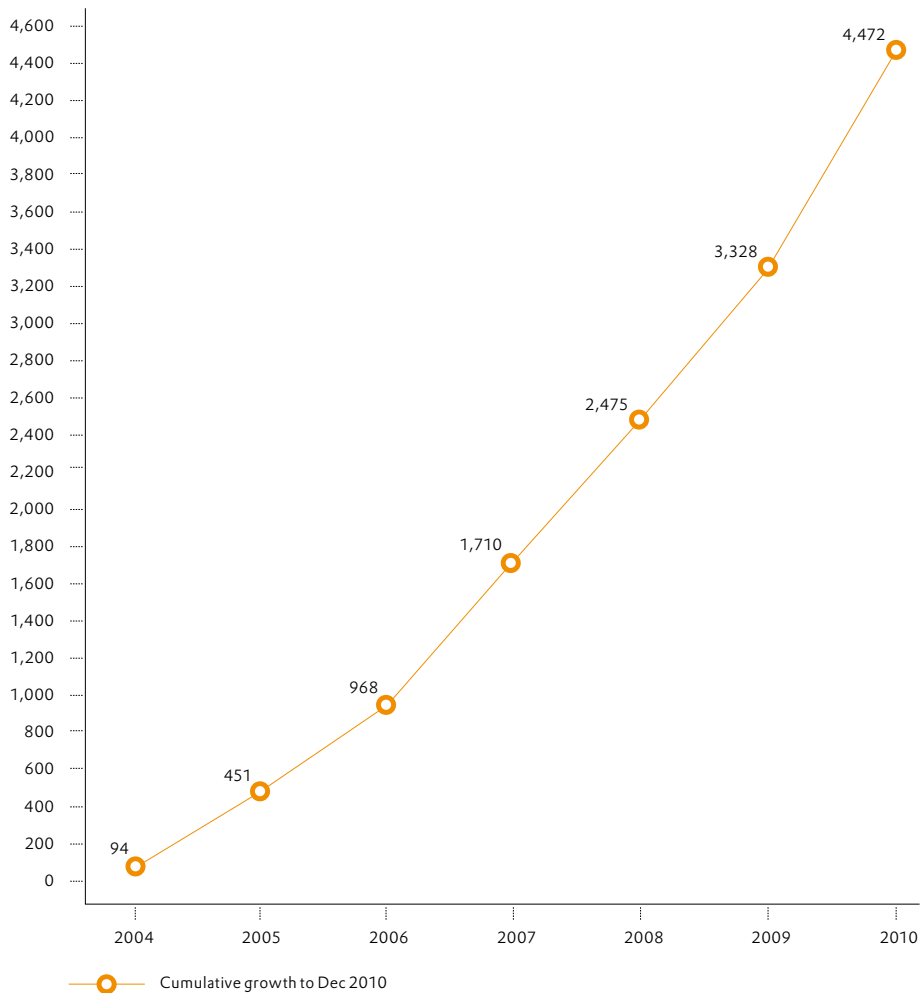
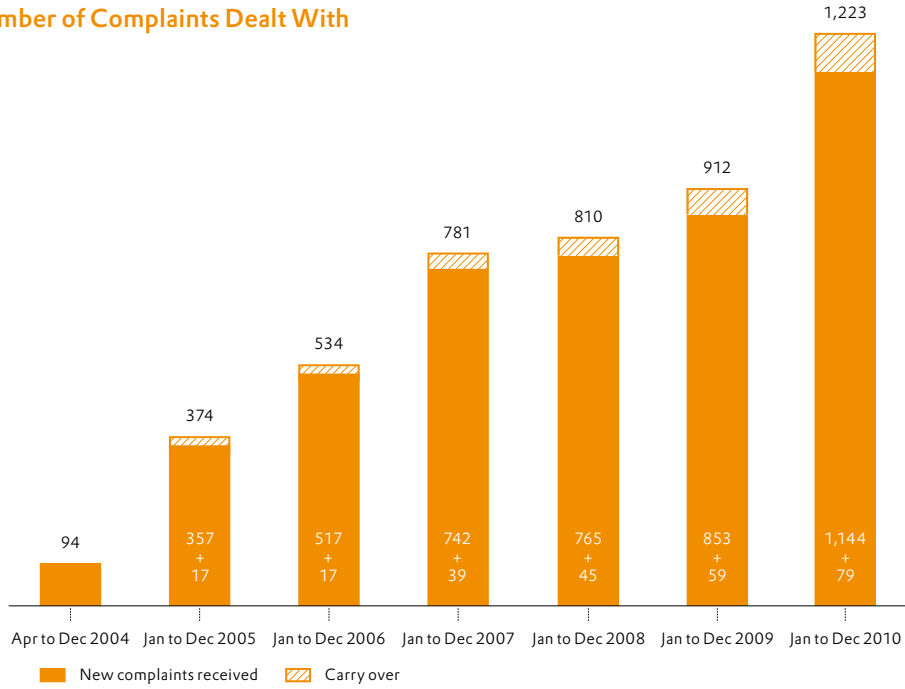
The main complaint categories across Health and Education are broadly similar to previous years and it is a matter of concern that there continues to be an increase in the number of complaints in these particular areas. The Office has previously made comment in relation to the key issues raised in these areas including the issues raised by young people in care and specifically their concern about participation in decisions that affect them and the consideration given to their views.

By highlighting the pattern of complaints, public bodies are provided with the opportunity to consider the issues raised, the availability of local or other suitable complaints mechanisms and how best policy, practice and procedure can be developed to demonstrate broad and meaningful system learning from the investigation experience.

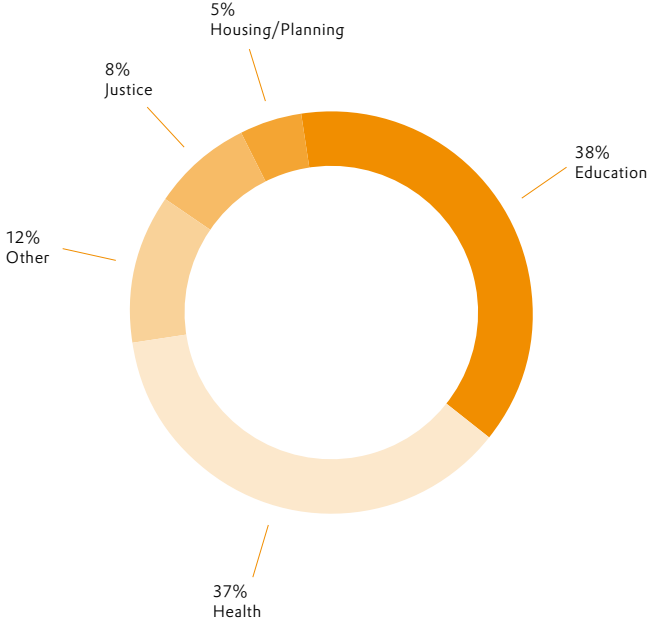
Complainants Contacting the Office

As with previous years, the majority of complaints received are made by parents and extended family members. The experience of the Office is that parents are the principal advocates for children's rights and welfare. There was also an increase in the number of professionals contacting the Office including social workers, foster parents, teachers, Principals and organisations/support groups. These professionals were either supporting children to bring their own complaint or submitting complaints on behalf vulnerable children, often those without parental care or without easy access to an advocate able to complain on their behalf. Without these professionals' involvement, these children may have remained unheard. Given their positions, these professionals provide an experience and understanding of the issues affecting children and the services being provided to them which is of great value to the OCO.

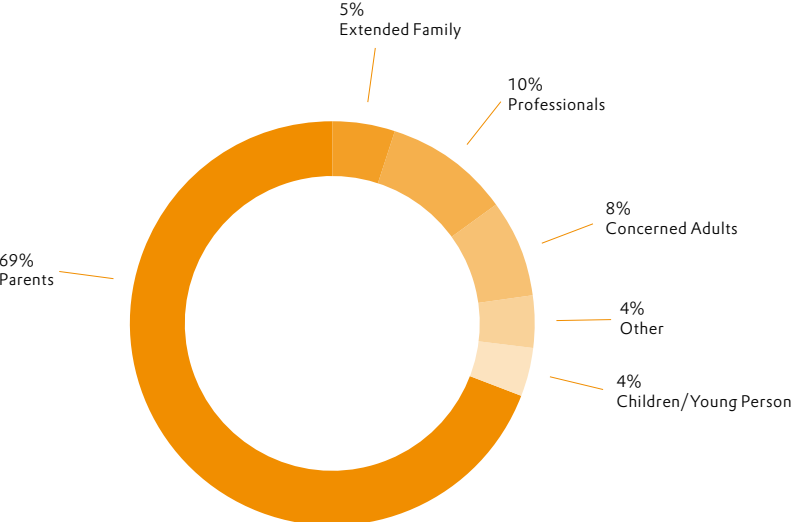
Number of Complaints Dealt With



Complaint Category (January – December 2010)



Complainants (January – December 2010)



Significant Trends

This section of the report brings together key observations drawn from the experience of dealing with complaints during 2010. Some of these observations are not new but bear repeating because responding effectively to the particular challenges they raise is important to advancing the rights and welfare of children.

Education – The Need to Implement Statutory Procedures

As evidenced above, education accounted for the highest proportion of complaints received by this Office in 2010 and showed a 36% increase on the number of such complaints received during the previous year. This may to some extent reflect the fact that statutory arrangements set down for parents to raise their concerns about the actions of schools (under section 28 of the Education Act 1998) and about the actions of teachers (under Part V of the Teaching Council Act 2001) have not been put into operation. In her 2008 Annual Report, the Ombudsman for Children called attention to the legislative and administrative lacunae created by the failure to follow through on the implementation of these provisions.

In December 2010 the Ombudsman for Children wrote to the Department of Education and Skills requesting the following:

- an update on the progress that has been made by the Department on developing complaints procedures in accordance with section 28 of the Education Act ;
- clarification in regard to the appeals process provided for under section 29 of that Act; and
- an update from the Department on the expected timeframe for commencement of the Part V of the Teaching Council Act, which would enable the Council to examine complaints relating to the professional conduct of teaching staff.

The Ombudsman for Children believes that a pressing need now exists for determined action to progress these matters.

Education – Issues of Record-Keeping and Transparency

The Office has continued to see complaints referred relating to the actions of schools. Given the policy of the Office to respect local procedures, the complaints received relate to situations where local resolution has not occurred. A source of difficulty encountered in effectively progressing the examination and investigation of such complaints, and indeed identifying possible bases for local resolution, concerns the provision by school authorities of insufficiently elaborated reasons for decisions reached.

Where inadequate information is given by Boards of Management about their deliberations on complaints, this can pose difficulties for complainants in terms of understanding or accepting the decisions made. Information received by this Office can often show the brief nature of the written record of decisions taken in regard to sometimes complex complaints made to a Board. Responses such as the ‘complaint has not been substantiated’, ‘insufficient

evidence has been provided', 'satisfied that the complaint concerned requires no further action' or 'matters have been satisfactorily dealt with' occurring separately in individual complaints brought in circumstances where there is not any further supporting information or rationale, are unsatisfactory to complainants. Such an approach can also have a negative effect on the relationship between schools and families where decisions which may have been made on sound and reasonable grounds are not explained.

This can also have a negative effect on the trust and transparency which is required of a school's complaint procedure. In some cases, it may further add to a breakdown in relationships between the complainant and the school as complainants do not feel that they or their child have been adequately heard.

Cooperation and Challenges by Public Bodies and Schools to Providing Information

The complaints and investigation function of the Office is set out in sections 8 to 16 of the 2002 Act. The Act, and the procedures established under it, provide for a complaints examination and investigation process that is strongly independent, impartial and non-adversarial. The Office addresses queries and concerns either party may express about the process, whether at preliminary examination or investigation stage, in a transparent and prompt manner. At the outset, it is clearly stated to all parties that the OCO is neither an advocate for the child nor an adversary of the public body concerned and this is reflected in the procedures and actions of the Office. The process offers a viable alternative to resorting to litigation to address complaints.

The examination and investigation of the vast majority of complaints proceed with full participation by public bodies and schools. However, some cases indicate a tendency to adopt a more legalistic manner and tone of response to requests for information from the Office. Particular instances of this approach were noted in the following:

- HSE – Some of the responses received from certain areas of the HSE to requests for information in connection with complaints concerning children in care have sought to challenge the investigative remit of this Office. The Ombudsman for Children is concerned about the early use of legal advice in these cases. Sometimes the first response to a letter from the Ombudsman for Children's Office is a solicitor's letter.

The Ombudsman for Children is concerned that such an approach may potentially lead to instances where a public body complained of seeks to arbitrarily exclude independent oversight. Any such approach, if widely adopted, would have clear implications with respect to the openness and transparency of the public bodies being complained of and that it may also have further adverse effects on children and young people through delayed access to any redress found to be warranted.

- Child Protection concerns brought by HSE staff – Some members of HSE come to OCO with child protection concerns because they are not comfortable to raise these concerns within the HSE or if they do, they are not happy with the response received. Given the serious nature of these concerns the Ombudsman for Children has raised the matter at CEO level.
- HSE – In a small number of cases some Local Health Offices have cited the in camera rule as an obstacle to the provision of information necessary to enable the preliminary examination or investigation of complaints to proceed. This Office has observed that this rationale has been provided in instances where the rule is being interpreted too widely as covering any information being requested. Further to careful examination of the matter, this Office is satisfied that it has the powers that it needs to compel information and documents in such instances. As referred to earlier, in June 2010, this Office published its view on the effect of the in camera rule by way of advice to the Government on the proposed Health (Amendment) Bill 2010.
- Schools–In some cases where local resolution may be possible, the Office has observed a tendency to respond either through legal representation or by way of argumentation consistent with litigation principles of denying or contesting a statement of claim. The adoption by schools of an overly legalistic approach can sometimes eliminate the possibility of a less intensive and less adversarial route to resolution of an issue.

This Office is of the view that approaches of the kind outlined above also miss out on the opportunity for the public body or school concerned to affirm, or review and develop, its policies and procedures by not engaging with this Office in as open a manner as possible. The result can be undue delay or impediment in obtaining key information necessary for this Office to determine whether the administrative actions were fair and sound.

Efficient Conduct of Internal Reviews

A key objective of the Ombudsman for Children relates to the promotion of more considered and better administrative practices and procedures when engaging with children and young people or advocates on their behalf.

In general, this Office finds that most public bodies when provided with the opportunity at investigation stage or otherwise will advise that they wish to actively reflect upon and review the issues being raised. On occasion, such a response may form part of a review process which is already in train, or may involve incorporating the issue or practice raised into the terms of a proposed review.

While this approach can be beneficial, a concern for this Office arises in relation to both the purpose and orientation of such reviews. In a number of investigations or examinations which have been concluded, the recommendations and encouragements made by this Office have been assimilated into a wider review of practice to occur and be completed at a later date. A number of these reviews have been open-ended and it is the understanding of this Office that several of them remain ongoing several years later.

In particular, the Department of Education on several occasions has responded to OCO's recommendations by incorporating them into reviews of policies rather than taking time-specific action.

In essence the concern of this Office relates to the following factors:

- the amount of time taken in conducting such reviews and the immediate relevance and potential impact for the child involved;
- the absence in some instances of certainty from the outset about the aims, purpose and targeted duration of reviews;
- the deferral, pending completion of the review, of decisions which should reasonably be taken sooner, or on an interim basis;
- review processes that may have a predominantly value for money orientation, without sufficient obvious balance in terms of addressing potential adverse affects on children and families as regards access to and use of services; and
- the potential creation of another layer of administration, in the form of insufficiently defined and time-bound administrative processes, within public bodies in circumstances where a high level of administration may be cited as a reason for an adverse effect such as delay.

The Ombudsman for Children's Office takes great care to ensure that recommendations which may be made following an investigation are constructed in such a way as to provide benefit not only for the child who has been adversely affected, but where possible for all children and advocates working on their behalf who are also facing the same administrative systems.

In pursuing the response of a public body to a recommendation, the Office will always seek to establish how any proposed or ongoing overall review will directly address the issues raised and how children are going to benefit from same. These efforts are particularly important when issues have been highlighted through investigations in circumstances where current guidelines or policy exist upon which greater implementation or adherence by the public body concerned would have improved the lives of children and their families in the first place.

An example of this approach may be illustrated through the Office's follow-up on a HSE response to the outcome of an OCO investigation relating to the planning and support provided to children with special needs in foster care. The response received set out how such recommendations would feed into and direct a working group with a function to implement such findings and a time line was provided for same.

The concern regarding the tangible and timely benefit of such reviews prompted this Office to establish how the review was going to improve the lives of the children affected and help those advocates professional or otherwise, working on their behalf.

This Office continues to closely monitor these matters in order to gauge the impact of internal reviews initiated by public bodies on the early provision of redress to mitigate adverse effects on children of actions as identified in the course of investigations.

Health Service Executive – Geographical Variation in Service Provision

The Office has received a number of complaints where the complainants have expressed concerns that there are issues in relation to geographical variation in HSE service provision. Differences in the administration of schemes and service delivery by HSE on a national basis have also emerged through the course of investigations. This relates to variation either across Local Health Office areas within the same HSE region and variations across HSE regions in relation to:

- access to therapeutic services such as Child and Adolescent Psychiatry (including services for non-emergency referrals, and services for children with autism), Speech and Language Therapy, Occupational Therapy, Physiotherapy, and Psychology;
- the administrative processes followed regarding application for certain schemes; and
- the structure and format of service delivery, for example, some parents have both a perception and experience of inequity in relation to resource provision, specifically regarding health supports attached to schools and that there can be a variation in waiting times for services.

An unintended consequence of this situation may be an inability to have timely access to educational supports which require the carrying-out of prior professional health assessments that are themselves subject to lengthy waiting lists or resource constraints.

This Office recognises that there are significant constraints on resources available to meet the demand for public services arising from Government policy to address the public finances. Nonetheless, administrative standards and good practice can be maintained and it is important to ensure that scarce resources are delivered in a manner that is seen to be fair and reasonable. Instances where administrative boundaries within the HSE may give rise to significant differences in access to and availability of services need to be systematically identified and addressed by the Executive.

Delays in Provision of Onward Placements for Children and Young People

The Office has received a number of complaints regarding delays in accessing suitable onward placements for children and young people in hospital settings. This has related to complaints regarding delays in accessing suitable placements on behalf of children who have remained in hospital due to delays in accessing home care support packages or appropriate onward placements.

Such cases have involved children and young people remaining in placements that professionals have deemed not to be the most appropriate placement to meet their needs. In one case, a one year old child remained in hospital for an additional 7 months, awaiting required community-based services for discharge home, although the parents were keen for the child to return home. A similar issue arose in relation to a seventeen year old with a severe intellectual disability who, although ready for discharge, remained in hospital for 6 months on account of difficulties in accessing a suitable residential placement. In both cases the parents advised that medical professionals were of the view that the children did

not require hospital treatment and the parents contended that the delay in discharge from hospital was having a negative effect on their children and their families.

It appears that internal budgetary considerations and difficulties in sourcing suitable onward placements may have contributed to the delay in resolving the situation in some of these cases. This raises concerns as to the impact on children and young people where there is a delay of this kind which can result in children and young people spending a significant period of time in an inappropriate placement.

Jurisdiction in Relation to the National Council for Special Education

During the course of 2010, based on legal advice which was sought and obtained with respect to its investigative remit, the OCO ceased an investigation of a complaint about actions of the National Council for Special Education (NCSE) pending the making of an order by the Government, as provided for under the 2002 Act, to expressly include the Council within its complaints and investigation remit. The Office acknowledges the agreement of the NCSE to this proposed course of action. In November 2010, the Ombudsman for Children wrote requesting the Minister for Health and Children to arrange for the making of the necessary order at an early date.

The Office and the NCSE, have agreed an interim process through which the concerns which had been brought to the Office would be brought to the direct attention of NCSE for response. The Office wrote to all complainants affected by this decision to advise them of same.

It should be noted that the Office continues to utilise the unique statutory provisions of section 7 of the 2002 Act to encourage public bodies to develop policies, practices and procedures designed to promote the rights and welfare of children and also highlight issues and concerns in relation to same. This work includes addressing issues relating to the provision of special education. The Office is greatly assisted in that regard by the direct engagement that arises from the contact it receives from children, parents, guardians, and professionals or other advocates acting on their behalf, to highlight issues of concern to them.

Immigration Issues

The Office has received a number of complaints on behalf of non-Irish national children relating to issues connected to service provision and the asylum and immigration process. When issues raised relate to education and health provision the Office can investigate depending on the specific nature of the complaint. However, the Office is precluded from investigating complaints about administration of the law relating to asylum and immigration, naturalisation or citizenship. That said, the challenges and difficulties faced by this vulnerable group of separated children and young people is of particular concern to this Office given its commitment to promote the rights of all children and young people, regardless of whether they are Irish or non-Irish nationals. It is important, therefore, to highlight the issues raised with the Office in relation to their experience in regard to:

- access to education, (related to length of residency in the country);
- age assessment and the process followed;
- access to siblings where children are placed in different accommodation and possibly in different parts of the country;
- the implications of having no formal identification; and
- asylum seeking and refugee applications – the length of time involved in the process and lack of communication as regards the progress of their applications.

Many of these issues have also arisen in the context of the OCO's work with separated children seeking asylum, as set out earlier. This is an area which the Office will continue to monitor and consider other avenues within its statutory powers to promote change for the benefit of the children and young people concerned.

Case Work

Own Volition, National Systemic Investigation

The Ombudsman for Children Act 2002 provides that the Ombudsman for Children may initiate an investigation of her own motion where it appears that an investigation is warranted having regard to the circumstances and without necessarily having received a specific complaint. Own volition investigations are particularly useful where children and families who may be affected are less likely to make a complaint or where it is clear that there are issues affecting a larger number of children. It affords the Ombudsman for Children the power to carry out systemic investigations with the potential to induce broader change in the administrative system that benefits more than one individual child.

Children First Investigation

In November 2008, the Ombudsman for Children on her own motion initiated an investigation into the implementation of Children First: National Guidelines for the Protection and Welfare of Children, focusing on the administrative actions of the HSE in terms of implementation and the Department of Health and Children's Office of the Minister for Children and Youth Affairs (OMCYA) because of its remit to monitor the implementation of the guidelines. This was based on:

- the serious concerns raised by the outcome of the OMCYA's review of Children First published in July 2008; and
- information which had recently come to the attention of the OCO which indicated that Children First was not being fully implemented.

This was the first systemic investigation undertaken by the Ombudsman for Children and by definition recognises the potential of the Ombudsman for Children to induce broader change in the administrative system that benefits more than an individual child.

A final investigation report was completed in April 2010 and subsequently published. Some of the conclusions drawn are positive. In particular, it was recognised that substantial efforts had been made at various times since 1999 to implement Children First. However, some of the conclusions are negative and 11 findings of unsound administration were made, leading to 22 recommendations by the OCO.

Key concerns identified included:

- the failure to put in place appropriate mechanisms to drive forward interagency implementation of Children First by the Department of Health and Children from 2003 up to 2008;
- insufficient effort was made to drive forward implementation of Children First internally within the HSE until the establishment of the task force in February 2009;
- the Health Boards failed to resolve problems that had arisen in relation to Children First including variable implementation;
- the HSE failed to put in place appropriate quality assurance through internal audit of case files;
- the Review of Adequacy 2008 conducted by the HSE failed to ensure determination of adequacy in any meaningful way in each functional area;
- the OMCYA failed to be transparent about the industrial relations dispute involving implementation of Children First, in its Review of Children First published in 2008; and
- there was a lack of clarity and consistency in relation key areas of Children First including: local procedures; definitions of abuse; the basis for reporting child abuse concerns; a failure to ensure implementation of joint actions sheets and notifications with the Gardai and a failure to ensure 24 hour external access to the Child Protection Notification System.

A particular difficulty with implementation arose in some areas of the country in relation to concerns by the trade union IMPACT and its members regarding the additional paperwork that Children First required. The investigation concluded that there was either an instruction by IMPACT or an agreement between IMPACT and the former Eastern Regional Health Authority not to implement Children First without IMPACT's assent and that this remained in place at the time of the investigation. This has meant in practice that much of the paperwork required by Children First was not completed in much of the former ERHA region. In the absence of consistent implementation of Children First, a variety of child protection procedures applied in the areas concerned.

The OCO concluded that child protection was not at times given priority during the period when health and social services were undergoing reform. In particular, momentum in relation to implementation was lost between 2003 – 2008, up until more recently. Since the investigation was launched a number of initiatives were instituted by the HSE that have positive potential.

The 22 recommendations which were made related to:

- that the high level group established by the OMCYA meet to resolve all outstanding interagency policy issues regarding Children's First;
- improvements in interagency policy issues and working;
- inspection of child protection work by the Social Services Inspectorate including examination of case files and also joint inspection with the relevant Garda body in relation to completion of Garda Notifications, Garda/HSE cooperation and convening of strategy meetings;
- efforts be made to resolve the outstanding industrial relations issues;
- Review of the role of Child Care Manager, to include the issue of access to information by them;
- the rolling out of an Out-of-Hours service throughout the State;
- consideration to be given to the creation of a National Child Protection Notification System;
- making explicit the application of the revised Children First guidelines to churches;
- consideration to be given to a dedicated child protection service in An Garda Síochána;
- joint liaison structures to be established between the HSE and An Garda Síochána in all areas where they are outstanding;
- improvement in record keeping and implementation of same by the SSI;
- protocols on transfer of files also to be inspected;
- HSE to provide training to professionals on their duty to report abuse, including retrospective cases;
- All necessary steps be taken to ensure that a list of convicted sex offenders in the area be given to each Local Health Office so that it can assess the risk to any child; and
- the need to provide guidance on information sharing and data protection, which should not await any forthcoming legislation on the issue.

It was noted that a Strategic Review of the Delivery and Management of Child Protection services by the HSE was ongoing at the time and in this regard OCO recommended that consideration should also be given to whether child protection services are best delivered within the context of the HSE and, if so, how to ensure that a focus on them is not lost amid wider concerns about health services.

The OCO liaised with HSE National and the OMCYA in relation to the recommendations made and welcomes the positive responses provided. It was decided to review the progress made in relation to the recommendations 12 months following the investigation report, and so the Office will be returning to this matter during 2011.

The OCO also received a positive response from An Garda Síochána in relation to the recommendations and met with An Garda Síochána Inspectorate.

There was considerable discussion in relation to the issues raised through the investigation in both Houses of the Oireachtas. A sub-committee of the Oireachtas Joint Committee on Health and Children was set up to address implementation of the recommendations from a number of reports, including the OCO's investigation.

Case Studies

The case studies represent a sample of the work carried out by the Office over the year. It is intended to publish a number of investigations in more detailed form in a digest of cases during 2011. The purpose is to set out the issues raised by the cases in the context of compliance with the CRC and with other human rights instruments.

Housing

Case Study 1

The parents of a child with special needs contacted the Ombudsman for Children's Office to complain about the suitability of their local authority house to meet their child's medical needs, and the delay in transferring their family to more appropriate housing. The family were concerned that their child was at risk of injuring himself because of the lay-out of his current house. This concern was supported by a medical professional, who had advised the Local Authority that a specially adapted building was required to address the health and safety requirements for the child.

During the OCO's investigation of the complaint a number of issues came to light:

- The family had been raising concerns about the suitability for the child of the current house since 2003. These concerns had not been addressed when the complaint was brought to the OCO.
- Some adaptations to the accommodation had been undertaken by the Local Authority as an interim measure but not all had been completed.
- Plans had been drawn up in 2007 for a purpose-built property which had not been progressed.

The Ombudsman for Children's Office's put the family's concerns to the Local Authority and requested that local redress mechanisms be explored.

Following this intervention, the Local Authority informed the OCO that they identified a suitable property that may be extended to meet the young person's needs. The complainants were satisfied with the redress offered by the Local Authority.

This Office impressed upon the Local Authority the need to provide clear communications to the family and their advocates until the family and the child had moved into their new house.

Case Study 2

A parent of a child with special needs brought a complaint to the OCO about a delay in building an extension to the family home, approved under the Local Authority's Adaption Grant for People with a Disability.

On investigation, the Ombudsman for Children's Office identified that there appeared to be different understandings between the Local Authority and the parent as to the extension work that had been agreed and restrictions on the type of extension work allowed under the Disabled Person Grant.

The Local Authority accepted the OCO's view about a lack of communication with the parent with regard to specifications of the work that could be carried out under the scheme. The Local Authority agreed to accommodate the parent's requests and the young person moved into the extension. This Office proposed that the Local Authority review the administrative procedures which created difficulties in this case.

Case Study 3

A family complained to the OCO about the delay by a Local Authority in addressing their concerns about dampness levels in their home and anti-social behaviour in the neighbourhood. The family had requested to be transferred to alternative accommodation.

The Office examined the case and was provided with information by the Local Authority regarding two engineering inspections of the property following which repairs had been carried out. The Local Authority added that due to insufficient information it had been unable to address the concerns regarding the anti social behaviour.

The OCO found that the Local Authority had adhered to its policy and procedures and that there was no evidence of maladministration.

Health

Case Study 1

The Ombudsman for Children received a complaint about the lack of orthodontic services available to a child in foster care. Concerns were also raised about how appointments were managed and how discussions with the child and the foster family about mitigating circumstances were understood, which had caused distress to the child and may have delayed access to care. The complainant also stated that there had been a considerable amount of time between the initial assessment of the child's application for orthodontic treatment and communication to the family of the final decision.

From its investigation of this case, the Ombudsman for Children's Office identified that the HSE had not provided clarity to the child and the foster family about the entitlements to orthodontic treatment for children in care. Nor had the HSE communicated clearly to the family the implications of seeking private treatment which had been sourced previously by the foster parents.

The HSE accepted the OCO's findings that there had been a lack of clarity regarding eligibility for treatment; and that poor management of appointments and unclear communications had caused distress to the child.

The HSE had stated that the child was not eligible for orthodontic treatment. However, in light of the intervention by the Office the HSE reconsidered the particular circumstances of this case and advised the OCO that they would provide redress for the child.

The HSE also advised the OCO that they intended to revise their methods for communicating more generally with foster carers about orthodontic treatment.

Case Study 2

A parent complained to the OCO about the lack of services available to their seven year old son with autism. For a three year period following the child's diagnosis, he did not receive any speech and language therapy. He had received an occupational therapy assessment recommending further intervention but was still awaiting services at the time of the complaint.

At the time the parent contacted the OCO, the child was awaiting services through a specialist service provider for children with intellectual disabilities. There were substantial waiting times for these services ranging up to 4 years.

The HSE area concerned had decided that therapeutic services for children with autism should be provided through the local child and adolescent mental health services. However, these services did not have the multi-disciplinary resources required. This resulted in services being sought through community speech and language therapy and psychology. Difficulties arose due to staffing and resource availability as well as internal referral and administrative processes.

Having investigated the case, the Office made a number of findings on the administrative actions of the HSE and the service provider in relation to the planning and delivery of services for the child.

The Ombudsman for Children's recommendations included:

- the need for redress for the child at the centre of the complaint including access to service provision;
- the need for improved care planning and transfer of cases across service providers;
- a review of waiting list difficulties and development of strategies to address same; and
- a review of service provision for children with autism in this area.

During the course of the OCO's investigation, the HSE developed a waiting list initiative which resulted in the child being provided with the services he required. A commitment was given by the HSE that these would be continued until he was able to access services from the specialist service provider concerned.

The HSE also confirmed to the OCO that service provision for children diagnosed with autism would be reviewed in line with the National Autism Strategy and the National Framework for Provision of Therapy Services for Children aged 6-18 years.

Case Study 3

A complaint was made to the OCO by a parent about the level of speech and language therapy and occupational therapy provided by the HSE to their son following his discharge from hospital.

During the Office's examination of the case the HSE detailed the services provided since wait listing for services in the previous November, which included a block of speech and language therapy provided between March and June and a further block was to be provided in July. A block of occupational therapy was provided from September to December, followed by a home programme, a group programme between March and May with a further group planned for the coming November.

The Office found that the HSE had adhered to its policies and procedures and concluded that no further investigation was warranted.

Case Study 4

The Ombudsman for Children's Office was contacted by foster parents and later their foster child in relation to the HSE's plan to change the child's placement. The young person raised concerns about the change of placement and the impact on his schooling.

Following the OCO's intervention in this case, the HSE advised the Office that the child had been met and spoken with and a local manager had been appointed to review the complaint. The HSE subsequently communicated to the OCO that steps had been taken to address the issue of contact for the child with his family and foster family, and the concerns in relation to his education were being monitored and were due to be reviewed which would involve consultation with him. The Office was satisfied that the HSE was taking steps to address the young person's concerns and that no further investigation was warranted.

Case Study 5

The parents of a 14-month old child with a physical disability contacted the Office to complain that a date for their child's surgery had not been arranged, despite the fact that the surgery was required before the child reached 18 months or failing which the child would be permanently disfigured.

Following contact by the OCO, the hospital advised that there had been difficulties in allocation of theatre slots for this type of surgery due to an increase in the number of such referrals, in addition to an increase in the demand for theatre time. The hospital reported to the Office the steps which were taken to address these difficulties.

It stated that the child in question had been offered an appointment as it had been able to allocate an additional theatre slot specifically for the type of surgery involved.

The hospital also told the OCO that the waiting list for this surgery had been reviewed and the advised that all children then on the waiting list for this surgery had received a scheduled surgery date.

The Office determined that further investigation was not required into the matter as the hospital had provided redress to the individual child and had taken steps to address the difficulties that had arisen.

Case Study 6

A parent contacted the Office to raise concerns about the provision by the HSE of respite care services to a child who has a learning disability. The parents stated that the HSE respite care placement, although located in the county in which the family lived, was over 60 miles from the child's special school in a different county. The arrangement in place was having an adverse affect on the child as the time and distance involved in accessing both specialised resources reduced the benefit of each.

The parents were requesting that HSE respite services be provided closer to the school. The parents told the OCO that this request had been refused by the HSE.

On examination by the Office, it appeared that the child was attending a special school in one county due to the highly specialised nature of the educational programmes undertaken there, but the determining factor regarding the location of HSE respite services available to the child was dependent on the county where the family resided. Respite care services in the area where the school was located were provided by a different HSE area.

Following the Ombudsman for Children's intervention, staff from both HSE areas met with the parents and it was agreed to provide shared care respite services in the same area as his school to support his continued education. The HSE advised the Office that the revised proposal was due to additional resources having been approved. It committed to the OCO that the HSE in both areas would work closely with the parents on arrangements, including the transition in the respite care provision.

The Office determined that no further intervention was required as redress had been provided and steps taken to address the difficulties that had arisen.

Case Study 7

A young person in care made a complaint to the Ombudsman for Children about how he was treated when he had complained about a serious incident that had occurred in his residential unit.

While the incident itself had been resolved at local level following the OCO's intervention, the young person told the OCO that they felt unhappy with the response received which they believed was to blame them for the incident which took place.

The young person indicated that their desire in complaining to the OCO was that the relevant staff be made aware of their responsibility in the particular matter, for staff to be told that they had acted improperly in that regard and in subsequently attributing blame for the incident to the young person.

Of particular interest to the Ombudsman for Children's Office, in relation to understanding the barriers to young people bringing concerns to those most able to help, was the reaction of local staff as experienced by the young person concerned.

Following the OCO's involvement, the HSE undertook to carry out a review to ensure that guidelines and procedures for handling incidents are clearly set out. They found in favour of the young person with respect to the issue raised and it was proposed that the relevant HSE staff would meet with the young person to explain the steps they had taken and offer a full apology.

It is important that children in care feel confident about accessing, and participating in, complaint procedures arising from actions that have a direct effect on their lives. In view of the positive response taken to actively review the policy and procedures in place and the steps taken to promote learning from the incident, it was determined that no further action was required by the Office.

Education

Case Study 1

This Office investigated a complaint about the refusal of school transport by the Department of Education and Skills to a young person because the young person was not attending their nearest school. The complainant advised that their nearest school had filled its enrolment quota therefore the young person was unable to enrol there and consequently, the parent had to register the young person in the second nearest school.

The OCO brought this information about the lack of provision of and/or entitlement to school transport for children who were unable to attend their nearest school due to capacity issues at that school to the attention of the Department of Education and Skills.

In response, the Department of Education and Skills advised the Ombudsman for Children's Office that they were in the process of revising the school transport policies to address issues raised in this case regarding enrolment accommodation capacity.

The Department also advised the Office that pending the formulation of the revised policy that the young person in this case, and other young people in similar circumstances, would be granted concessionary transport to the second nearest school to their home, recognising that this was in fact the nearest school with places available.

Case Study 2

A parent made a complaint to the Ombudsman for Children in relation to her son with autism, who was attending an autism unit in a mainstream school. The parent stated that her son was required to complete his primary education in 7 years in the autism unit unlike children attending mainstream school who completed their primary cycle in 8 years. The parent was concerned that her child was not ready to start secondary education and the school's decision did not take the child's best interests into account.

The OCO requested information from the school on this case including related policies. The Board of Management responded to the Office advising that it was the case that a 7-year cycle was provided in the autism unit admissions policy. However, the Board advised the OCO that it had amended policy to remove the age limit applied to the autism unit.

Therefore, following the OCO's intervention, the child concerned was entitled to remain in school and finish the full 8-year cycle of primary education.

Case Study 3

A complaint was submitted on behalf of a young person regarding the decision of the Department of Education and Skills to refuse primary school transport to the school in which he was enrolled and had been attending for the previous 18 months.

On examination of the case, the OCO found that the Department of Education and Skills had adhered to the School Transport policy, in that the young person concerned had moved address and was no longer attending the nearest school. Therefore the young person was not eligible for transport under the terms of the scheme.

6

PARTICIPATION AND EDUCATION WORK IN 2010

Under section 7 of the 2002 Act, the Office has positive obligations to:

- encourage policies, procedures and practices that promote children’s rights and welfare;
- promote awareness among members of the public, including children, of matters relating to children’s rights and welfare;
- establish structures to consult with children; and
- highlight issues relating to children’s rights and welfare that are of concern to children themselves.

The OCO’s approach to fulfilling these obligations encompasses its core statutory functions and is informed by a commitment to building a culture where children’s rights are respected in law, policy and practice. Establishing such a culture takes time. The OCO’s work in this regard includes developing understanding of children’s rights as well as both encouraging and challenging decision-makers to put children’s best interests first and to take appropriate account of their views and concerns.

During 2010, the Office continued its work to hear children’s views and highlight their concerns. An important decision that the OCO took in this regard in 2010 concerned its Youth Advisory Panel (YAP). In 2009, the Office’s second YAP, which included over twenty young people from different parts of Ireland, completed its two-year term. The Office’s development since its establishment in 2004 has been dynamic. Providing for and promoting children’s participation in this context has been – and will continue to be – a learning process and has seen the OCO develop and diversify its approach to engaging directly with children and young people. Taking account of the evolving OCO position and work, as well as developments externally, the Office decided not to establish a broad-based, standing panel like YAP in 2010. Instead, the Office focused on setting up specifically focused advisory groups of children to participate in certain projects. During 2010, a particular focus in this respect was the area of young people in St Patrick’s Institution. Through initiatives such as its Visits Programme, the OCO also continued to facilitate children and young people of different ages, and living in different circumstances, to bring matters of interest and concern to them to its attention.

OCO's School Visits Programme

During 2010, hundreds of children and young people visited the OCO with their teachers to take part in activity-based workshops. In addition to introducing children and young people to the OCO's work and facilitating them to explore matters relating to children's rights, these workshops are an opportunity for children and young people to express their views on matters affecting them as well as to raise issues that interest and concern them. As in previous years, children and young people visiting the OCO in 2010 shared their experiences and perspectives on a diverse range of issues, including education, physical and mental health, drugs, the law and justice system, and having their voices heard and their views taken into account by adults.

Supporting Awareness and Understanding of Children's Rights

During 2010, the Office developed educational resource materials for teachers to use in primary schools, post-primary schools and *Youthreach* centres. The materials *What do you say?* will assist teachers to explore issues relating to children's rights and lives in Ireland with children and young people in the context of curriculum teaching and learning. These issues are:

- Having a voice and being heard;
- Family and care;
- Health and wealth;
- Education;
- Play, leisure and recreation;
- Inclusion; and
- Children and the Law.

The materials have been produced in English and Irish and comprise four manuals for primary schools and one manual for post-primary schools and *Youthreach* centres. Work on these materials involved collaboration with teachers who originally worked with the OCO on the Big Ballot materials to develop two new and additional lessons for each of the four manuals. It also included the design of several new posters and the production of an updated DVD to assist teachers in their work.

In September and October 2010, the Office raised awareness of the materials' availability among teachers through several relevant publications (e.g. *InTouch*, *ASTIR* and *Gaelscoileanna's* newsletter) and websites. Taking account of the positive response to the materials from teachers working at primary and post-primary level, the OCO commenced arrangements to issue a copy of the materials to every primary school, post-primary school and *Youthreach* centre in the country. It is envisaged that these materials will support the work of thousands of teachers and afford many more thousands of children and young people an opportunity to develop their awareness and understanding of matters relating to children's rights in Ireland.

Consultation with Young People in St. Patrick's Institution

In 2010 the OCO completed a consultation process with 16 and 17 year olds detained in St. Patrick's Institution, a closed, medium-security prison run by the Irish Prison Service. The overall purpose of this consultation was to hear directly from young people about their experiences of detention with a view to highlighting their perspectives on the regime and conditions in the prison. The goal was to have due consideration given to their views, and their ideas for change, by the management of St. Patrick's Institution, the Irish Prison Service (IPS), and policy-makers at national level.

The Office completed a series of group interviews with participating young people in the prison and prepared a report on the outcomes of this consultation. This report, for publication early in 2011, would include a number of recommendations for actions from the Ombudsman for Children. Among these would be a strong recommendation that the Minister for Health and Children, with the consent of the Minister for Justice and Law Reform, should make an order in accordance with Section 11(2)(a) of the 2002 Act to enable the OCO to handle complaints from young people under 18 detained in St. Patrick's Institution.

The Ombudsman for Children acknowledges the openness of the IPS and staff and management in St. Patrick's Institution to working with the Office in undertaking this consultation and the preparation of the report. The OCO also welcomes the efforts already made by the IPS and St. Patrick's Institution in response to the Ombudsman for Children's recommendations.

The Office looks forward to further constructive engagement with both parties in this regard. This engagement includes an initiative that commenced in late 2010 and that will build on a recommendation in the report for the development of new information materials for young people detained in the Institution, in an effort to communicate the prison's services, regime and rules in ways they understand.

Consultation with Young People on Child-Friendly Justice

During the year, the OCO conducted a targeted consultation with children and young people on the issue of child-friendly justice. This consultation contributed to a Council of Europe initiative under its programme *Building a Europe for and with Children* to create guidelines on child-friendly justice and to seek the views of children in member States in the context of developing these guidelines.

The OCO consulted with four groups of children and young people, all of whom have previous or current experience of the law and legal system in Ireland. They included young people participating in a Garda Diversion Project, young people detained in St. Patrick's Institution and young people with experience of being separated children seeking asylum in Ireland.

A report on the findings of this OCO consultation was submitted to the Council of Europe and can be viewed on the Office's website www.oco.ie and the Council of Europe's website www.coe.int/children. The findings were also integrated into a report on the consultations with children held in 25 countries.

In November 2010, the Committee of Ministers of the Council of Europe adopted the new Guidelines on Child-friendly Justice, the aim of which is to ensure that children's rights, including their rights to information, representation, participation, and protection are fully respected by, and within, justice systems, including in judicial proceedings as well as alternatives to such proceedings.

Research For and With Children

Research on Education for Children in Care

In September 2010, the OCO commissioned research on education for children in care. This research was commissioned in accordance with the Office's statutory obligations under section 7 of the 2002 Act and in light of concerns and complaints brought to the OCO by and on behalf of children in care, which relate to challenges that children in foster care and residential care face as regards accessing and/or participating in education. The research is being undertaken for the Ombudsman for Children's Office by the Economic and Social Research Institute and the Children's Research Centre, Trinity College Dublin. With its clear focus on finding solutions, this qualitative research project aims to identify concrete, practicable measures that can further support access, participation and attainment in education by children living in care. The research process involves a review of relevant standards, policies, procedures, practices and any special initiatives in Ireland and in other jurisdictions as well as primary research with a range of stakeholders, including children and young people who are, or have been, in care. It is expected that the research will be completed by September 2011.

Research Studentship Award

In 2009, the Children's Research Centre in Trinity College Dublin and the Child and Family Research Centre in NUI Galway launched a new Structured PhD in Child and Youth Research. In conjunction with both research centres and this new PhD programme, the OCO established a new studentship for doctoral research on children's rights and welfare. Following an application process, the first studentship was awarded to a researcher whose doctoral research focuses on children's right to be heard in the primary school setting. The research, which takes a qualitative approach, will include primary research with a number of stakeholder groups, including children. The research was progressed in 2010.

Ombudsman do Leanáí

Tuarascáil Bhliantúil 2010



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TEACHTAIREACTH ÓN OMBUDSMAN DO LEANAÍ



Táim sásta mo thuarascáil bhliantúil don tréimhse Eanáir 1 go Nollaig 31 2010 a chur faoi bhráid an Oireachtais, de bhun Alt 13 (7) den Acht um Ombudsman do Leanaí, 2002.

Agus an chéad téarma sé bliana curtha isteach agam tá sé tábhachtach machnamh a dhéanamh ar fhorbairt na hOifige agus cibé acu ar bhain sí na hard-ionchais arna sainaithint ag a lán daoine amach nó nár bhain. Téann bunús na hOifige ar ais go dtí 1996 nuair a rinneadh bunú an Ombudsman do Leanaí a ardú san Oireachtas den chéad uair. Táim sásta tuairisciú a dhéanamh ar an méid atá déanta ag m'Oifig óna bunú in 2004, maidir le cearta agus leas leanaí a chur ar aghaidh in Éirinn.

Bunú Oifig an Ombudsman do Leanaí

Tá Oifig an Ombudsman do Leanaí (OCO) ar cheann de na tríocha a seacht institiúid thiomanta ar chearta an duine ar fud ceathracha a trí ballstát de chuid Chomhairle na hEorpa. Tá cáil bhaile agus idirnáisiúnta láidir shodhearfa uirthi.

Bhí bunú Oifig an Ombudsman do Leanaí ina fhreagairt pholaitiúil láidir ar an moladh a rinne Coiste na Náisiún Aontaithe um Chearta an Linbh i 1998.

Ceanglaíonn Acht 2002 ar an Ombudsman do Leanaí feasacht a chur chun cinn i measc bhaill an phobail i ndáil le cearta agus leas leanaí agus déanann sé tagairt shainráite do phrionsabail agus fhorálacha Choinbhinsiún na Náisiún Aontaithe um Chearta an Linbh.

Baineann réadú cearta leanaí a chur ar aghaidh leis na dálaí riachtanacha a chur i bhfeidhm sa dóigh go mbeidh leanaí ábalta maireachtáil le dínit agus meas.

Trínár gcuid oibre feicimid na bacainní a bhíonn os comhair leanaí agus a dteaghlach agus iad ag iarraidh é seo a bhaint amach, trí ghearáin a dhéantar leis an Oifig a imscrúdú agus trí obair dhíreach a dhéanamh leis na leanaí agus le daoine óga. Trí na deacrachtaí praiticiúla seo a thabhairt chun suntais, tá sé mar aidhm ag an OCO a chinntiú go bhfuil cinnteoirí agus an tsochaí i gcoitinne ar an eolas faoi fhadhbanna nach dtabharfaí faoi deara nó nach bpléifí ar chuma eile b'fhéidir.

Is iad na príomhphrionsabail UNCRC dá bhféachaim go rialta lena n-ionchorprú isteach sa dlí, pholasáí agus chleachtas a bhaineann le leanáí ná.

- Neamh-idirdhealú;
- Na leasanna is fearr a bheith mar phríomhbhreithniú i ngach cinneadh a théann i gcion orthu; agus
- Ceart leanáí chun a dtuairimí a chur in iúl go héasca i gcúrsaí a dtéann i gcion orthu.

Sé Bliana de dhul chun cinn

Tá sé beartaithe gur cheart go léireodh an tuarascáil seo gnóthachtálacha m’Oifige sna chéad sé bliana sin agus tiomantas do sprid na reachtaíochta a chuireann oibleagáid orm comhlachtaí poiblí a ‘spreagadh’ chun polasaithe a chuireann meas ar chearta leanáí chun cinn a chur in iúl.

An Dúshlán

Soláthraíonn anailís a rinneadh le déanaí ar chásobair an OCO fianaise tacaíochta don ghá atá le leasú a dhéanamh ar an earnáil phoiblí. Tá sé ina ghné cheannasach dár n-imscrúduithe, gan ach beagán eisceachtaí, go dtugann siad an t-easpa feasachta faoi iarmhairt na cinnteoireachta riaracháin sibhialta agus poiblí ar shaolta agus chearta leanáí agus a dteaghlach chun suntais. Maidir leis seo, bhí an chuma ann go raibh na leanáí aonair an-dofheicthe ar fad sa phróiseas cinnteoireachta. Bheadh cur chuige as cuimse maorlathach ar chinnteoireacht phoiblí amanna, agus dícheangal go minic idir cinnteoirí riaracháin agus iad siúd a dtéann a gcinntí i gcion orthu mar thoradh air seo. Is é gné faoi leith maidir leis seo ná an t-easnamh de thuiscint ar chomh gasta a d’fhéadfaí dochar a dhéanamh do leanáí – trí iad a fhágáil gan oideachas, iad a dhealú óna dtuismitheoirí, soláthar dá gcúram srl – agus den chaidreamh idir cinnteoireacht thráthúil agus dea-riarachán.

Le cois nach dtugtar aird go leor don iarmhairt dhíreach nó indíreach atá ag cinntí ar leanáí, is léir ónár n-imscrúduithe nach gcuirtear prionsabail um chearta leanáí i bhfeidhm ar na cinntí sin de ghnáth ach an oiread. Go sonrach, ní húsáidtear príomhphrionsabail an UNCRC atá sonraithe thuas – ba chóir do na príomhphrionsabail seo gníomhú mar pharaiméadair thábhachtacha le haghaidh cinnteoireacht a théann i gcion ar leanáí – le gníomhartha riaracháin na gcomhlachtaí poiblí a threorú go méid suntasach ar bith nó ar chor ar bith b’fhéidir. Ar leibhéal níos ginearálta, bhraith m’Oifig easpa tromchúiseach feasachta ar ionstraimí idirnáisiúnta ar chearta an duine ina bhfuil Éire ina páirtí le linn a hoibre imscrúdaithe.

Is é téama imníoch eile a bhain le mórán de na cásanna ar a ndearna m’Oifig imscrúdú ná nach ndearnadh an dlí agus polasáí náisiúnta a chur i bhfeidhm. Mar shampla, tá an cliseadh prionsabail na leasanna is fearr a chur i bhfeidhm go dian agus a chinntiú go bhfuiltear ag éisteacht le leanáí, faoi mar a cheanglaíonn an tAcht um Chúram Leanaí, 1991, ina bhuairt thromchúiseach, mar aon leis an gcliseadh cloí go comhsheasmach le Children First National Guidelines ar fud na tíre.

I mbeagán focal, tá easnamh anailís ar thionchar leanáí, ceaptha go leathan, atá follasach ina lán de chinnteoireacht phoiblí i ndáil le leanáí; is é ceann de na hiarmhairtí maidir leis seo ná nach gcomhlíonann feidhmiú polasaithe riachtanais an phobail go ginearálta agus leanáí go háirithe i gcónaí.

Tá ról tábhachtach imeartha ag m’Oifig maidir leis na heasnaimh seo a thabhairt chun suntais le linn a cuid oibre. I mórán cásanna, is é mo thuairim ná, gan idirghabháil na hOifige, is cosúil nach gcuirfí tús le hathbhreithniú ar bith sa réimse cinnteoireachta faoina ndearnadh gearán. Tá sé tábhachtach sna hamanna eacnamaíocha struis seo cuimhne a choinneáil ar na prionsabail faoinar bunaíodh m’Oifig. Tá inrochtaineacht ar mheicníocht neamhspleách le haghaidh sásaimh do dhaoine nach bhfaigheann sásamh sna cúirteanna bunúsach do dhaonlathas a fheidhmíonn go maith. Rinne imscrúdú ar na cásanna seo dlí i gcoinne an Stáit a iompú trí chineál eile de mheicníocht réitigh a thairiscint do thuismitheoirí agus leanaí. Tá an dóigh a ndéantar na cásanna a imscrúdú neamhsháraíoch, níos gaiste ná na cúirteanna go ginearálta, agus, go tábhachtach sna hamanna fíoscacha deacra seo, níos saoire.

Reachtaíocht agus Leanaí

Thar na sé bliana seo caite, tá comhairle chuimsitheach curtha ar fáil ag m’Oifig don Rialtas agus don Oireachtas ar raon de cheisteanna a bhaineann le leanaí, lena n-áirítear: na moltaí leasú a dhéanamh ar an mBunrecht (ceithre thuarascáil chuig an Oireachtas 2005-2008), an Bille um an Dlí Coiriúil (Cionta Gnéasacha) 2006, Scéim Ghinearálta an Bhille um an Dlí Coiriúil (Gáinneáil ar Dhaoine agus Cionta Gnéasacha) 2006, an Bille um Inimirce, Cónaí agus Cosaint, an tAcht um Chúram Leanaí (Leasú 2009), an Bille Sláinte (Leasú), agus an Bille um Páirtnéireacht Shóisialta 2009.

Rinneadh tagairt go minic don chomhairle a cuireadh ar fáil agus rinneadh í a phlé go minic le linn bhreathnú an Oireachtais ar Bhillí a théann i gcion ar chearta agus leas leanaí. Chuir obair an OCO ar athbhreithniú reachtaíochta le linn 2010 béim ar, *nach* mbíonn an deis ag an Oireachtas corruair breathnú ar cheisteanna níos leithne a bhaineann go díreach le leanaí a bhaineann le hábhar Bille ach nach bpléitear go sainráite ann.

Lena chois sin, is é an cás fós gur féidir reachtaíocht a théann i gcion ar leanaí a fhrámú ar leithéid de bhealach agus is léir nach bhfeidhmíonn sé ar mhaithe leo. Is é sampla den mhéid seo in 2010 ná an Bille um Páirtnéireacht Shibhialta. Baineadh a lán d’fhorálacha an Bhille as réimsí eile den dlí teaghlaigh ina bhfuil oibleagáid ar na cúirteanna riachtanais leanaí cleithiúnacha an teaghlaigh a chur san áireamh. In ailt choibhéseacha den Bhille um Páirtnéireacht Shibhialta, áfach, rinneadh tagairtí don ngá le soláthar a dhéanamh do leanaí cleithiúnacha an teaghlaigh a bhaint amach d’aon ghnó.

Is ábhar imní é gur féidir le cur chuige dá leithéid taca a chur faoi ár bpróiseas déanta dlí, ag cur san áireamh nach dtagann sé seo ar chor ar bith beagnach leis na prionsabail atá leagtha amach in Airteagal 3 den UNCRC – gur cheart na leasanna is fearr do leanaí a bheith ina bhreithniú fóorthábhachtach i ngach cúrsa a théann i gcion orthu.

Ag Féachaint ar Aghaidh

Cé go ndearnadh roinnt dul chun cinn le sé bliana anuas is fíor é go fóill go leantar de bhacainní agus dhúshlán a bheith os comhair leanaí agus daoine óga in Éirinn maidir lena gcearta a réadú agus rochtain a fháil ar sheirbhísí bunúsacha.

Beidh gá le hiarrachtaí comhaontaithe ar thaobh an rialtais, déantóirí polasaí phoiblí agus gach gníomhaireachta ag a bhfuil freagracht as cúram, leas, cosaint agus tacaíocht leanaí d'fhonn é seo a bhaint amach. Maidir leis seo, is ábhar spreagúil é gur tugadh cumhachtaí feidhmiúcháin don Aire úr Leanaí, moladh a rinne Coiste na Náisiún Aontaithe um Chearta an Linbh le linn imscrúdaithe ar thuarascáil dheireanacha na hÉireann chuig an gCoiste i mí Mheán Fómhair 2006.

Ag féachaint go luath amach anseo, tá fáilte roimh an tiomantas ó gach páirtí san Oireachtas do reifreann a thionól ar chearta leanaí.

Níos luaithe i mbliana, áfach, chualamar an dóigh ar chuir státseirbhísigh i dtrí Roinn – sláinte, ceartas agus oideachas – buairt in iúl faoin bhfoclaíocht mholta a d'fhoilsigh Coiste an Oireachtais ar an Leasú Bunreacht maidir le Leanaí i mí Feabhra 2010. Cuireadh buarthaí in iúl faoi na 'hiarmhairtí neamhbheartaithe' de leasú den sórt seo, lena n-áirítear na hiarmhairtí i ndáil leis an bprionsabal um leasanna is fearr a chumhdach sa Bhunreacht. Is léir domsa mar an Ombudsman do Leanaí gur riachtanas do chearta an duine é prionsabail ghinearálta Choinbhinsiún na Náisiún Aontaithe ar Chearta an Linbh a chuimsiú agus go bhféadfadh an Rialtas iarracht ar bith na leasanna is fearr do leanaí a laghdú a chomhrac agus moladh á dhéanamh an Bhunreacht a leasú.

Ní 'clár oibre' nó 'fadhb' atá i gcearta leanaí ba chóir a thacú nó bheith ina choinne, contrártha don rud a chreidtear i roinnt cearnaí. Tá cearta leanaí agus leas leanaí comhchiallach le cultúr ina gcaitear go cuí le leanaí a chruthú. Is éard atá i gceist le cearta leanaí a chur chun cinn agus a thacú ná tacaíocht a thabhairt do leanaí mar bhaill de theaghlaigh – agus an cúram, meas, dínit agus grá a bhfuil gach duine againn ag iarraidh dár leanaí, neachtanna, nianna agus ngarleanaí a thabhairt do gach leanbh aonair – agus a chinntiú go bhfaigheann na leanaí siúd nach bhfuil ina gcónaí lena dteaghlaigh an tacaíocht a theastaíonn uathu ón Stát d'fhonn go mbeidh siad ábalta fás suas agus a n-acmhainneacht iomlán a bhaint amach.

Is é ceann de na príomhbhuntaíste a bhaineann leis na hamanna cúlaithe seo ná go bhfuileamar ag tosú ag iarraidh ár sochaí a fháil ar ais agus táimid ag dul ar ais go dtí ár gcroíluachanna. Ní bheidh fóirchiall ag cearta leanaí agus ní tharlódh fóirathrú go dtí go dtosóimid ag gníomhú i dteannta a chéile – mar thuismitheoirí, gharthuimsitheoirí, chomharsana, chairde, ghairmithe, lucht ceaptha polasaí agus chinnteoirí eile – lena chinntiú go gcaitear le leanbh ar bith agus gach leanbh an dóigh chéanna a mbeimis ag iarraidh go gcaithfí leis an leanbh a bhfuil grá againn dó nó di. Tá deiseanna iontacha amach romhainn lena chinntiú go léiríonn an dlí, polasaí agus cleachtas na luachanna a chuirimid orainn féin, agus caitheamh lenár leanaí an dóigh ba cheart caitheamh leo. Is am é seo le haghaidh dóchais don todhchaí. Cinnfidh cibé a tharlódh anois cad a tharlóidh don dóchas sin agus dár dtodhchaí roinnte.



Emily Logan

An tOmbudsman do Leanaí

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OIFIG AN OMBUDSMAN DO LEANAÍ MAR AN INSTIDIÚID NÁISIÚNTA UM CHEARA DAONNA DO LEANAÍ – AN CHÉAD SÉ BLIANA

Oifig an Ombudsman do Leanaí mar an eagraíocht reachtúil um chearta daonna do leanaí.

Sraith Leathan d’Fheidhmeanna Reachtúla

Bhunaigh an tOireachtas Oifig an Ombudsman do Leanaí mar chomhlacht reachtúil neamhspleách le sainordú chun cearta agus leas leanaí a chur chun cinn. Tugadh sraith d’fheidhmeanna reachtúla don oifig, is iad sin:

- feidhm thraidisiúnta láimhsithe gearáin a bhaineann le hOmbudsman neamhspleách;
- comhairle a thabhairt d’Airí Rialtas ar dhlí agus ar pholasaí a bhaineann le leanaí;
- comhlachtaí poiblí a spreagadh chun feabhas a chur ar a gcuid cleachtas agus nósanna imeachta ar mhaithe le leanaí;
- an t-ábhar imní a bhíonn ag leanaí agus daoine óga iad féin a thabhairt chun suntais; agus
- feasacht a spreagadh ar cheisteanna a bhaineann le cearta agus leas leanaí agus an dóigh ar féidir na cearta sin a fhorfheidhmiú.

Tá feidhmeanna an Ombudsman do Leanaí leagtha amach in Acht 2002.

An Coinbhinsiún um Chearta an Linbh

Chuir bunú Oifig an Ombudsman do Leanaí Éire i staid láidir le taobh Stát ag a bhfuil institiúid náisiúnta um chearta daonna atá tiomanta do chearta leanaí a chur ar aghaidh agus dá leas a chosaint. Ba fhreagairt láidir é ó Éirinn maidir le moladh Choiste na Náisiún Aontaithe um Chearta an Linbh nach mór do gach Stát insitiúid dá leithéid a bheith aige d’fhonn cearta leanaí a mhonatóiriú, a chur chun cinn agus a chosaint ar bhealach neamhspleách agus córasach. Bhain tábhacht bhunúsach leis an bhforbairt seo maidir leis na cearta sin a chothú mar a leagtar amach i gCoinbhinsiún na Náisiún Aontaithe um Chearta an Linbh (CRC). Ceanglaíonn Acht 2002 ar an Ombudsman do Leanaí feasacht a chur chun cinn i measc

bhail an phobail i ndáil le cúrsaí a bhaineann le cearta agus leas leanaí agus an dóigh ar féidir na cearta sin a fhorfheidhmiú. Maidir leis sin, déanann Acht 2002 tagairt shainráite do phrionsabail agus fhorálacha an CRC.

Is é an CRC an Conradh idirnáisiúnta um chearta an duine is fairsinge daingnithe. Nuair a dhaingnigh Éire an CRC i 1992, ghlac sí oibleagáid dhlíthiúil i ndáil le forálacha an Choinbhinsiúin a chur i bhfeidhm. Leagan na forálacha seo amach na híoschaighdeáin a bhfuil gá lena bplé i ngach Stát, agus ag gach Stát d'fhonn a chinntiú go dtabharfar meas do chearta leanaí. Cuireann prionsabail agus forálacha an CRC taca faoi obair uile Oifig an Ombudsman do Leanaí agus is é an príomh-thagarmharc a úsáideann an Oifig – agus daoine/ comhlachtaí eile go deimhin – d'fhonn rochtain a fháil ar chomh maith agus atá an Stát ag dul chun cinn maidir lena oibleagáidí i ndáil le cearta leanaí a chomhlíonadh. Oibríonn an OCO d'fhonn éifeacht agus infheictheacht a thabhairt d'fhorálacha an Choinbhinsiúin inár gcóras de riarachán poiblí.

Baineann an tasc de réadú cearta leanaí a chur ar aghaidh leis na dálaí atá riachtanach do leanaí chun maireachtáil le dínit agus meas a chur i bhfeidhm; go n-aithnítear mar shealbhóirí cearta iad; dá n-acmhainneacht a bhaint amach, agus a chinntiú go bhfuil siad sona sásta, folláin agus sábháilte. Trína hobair feiceann an OCO na bacainní a bhíonn os comhair leanaí agus teaghlach maidir leis seo a bhaint amach, nuair a bhíonn sí ag déanamh imscrúduithe ar ghearáin a chuirtear chuig an Oifig agus ina hobair dhíreach le leanaí agus daoine óga. Trí na deacrachtaí nithiúla agus praiticiúla seo a dhealrú, tá sé mar aidhm ag Oifig an Ombudsman do Leanaí a chinntiú go bhfuil cinnteoirí agus an tsochaí i gcoitinne ar an eolas faoi fhadhbanna nach dtabharfaí faoi deara nó nach bpléifí ar chuma eile b'fhéidir. Díríonn obair an OCO go mór ar réitigh a chur ar fáil do na fadhbanna a shaináithnítear chomh maith, agus maidir leis seo cuireann sí treoir ar fáil ar an dóigh le dul i ngleic leis na fadhbanna seo ar mhaithe le leanaí.

Príomhphrionsabail an CRC

Agus réadú na gcearta a leagtar amach sa CRC á gcur ar aghaidh, aithníonn Oifig an Ombudsman do Leanaí go bhfuil tábhacht speisialta ag baint le roinnt de phríomhphrionsabail an Choinbhinsiúin. Tá stádas ardaithe ag na prionsabail seo toisc go bhfuil siad sainaitheanta ag Coiste na Náisiún Aontaithe um Chearta an Linbh mar imní leathan atá ábhartha do gach foráil eile de chuid an Choinbhinsiúin a chur i bhfeidhm.

Is iad na príomhphrionsabail ba mhaith leis Oifig an Ombudsman do Leanaí a ionchorprú sa dlí, i bpolasaí agus cleachtas a bhaineann le páistí ná na prionsabail seo a leanas:

- neamh-idirdhealú;
- leasanna is fearr mar phríomhbhreithniú i ngach cinneadh a dhéanfaidh difear dóibh; agus
- cearta leanaí a ndearcaí a chur in iúl i ngach cúrsa a théann i gcion orthu.

An Dúshlán

Tá cuid mhór le déanamh ag Éirinn go fóill maidir le cultúr láidir measa a fhorbairt do chearta leanaí. I gcomhthéacs riaracháin sibhialta agus phoiblí agus obair na gcomhlachtaí poiblí go sonrach, ciallaíonn sé seo nach gcuirtear na prionsabail a luadh thuas san áireamh mar ghnáthchúrsa nuair a bhíonn dlí agus polasaí a bhaineann le leanaí á gceapadh, nuair a bhíonn cinntí riaracháin á ndéanamh fúthu, agus nuair a bhíonn seirbhísí á ndearadh do leanaí agus daoine óga agus nuair a bhíonn siad á seachadadh chucu. I dtaithí na hOifige seo, is é is cúis leis a lán de na deacrachtaí atá os comhair leanaí in Éirinn inniu ná nach dtugtar meas do na prionsabail seo agus nach ndéantar iad a chosaint.

Tá an dóigh nach ndéantar príomhphrionsabail an CRC a bhreithniú go comhsheasmhach feicthe arís agus arís eile ag Oifig an Ombudsman do Leanaí. Tá cásanna dea-chleachtais ann inar stiúir orgáin de chuid an Stáit iad féin ar mhodh comhsheasmhach leo; tá a lán eile, áfach, nach ndearna iarracht chórasach ar bith leis na prionsabail sin a chur i bhfeidhm. Is éard atá i gceist go bunúsach le fíorchultúr measa a thuismíú do chearta leanaí ná dearcaí agus iompar a athrú sa dóigh go ndéantar prionsabail neamh-idirdhealaithe, leasanna is fearr, agus rannpháirtíocht lánbhíre a chomhtháthú isteach sa chinnteoireacht go léir a bhaineann le leanaí agus daoine óga.

B'fhéidir gurb é an neamhghníomh is criticiúla ar fud na seirbhíse sibhialta agus poiblí go léir nuair a bhaineann sé le leanaí agus daoine óga ná nach dtugtar meas dá gcearta chun éisteachta agus go gcuirfí a ndearcaí san áireamh agus cinntí a théann i gcion orthu á ndéanamh. Tá iarmhairt na teipe seo meas a thabhairt do ghuth an linbh feicthe ag an OCO i gcásanna éagsúla lena n-áirítear cásanna mar seo a leanas:

- nach ndearnadh foráil ar bith maidir le héisteacht le leanaí;
- bhí easpa trédhearcachta ann maidir leis an dóigh ina gcuirtear dearcaí daoine óga san áireamh i bpróisis chinnteoireachta agus in achomhairc;
- bhí easnaimh ann i ndáil le féachaint d'fhaisnéis suas chun dáta faoi staid an linbh a chinntiú;
- i gcásanna áirithe a bhain le leanaí nach raibh tacaíocht tuismitheora acu, bhí teip nó moill i gceapadh oibrithe sóisialta, agus dá bharr sin bhí an phleanáil agus abhcóideacht cúraim neamhleor; agus
- ní dhearna an próiseas a úsáidtear i ndéileáil le gearáin nó buarthaí arna n-ardú ag leanbh nó ag abhcóide ar a son fóram imleor a chur ar fáil le haghaidh ionadaíocht a dhéanamh do ghuth an linbh, ag ath-iolrú na drochiamhairte corrúair.

Tá an tOmbudsman do Leanaí ag Obair le haghaidh Athraithe

Úsáideann an tOmbudsman do Leanaí na cumhachtaí a tugadh di le cearta agus leas leanaí a chur chun cinn agus le scrúdú agus fiosrú a dhéanamh ar ghearáin in éadan comhlachtaí poiblí, scoileanna agus ospidéal deonach, le hathrú a mholadh agus foghlaim ó eispéireas maireachtála daoine óga a leabú. Soláthraítear tuilleadh sonraí ar na príomhréimsí oibre níos déanaí sa tuarascáil seo.

Ar mhá níos leithne ghníomhaigh Oifig an Ombudsman do Leanaí mar ghníomhaire éifeachtach le haghaidh athraithe i raon leathan de réimsí, lena n-áirítear imscrúdú córasach ar Children First: National Guidelines for the Protection and Welfare of Children, a dhíríonn ar staid leanaí dealaithe ag cuardach tearmainn in Éirinn, agus ar dhul i ngleic leis an gá le buanmheicníocht athbheithnithe ar bhás linbh a bhunú in Éirinn.

Cé go bhfuil an OCO i staid mhaith leis an athrú riachtanach i bhfabhar leanaí agus daoine óga a chur chun cinn agus a éascú, athluann an tOmbudsman do Leanaí a buarthaí a chuir sin in iúl i dtuarascálacha bliantúla roimhe seo maidir le:

- An iarmhairt atá ag srianta acmhainní ar a cumas an fhreagairt lena bhfuil gá i gcoinne éilimh atá ag méadú go tobann sa réimse gearán a sheachadadh, áit a soláthróidh méid beag d'acmhainní breise toradh maith i dtéarmaí freagairt a thabhairt ar éileamh agus dul i gcion níos fearr ar pholasaí agus chleachtas comhlachtaí poiblí; agus
- Na srianta ar chumas na hOifig dul i ngleic le buarthaí leanaí agus daoine óga a thagann ó eisiaimh atá in Acht 2002, go háirithe maidir leis na teorainneacha ar líon na gcomhlachtaí poiblí a bhfuil sí sainordaithe imscrúdú a dhéanamh orthu.

Le cois na n-easnamh thuas, cuireann an t-easpa acmhainní cosc go héifeachtúil ar an Ombudsman do Leanaí ó ghearáin a ghlacadh a bhaineann le híocaíocht liúntais cosanta sóisialta, deontas, srl, maidir le leanaí amháin. Cuirtear gearáin dá leithéidí chuig Oifig an Ombudsman ghinearálta faoi láthair. Braitheann an tOmbudsman do Leanaí cé go ndéantar na híocaíochtaí lena mbaineann le daoine fásta ar chúiseanna follasacha, tá na híocaíochtaí sin le haghaidh cúram agus cothabháil leanaí go sonrach. Braitheann sí go bhfuil éifeacht dhíreach ag drochiarmhairt míriaracháin ar bith i ndéanamh na híocaíochtaí seo ar an leanbh lena mbaineann. Dá bhrí sin, ceapann sí má dhéantar acmhainní a chur ar fáil dá hoifig le dul i ngleic le gearáin den sórt seo bheadh cur chuige níos iomlánaíche i gceist le peirspictíocht leanbháil a bhaint amach i gcásanna dá leithéidí agus bheadh sé níos ionann le feidhmeanna agus dualgais oifige atá bunaithe, inter alia, go sonrach le scrúdú agus fiosrú a dhéanamh ar ghearáin a dhéanann leanaí nó a dhéantar ar a son.

Cur i gCrích an Chéad Phlean Straitéisigh 2007-2010

Tugadh Chéad Plean Straitéis an OCO chun críche in 2010. Tá sé cuí sa tuarascáil seo foramharc ar dhul chun cinn an OCO i dtreo na bpríomhchuspóirí atá leagtha síos sa Phlean sin a chur ar fáil. Léirigh siad seo an gá le comhlacht úr ar fad d'fhonn cumas a fhorbairt go gasta agus d'fhonn a fheidhmeanna reachtúla a chomhlíonadh. Is iad na réimse suntasacha ar leith ná iad seo a leanas:

Eagraíocht Iontaofa a Bhunú

D'oibrigh an OCO buiséad beag de os cionn €2.1 milliún agus foireann de 15 duine ar an iomlán lena n-áirítear an tOmbudsman do Leanaí in 2010. Tá sí bunaithe go daingean anois mar mhonatóir reachtúil neamhspleách ar ghníomhartha comhlachtaí poiblí i ndáil le cearta agus leas leanaí.

Bonn Eolais Láidir a Ullmhú

Ba é tasc eile a bhí chomh tábhachtach leis an mbonneagar eagrúcháin, le linn na tréimhse sin, ná bonn eolais a bhunú a rachadh i gcion ar an obair a bhí le teacht agus í a threorú d'fhonn na torthaí is fearr a sheachadadh do leanaí agus dhaoine óga. Chun na críche sin, rinne an OCO taighde bonnlíne ar chearta leanaí in Éirinn a choimisiúnú d'fhonn cuidiú lena tosaíochtaí a leagan síos, mar a rinneadh i ndlínsí eile. Dhírigh sé seo ar bhreac-chuntas a dhéanamh ar na príomhbhacainní a bhí ar réadú cearta leanaí agus grúpaí leochaileacha faoi leith leanaí agus daoine óga a bhfuil a gcearta bactha de bharr ilbhacainní a shainaithint. Ba iad seo trí cinn de na fadhbanna is suntasaí a sainaithníodh sa taighde bonnlíne:

- neamh-infheictheacht leanaí sa dlí, i bpolasaí agus i gcinnteoireacht, de barr easpa struchtúr comhtháite le héisteacht le dearcaí leanaí, easnamh meicníochtaí d'fhonn dlí, polasaí agus buiséid a dhéanamh sábháilte do leanaí, agus an t-easnamh de struchtúir éifeachtúla le cur i bhfeidhm cearta leanaí a ghearrann transna freagracht rialtais a chomhordú;
- nach ndéantar cearta leanaí a chosaint go sainráite sa Bhunreacht agus i reachtaíocht phríomhúil agus mar sin déantar neamhaird dóibh i bpróisis chinnteoireachta a théann i gcion orthu; agus
- easpa meicníochtaí abhcóideachta éifeachtúla le hionadaíocht a dhéanamh do leanaí agus dá gcearta, agus le monatóireacht a dhéanamh ar sheirbhísí a dheantar lena riachtanais a chomhlíonadh.

Rinne cinneadh d'fhonn dul i ngleic le bacainní struchtúracha agus córasacha dá leithéidí obair an OCO a mhúnlú ar fud a feidhmeanna ar fad agus chuir sé taca faoin gcur chuige a glacadh agus moltaí á ndéanamh chuig an Oireachtas, chuig Airí Rialtais agus chuig comhlachtaí poiblí.

Soláthar a Dhéanamh do Rannpháirtíocht Leanaí

Ba é tionchar eile ar thosaíochtaí OCO ná an obair atá déanta aici maidir le héisteacht le leanaí agus daoine óga agus ligean dóibh bheith rannpháirteach. Faoi mar a tuairscíodh i dTuarascálacha Bliantúla roimhe seo, i measc tionscnamh maidir leis seo bhí:

- Big Ballot, inar ghlac beagnach 75,000 páirt;
- bunú painéal comhairleach don óige;
- cuairteanna ar cheardlann oideachais ar chearta an OCO ag leanaí agus daoine óga ó scoileanna agus clubanna óige as fud na tíre ar fad;
- comhchomhairlí spriocdhírthe le daoine óga atá i measc na ndaoine is mó atá i mbaol nach n-éistefar leo mar leanaí dealaithe faoi chúram an Stáit; agus
- rannpháirtíocht dhíreach le daoine óga atá faoi choimeád i bhForas Naomh Pádraig.

Scrúdú agus Imscrúdú ar Ghearáin

Ba é réimse amháin a raibh gá tús áite a thabhairt dó le linn thréimhse an Phlean Straitéisigh, ná forbairt na feidhme scrúdaithe agus imscrúdaithe maidir le gearáin ó leanaí, nó ar son leanaí faoi ghníomhartha comhlachtaí poiblí a láimhseáil. Rud a léiríonn an iarmhairt sa réimse seo ná an fás suntasach bliain le bliain ar ghearáin, a thaispeánann méadú de bheagnach 65% idir 2007 agus 2010. Mar thoradh ar an obair seo tá moltaí ar athrú a dhéanamh ar na comhlachtaí poiblí lena mbaineann, agus tá glactha acu leo ina lán cásanna, i réimsí cosúil le:

- Oideachas – soláthar oideachais speisialta, iompar scoile, agus láimhseáil gearán ag scoileanna;
- Sláinte – cosaint leanaí, cinntí ar leanaí faoi chúram, agus rochtain ar sheirbhís agus leorgacht seirbhísí; agus
- Rialtas Áitiúil – soláthar tithíochta.

Chuaigh taithí an OCO le gearáin aonair i gcion ar thionscnamh imscrúduithe speisialta ar ghnéithe faoi leith de pholasaí nó chleachtas ó thaobh na gcomhlachtaí poiblí. De bharr gníomhaíochta ag an OCO maidir leis seo rinneadh tuarascáil ar fud an chórais ar sholáthar tithíochta do leanaí faoi mhíchumas agus ar Chur i bhFeidhm Children First: National Guidelines for the Protection and Welfare of Children a ullmhú.

Tionscnaimh Spriocdhírthe a Chur i gCrích

Chomh maith le cumhachtaí gearán agus imscrúdaithe ‘ombuds’ traidisiúnta arna leagan amach in Acht 2002, measann Alt 7 den Acht, go bhfuil an sainordú agus údarás sainordaithe ag an Ombudsman do Leanaí leis an Stát a spreagadh chun polasaithe a chuireann cearta agus leas leanaí san áireamh a fhorbairt agus cloí leis na polasaithe sin; comhairle a thabhairt d’Airí Rialtais maidir le cúrsa ar bith a bhaineann le cearta agus leas leanaí; trácht a dhéanamh ar reachtaíocht; agus dul i gcomhairle le leanaí go díreach agus a mbuarthaí a chur in iúl don phobal.

Le linn na tréimhse seo faoi bhreathnú, tá tionscnaimh shainiúla curtha i gcrích ag an OCO a bhaineann le leanaí dealaithe ag cuardach tearmainn agus roghanna le haghaidh meicníocht athbhreithnithe ar bhás leanaí a bhunú in Éirinn.

Tionscadal um Leanaí Dealaithe

Rinne Oifig an Ombudsman do Leanaí tionscadal le leanaí dealaithe atá ina gcónaí in Éirinn le comhchomhairle a dhéanamh leo faoina n-eispéiris sa Stát, agus dá réir sin bearnaí ar an dóigh a raibh an Stát ag cosaint an ghrúpa leochailigh seo a shainaitheint. D'iarr an tOmbudsman do Leanaí go gcuirfí stop leis an gcúram lagmheasa seo le haghaidh leanaí dealaithe agus d'fhoilsigh sí tuarascáil i mí na Samhna 2009 ina raibh buarthaí sonraithe cosúil le:

- an caighdeán íseal cúram a thugtar dóibh i gcomparáid leo siúd sa chóras cúraim príomhshrutha;
- an t-easpa iniúchta ar na brúnna ina cuireadh iad;
- an t-easpa de mhaoirseacht chuí ón bhfoireann cúraim sna brúnna;
- an líon de leanaí dealaithe ar iarraidh ó chúram;
- an t-easpa de mheicníochtaí gearán imleora; agus
- an t-easpa de chaomhnóir nó chomhairleoir le cuidiú leo.

Rinne an tOmbudsman do Leanaí moltaí chomh maith lena n-áiríodh:

- Deireadh a chur leis an gcúram lagmheasa a thugtar do leanaí dealaithe atá ina gcónaí i gcóiríocht brú nach bhfuil cláraithe;
- An t-athbhreithniú ar an gComhphrótaic idir an Garda Síochána agus Feidhmeannacht na Seirbhíse Sláinte agus a oiriúnú chun cúinsí faoi leith na leanaí dealaithe a théann ar iarraidh a chur san áireamh;
- Oibrí Sóisialta a leithdháileadh ar an leanaí seo; agus
- Gur cheart go dtreoróidh na leasanna is fearr don leanbh Bill Inimirce, Cónaithe agus Cosanta ar bith áta le teacht agus a bhaineann leis na leanaí seo.

Le linn na hidirghabhála seo, ghlac an FSS céimeanna le feabhas a chur ar an dóigh a rabhtas ag cur cúraim ar fáil do na leanaí seo agus faoi mhí na Nollaig 2010, bhí gach brú neamhchláraithe do leanaí dealaithe dúnta, agus rinneadh leanaí a mheas agus a chur faoi chúram altrama ina dhiaidh sin.

Athbhreithniú ar Bhás Leanaí

In 2007, rinne an tOmbudsman do Leanaí teagmháil leis an Aire Sláinte agus Leanaí a bhí ann ag an am, Mary Harney TD, lena mbuarthaí a chur in iúl faoin easnamh de mheicníocht athbhreithnithe ar bhás leanaí in Éirinn. I ndiaidh na teagmhála seo rinne an tOmbudsman do Leanaí agus a foireann obair shuntasach ar shamhail athbhreithnithe ar bhás leanaí a fhorbairt d'Éirinn. Áiríodh leis seo rannpháirtíocht chuimsitheach páirtithe leasmhara le gníomhaireachtaí reachtúla ábhartha cosúil leis an FSS, HIQA, an nGarda Síochán, an CSO, Oifig na Stiúrthóra Ionchúiseamh Poiblí agus Cróinéir Chathair Bhaile Átha Cliath. Ba é an toradh a bhí ar seo ná páipéar roghanna a mhol líon de shamhlacha a bheadh Éire ábalta a ghlacadh. Cuireadh an páipéar seo faoi bhráid an Rialtais i mí Feabhra 2009 agus faoi bhráid Choiste an Oireachtais ar Shláinte agus Leanaí i mí an Mheithimh 2009.

I bPlean Forfheidhmithe Ryan, thiomnaigh an Rialtas iad féin do threoir a chur i bhfeidhm maidir le hathbhreithniú a dhéanamh ar bhásanna leanaí faoi chúram agus faoi choimeád. I mí an Mhárta 2010, d'fhoilsigh an HIQA treoir don FSS, arna shainordú ag Plean Forfheidhmithe Ryan. Thug an HIQA aitheantas do dhoimhneacht agus scóip na hoibre a rinne an Oifig roimhe seo, ghlac siad páirt ghníomhach leis an OCO in ullmhú na treorach seo agus bhí an OCO sásta gur úsáid an HIQA an Páipéar Roghanna a d'fhorbraíomar agus an treoir á frámú acu.

Comhairle a Thabhairt agus Tionchar a Imirt

Faoi Acht 2002, soláthraítear deis luachmhar don Ombudsman do Leanaí le comhairle a chur ar an Rialtas agus ar an Oireachtas agus tionchar a imirt orthu i ndáil leis an iarmhairt fhéideartha a bhaineann le reachtaíocht mholta ar staid leanaí agus daoine óga. Agus a feidhm á comhlíonadh aici, tugtar treoir don Ombudsman do Leanaí faoi na caighdeáin idirnáisiúnta um chearta an duine ina bhfuil an Stát ina pháirtí. Déanann sí measúnú ar an méid a chloíonn an reachtaíocht mholta le ceangaltas na gcaighdeán sin agus molann sí athrú d'fhonn dul i ngleic le heasnaimh ar bith a shainaithnítear. Le linn na tréimhse lena mbaineann, sholáthair an OCO comhairle chuimsitheach ar mholtaí maidir leis an gCoinbhinsiún a leasú, gáinneáil leanaí, tearmann agus inimirce, uchtú, leanaí faoi chúram, agus comhpháirtíocht shibhialta. Chuir an chomhairle a sholáthair an tOmbudsman do Leanaí le díospóireachtaí an Oireachtais ar Bhíllí a bhaineann le cearta agus leas leanaí agus d'imir sí tionchar orthu.

Cáil Idirnáisiúnta a Bhaint Amach

Bhí an OCO ina rannpháirtí ghníomhach i líonraí idirnáisiúnta d' Ombudsmana do Leanaí, go háirithe Líonra na Breataine agus na hÉireann le haghaidh Ombudsman agus Coimisinéirí (BINOCC) agus an Líonra Eorpach le haghaidh Ombudsman do Leanaí (ENOC). Tríd an rannpháirtíocht seo tá cáil láidir bunaithe ag an OCO mar institiúid éifeachtach a oibríonn d'fhonn cearta leanaí a chur chun cinn. Toghadh an tOmbudsman do Leanaí mar chathaoirleach ar an ENOC le linn na tréimhse agus, ar roinnt ócáidí, thug Comhairle na hEorpa agus UNICEF cuireadh di le cur le comhdhálacha idirnáisiúnta ar chearta leanaí agus le labhairt faoi eispéireas na hÉireann maidir le hOifig an Ombudsman do Leanaí a bhunú agus a fhorbairt, agus an obair a chuireann cearta leanaí chun cinn go ginearálta.

Ag Tabhairt Cearta Leanaí Leochaileacha chun Suntais

Thar thréimhse an Phlean Straitéisigh, tharraing an tOmbudsman do Leanaí aird ar cheisteanna éagsúla atá ríthábhachtach do leanaí leochaileacha agus táthar leis na ceisteanna seo a phlé go sásúil fós. Cuireann an tuarascáil seo béim ar thiomantas an Ombudsman do Leanaí i ndáil le fócas a choinneáil ar roinnt de na ceisteanna seo agus leanúint de bheith rannpháirteach leis na comhlachtaí poiblí ábhartha agus athrú á lorg acu sna réimsí lena mbaineann:

- **Iarchúram:** Tá buarthaí a ardaíodh leis an OCO tugtha chun suntais aici a lán uaireanta, lena n-áirítear buarthaí ó leanaí agus ó dhaoine óga, faoi nach dtugtar cur chuige comhsheasmhach don iarchúram a sholáthraítear ar fud na tíre. Cé go bhfuil obair ar bun sna hearnálacha reachtúla agus deonacha araon le feabhas a chur ar sholáthar iarchúraim, leanann an OCO de ghearáin a fháil ó leanaí agus ó dhaoine óga den chuid is mó i ndáil leis an easpa de sholáthar iarchúraim, nó soláthar iarchúraim neamhleor, dóibh nuair a fhágann siad cúram. Baineann na buarthaí le moill i bpleanáil iarchúraim, pleanáil neamhleor go ginearálta, easpa de thacaíocht do sholáthar iarchúraim agus easpa d'oibrísóisialta leithdháilte. Nuair a bhíodas ag déanamh scrúdaithe ar na gearáin seo, chonaic an OCO go raibh éagsúlacht leathan i soláthar na seirbhíse iarchúraim go náisiúnta, bhí roinnt ceantar ag a raibh polasáí iarchúraim agus foireann thiomanta le hoibriú le leanaí agus daoine óga ag fágáil cúraim, ach ní raibh polasáí soiléir ag cuid eile acu agus ní raibh ach seirbhísí teoranta ar fáil dóibh. Mhol an tOmbudsman do Leanaí ina comhairle don Rialtas ar an mBille ar Chúram Leanaí (Leasú) 2009 go ndéanfaí an tAcht um Chúram Leanaí 1991 a leasú le hoibleagáid dhearfach a chur ar an Stát maidir le hiarchúram a chur ar fáil do gach leanbh faoi chúram cé acu leanaí faoi chúram deonach, nó faoi chúram faoi ordú cúraim, ordú maoirseachta nó faoi ordú cúraim speisialta, go dtí go mbeidh siad 21 bliain ar a laghad.
- **Rochtain ar shocrúcháin chúraim speisialta:** Chuir an tOmbudsman do Leanaí roinnt imscrúduithe i gcrích le gairid maidir le soláthar seirbhíse FSS do dhaoine óga dá lorgaíodh socrúcháin chúraim speisialta. Thug na himscrúduithe seo buarthaí faoi leith chun cinn i ndáil le deacrachtaí socrúcháin chúraim speisialta a fháil agus an comhéadan idir cúram speisialta agus bearta eile a glacadh le leas daoine óga a bhfuil cúram agus cosaint de dhíth orthu a chinntiú. Go sonrach, is buairt thromchúiseach é don Ombudsman do Leanaí go raibh ar dhaoine óga a fuarthas ciontach i gcion ach a raibh cúram speisialta de dhíth orthu fosta fanacht leis na himeachtaí coiriúla ábhartha a bheith tugtha chun críche sula rabhthas ábalta tús a chur leis na himeachtaí um chúram speisialta. D'ardaigh an tOmbudsman do Leanaí na buarthaí seo leis an Oireachtas ina Tuarascáil Bhliantúil 2009 ina comhairle ar an mBille um Chúram Leanaí (Leasú) 2009, agus le FSS chomh maith i gcomhthéacs a hoibre imscrúdaithe.
- **Ilroinnt an tseachadta seirbhíse:** Nuair a bhraitheann leanaí agus a dteaghlaigh ar thacaíocht ó raon éagsúla seirbhísí, méadaíonn an t-ualach ar an teaghlach i dtéarmaí na seirbhísí sin a chomhordú, mar aon leis an bhféidearthacht go dteipfidh ar na soláthraithe seirbhíse éagsúla cumarsáid éifeachtúil a dhéanamh lena chéile agus na seirbhísí á seachadadh acu chuig an leanbh agus/nó teaghlach. Bhí drochiarmhairt ag seo ar leanaí i roinnt de na cásanna a tugadh ar aird na hOifige seo.

- **Seirbhísí lasmuigh de ghnáth-uaireanta a fhorbairt:** Is buairt thromchúiseach é don OCO go bhfuil easnamh seirbhíse náisiúnta 24 uair, lasmuigh de ghnáthuaireanta ann. Fágann sé leanaí agus daoine óga i staid go bhféadfadh sé nach mbeadh rochtain acu ar ghairmithe cúraim shóisialta oilte i gcás géarchéime, ag brath ar an láthair lena mbaineann agus an am a dtarlódh teagmhais dá leithéidí. Dá bharr seo b'fhéidir go gcuirfí leanaí, agus go deimhin, cuirtear leanaí in áiteanna nach bhfuil oiriúnach ar chór ar bith.
- **Iniúchadh ar sheirbhísí cónaithe do leanaí:** Tá an t-iniúchadh ar sheirbhísí cónaithe do leanaí i gcoinne caighdeán náisiúnta ina ghné riachtanach maidir le seirbhísí ardchaighdeán a thugann meas do chearta na leanaí sin a sholáthar. D'ardaigh an OCO buarthaí faoi nach ndéantar monatóireacht nó iniúchadh ar an dóigh seo ar gach seirbhís chónaithe agus faoisimh do leanaí, go háirithe leanaí faoi mhíchumais.

Comhairle a Thabhairt ar Athrú Láidir Bunreacht

Ó thionscnamh na hOifige seo, tá an tOmbudsman do Leanaí ag lorg go ndéanfaí leasú ar an mBunreacht d'fhonn cosaint níos fearr a thabhairt do chearta leanaí, agus ag cur comhairle ar fáil, de réir a sainordaithe reachtúil, d'Airí Rialtais agus Coistí Oireachtais comhleanúnacha maidir leis an ngá leis sin. Baineann tábhacht lárnach leis an Leasú sin d'fhonn creatlach láidir a chur ar fáil le dul i ngleic le ceisteanna den chineál a sainithníodh thuas agus ceisteanna eile a bhaineann le leanaí. Chuir na comhairlí cuimsitheacha arna bhfoilsíú ag an Ombudsman do Leanaí béim ar an gá le leasú Bunreacht ar bith na prionsabail ghinearálta i gCoinbhinsiún na Náisiún Aontaithe um Chearta an Linbh a threisiú mar a tugadh chun suntais níos luaithe sa tuarascáil seo.

D'athluaigh an tOmbudsman do Leanaí a tuairim láidir go bhfuil na gnéithe seo a leanas riachtanach má tá athrú bríoch i staid leanaí agus daoine óga le díorthú ó leasú ar an mBunreacht:

- ráiteas sainráite ar chearta an linbh, lena n-áireofar saoirse ó leithcheal agus an ceart páirt a ghlacadh i gcúrsaí a bhaineann leis/léi;
- ceart an linbh meas a bheith ar a leasanna is fearr mar phríomhbhreithniú i gcúrsaí a bhaineann leo;
- dualgas reachtúil ar an Stát tacaíocht a thabhairt do theaghlaigh agus gníomhú ar bhealach comhréireach; agus
- bogfhaisnéis.

Plean Straitéiseach Úr (2011-2016)

Cuireadh tú le hobair le linn 2010 maidir le Plean Straitéiseach úr a ullmhú, a fhoilseofar i dtús 2011, agus a threoróidh obair na hOifige suas go dtí 2016.

3

FORBAIRT NA hEAGRAÍOCHTA

Bhí an tOmbudsman do Leanaí ina séú bliain de bheith i bhfeidhm in 2010.

Athcheapadh an Ombudsman do Leanaí

D'éag chéad téarmaí sé bliana Emily Logan mar an Ombudsman do Leanaí ar an 17 Nollaig 2009. Rinneadh Emily a athcheapadh ar an bpost seo le haghaidh sé bliana eile i ndáil leis an rún a rith dhá Theach an Oireachtais. Ceapadh uachtaráin is ea an tOmbudsman do Leanaí agus tuairiscíonn sé díreach don Oireachtas. Is é seo séú Tuarascáil Bhliantúil an Ombudsman do Leanaí go hiomlán agus an chéad tuarascáil dá dara téarma.

Acmhainní Daonna

D'fhás scóip agus scála na hoibre a rinne an OCO go suntasach ó bunaíodh í de bharr roinnt fachtóirí, lena n-áirítear méadú ar fheasacht agus thuiscint an phobail ar a ról agus a sainchúram agus níos mó suime agus feasachta ar chearta agus leas leanaí; gné idirnáisiúnta mhéadaithe maidir le gníomhaíochtaí; leathnú de ghníomhaíochtaí oideachais, rannpháirtíochta agus polasaí agus athrú ar shoc-dhéimeagrafaic na hÉireann. I bhfianaise seo, rinne an tOmbudsman do Leanaí, le tacaíocht ón Roinn Sláinte agus Leanaí, cás láidir chuig an Roinn Airgeadais le haghaidh soláthair mheasartha d'acmhainní breise lena chinntiú gur féidir léi dlús agus doimhneacht na freagartha a éilíonn na ceisteanna tromchúiseacha a láimhseálann sí a chur ar fáil. In 2010 b'éigean brath níos mó ar an bpainéal imscrúdaithe, de réir an mhéadaithe shuntasáigh ar ghearáin.

Tá ádh ar an OCO foireann a choinneáil ag a bhfuil raon leathan de thaithí agus shaineolais lena n-áirítear sláinte leanaí, oideachas, obair shóisialta, dlí, dlí um chearta an duine, sícíteiripe, polasaí sóisialta, cur chun cinn sláinte, rannpháirtíocht na hóige, cumarsáid, meáin úra, oideachas ar chearta an duine, agus riarachán poiblí.

Plean Straitéiseach 2011-2016

Chuir an OCO tús lena plean straitéiseach úr a fhorbairt i gceathrú ráithe 2010. Forbróidh an plean ar chuspóirí agus luachanna straitéiseacha na chéad straitéise. Déanfaidh sé mionathrú ar mhisean agus fhís straitéise eagraíochta dinimiciúla atá ag forbairt agus ag a bhfuil sé bliana taithí agus ábhar suntasach fianaise anois ar fhírinne an scéil a bhaineann le saolta leanaí in Éirinn inniu.

Láithreán Gréasáin agus Meáin Úra

De bhun próiseas tairisceana iomaíoch, d'fhorbair *CombinedMedia* Córas Bainistíochta Ábhair Foinse Oscailte a chuir ar chumas an OCO formhór bhainistíocht a láithreáin Ghréasáin a dhéanamh go himheánach. Rinne an cur chuige seo laghdú suntasach ar na costais a bhaineann leis an Láithreán Gréasáin. Cuireann sé ar chumas na hOifige chomh maith cumarsáid dhíreach a dhéanamh lena príomhghrúpaí bunreacha ar mhodh atá ábhartha, inrochtana agus tráthúil don lucht éisteachta/féachana seo. Neartaigh sé láithreacht ar líne an OCO agus a cumas le haghaidh idirghníomhaíocht láithreán Gréasáin chomh maith a chinntíonn go bhfuil níos mó rochtana ag an bpobal ar an OCO. Léiríonn anailís ar thrácht an láithreáin Ghréasáin www.oco.ie go mbrabhsálann 80% de chuariteoirí trí thart ar 8 leathanach den láithreán Gréasáin i dtreimhse trí nóiméad. Léiríonn anailís ar thurais neascleanúna choitianta go bhféachann cuairteoirí ar an leathanach baile ar dtús de ghnáth, agus ansin tugann siad aird ar na bealaí éagsúla ar féidir beith rannpháirteach leis an OCO, a chiallaíonn go bhfuil an láithreán Gréasáin ag comhlíonadh a chuspóra mar thairseach ar an seirbhís a chuirimid ar fáil.

Seirbhísí Poiblí a Athrú

I ndiaidh cruinniú ardleibhéil ag an Roinn Sláinte agus Leanaí, d'fhorbair an tOmbudsman do Leanaí páipéar ar Sheirbhísí Poiblí a Athrú a chuir sí isteach chuig na hArd-Rúnaithe ag Roinn an Taoisigh agus ag an Roinn Sláinte agus Leanaí. Sa doiciméad seo leag an tOmbudsman do Leanaí a tuairimí amach ar an dóigh a bhféadfadh iarrachtaí reatha maidir le seirbhísí poiblí a athrú a bheith ina dheis luachmhar don Stát d'fhonn freastal ar chearta agus leas leanaí agus a dteaghlach.

Oiliúint agus Forbairt Ghairmiúil na Foirne

Aithníonn an OCO an tábhacht a bhaineann le forbairt ghairmiúil leanúnach dá foireann uile. D'fhonn tacú leis an gcuspóir seo chuir an Oifig tús le clár forbartha ceannaireachta dá foireann shinsearach le linn 2010. Bhí fócas an chláir ar cheannaireacht ó pheirspictíocht phearsanta, eagraíochta agus straitéise, mar aon le forbairt ról. Ba é an aidhm fhoriomlán ná inniúlachtaí na foirne lena mbaineann a choinneáil agus a fhorbairt i gcomhthéacs ceannaireacht foirne láidir a chur ar fáil don Oifig.

Na Meáin

Mar a bhí i mblianta roimhe seo, bhí suim shuntasach ag na meáin in obair an OCO agus rinneadh í a thuirisciú go forleiththeadach. Go sonrach, in 2010 fuair an cheist maidir le bás leanaí faoi chúram an Stáit suim ollmhór ó na meáin. Chomh maith le ráitis a dhéanamh go réamhghníomhach, agus freagairt a thabhairt ar fhiosruithe ó na meáin, d'éirigh páipéar roghanna an Ombudsman do Leanaí ar an ngá le meicníocht athbhreithnithe neamhspleách ar bhás leanaí, a forbraíodh in 2007/2008, de bheith ina acmhainn a raibh an-éileamh ag a lán daoine sna meáin air agus ar thagair siad go mór dó.

Rinneadh imscrúdú náisiúnta an Ombudsman do Leanaí ar chur i bhfeidhm Children First National Guidelines a fhoilsiú i mí na Bealtaine 2010 agus rinne na meáin náisiúnta agus áitiúla é a thuairisciú go cuimsitheach ina dhiaidh sin. Rinneadh é seo i measc píosaí eile d'obair na hOifige a phlé i ndíospóireachtaí san Oireachtas.

Rialú Airgeadais

Ba é leithdháileadh bunaidh Oifig an Ombudsman do Leanaí ná €2.223m ag tús 2010. Ag teacht leis an laghdú i mbuiséid ar fud na hearnála poiblí, rinneadh é seo a laghdú níos déanaí sa bhliain go dtí €2.163m. Ag cur laghduithe i leithdháiltí thar bhlianta roimhe sin san áireamh, choinnigh an OCO laghdú carnach ina bhuiséid de 10.21% sa tréimhse 2008 go 2010.

Tá an tOmbudsman do Leanaí freagrach as Ráitis Airgeadais a ullmhú mar a leagtar amach in Acht 2002 agus as a rialtacht na n-idirbheart a chinntiú. Déantar na Ráitis Airgeadais a ullmhú de réir an Chleachtais Chuntasaíochta a bhfuil Glacadh Leis in Éirinn. Leagtar freagrachtaí cuntasaíochta an Ombudsman do Leanaí amach in Acht 2002. Tá an Oifig freagrach as gnéithe oibriúcháin a cuid airgid. Áirítear leis seo nósanna imeachta airgeadais ó lá go lá lena n-áirítear íocaíochtaí, próisis tairisceana, feidhmiú párolla agus tiomsú tuairisceán míosúil, iad ar fad de réir an chleachtais iniúchta is fearr.

Tá na Ráitis Airgeadais faoi réir iniúchta ag an Ard-Reachtaire Cuntas agus Ciste agus rinneadh an t-iniúchadh le haghaidh 2009 i mí na Nollag 2010. Ní dhéantar Ráitis Airgeadais a iniúchadh ag an am a fhoilsítear an tuarascáil bhliantúil go ginearálta. A luaithe is a fhaomhann Oifig an Ard-Reachtaire Cuntas agus Ciste iad áfach, foilsítear na cuntais ar láithreán Gréasáin an OCO – www.oco.ie

Soláthraíonn *Crowleys DFK* seirbhísí cuntasaíochta d'Oifig an Ombudsman do Leanaí.

Acmhainní agus Buiséad Laghdaithe

I bhfianaise srianta airgeadais atá i réim, le linn 2010, lean an OCO de leas a bhaint as seirbhísí roinnt bheag de dhochtúirí cónaithe d'fhonn tacú lena hobair ar Ghearáin agus Imscrúdú agus lena feidhm Rannpháirtíochta agus Oideachais. Bhí sí buíoch chomh maith cúnamh a bheith aici ó dheonacha le gnéithe eile d'oibre a neartú. Bhí méid na n-iarratas agus calibre na n-iarratas ar an gclár dochtúirí cónaithe agus deonach an-ard ar fad.

Seirbhísí Dlíthiúla

Leanann *Ronan Daly Jermyn* de sheirbhísí dlí a chur ar fáil d'Oifig an Ombudsman do Leanaí ó dámhadh conradh trí bliana orthu in 2008 i ndiaidh comórtas tairisceana.

4

POLASÁI AGUS REACHTAÍOCHT

Leagann Alt 7 d'Acht 2002 sainordú agus feidhmeanna polasaí, taighde agus reachtaíochta na hOifige. Go sonrach, forálann sé go ndéanfaidh an tOmbudsman do Leanaí an méid seo a leanas:

- comhairle a thabhairt d'Airí maidir le forbairt agus comhordú an pholasaí a bhaineann le leanaí;
- comhairle a thabhairt d'Airí maidir le cúrsa ar bith a bhaineann le cearta agus leas leanaí, lena n-áirítear an éifeacht dhóchúil a bheadh ag moltaí reachtaíochta ar leanaí;
- taighde a bhaineann le cúrsa ar bith a bhaineann le cearta agus leas leanaí a dhéanamh, a chur chun cinn agus a fhoilsiú; agus
- faisnéis a mhalartú agus comhoibriú le hOmbudsmana do Leanaí i stáit eile.

Sa bhliain faoi athbhreithniú, sholáthair an tOmbudsman do Leanaí comhairle i ndáil le reachtaíocht a moladh i raon de réimsí a raibh tábhacht shuntasach ag baint leo maidir le cearta agus leas leanaí. Thug obair an OCO ar athbhreithniú reachtaíochta le linn na bliana chun suntais nach raibh deis ag an Oireachtas, corruair, breathnú ar cheisteanna níos leithne a bhaineann go díreach le leanaí agus atá bainteach le hábhar Bille ach nach bpléitear go sainráite ann. Lena chois sin, leanann sé gurb é an cás ná gur féidir reachtaíocht a bhaineann le leanaí a fhrámú ar bhealach is léir nach bhfeidhmíonn dá leasanna is fearr.

Maidir leis an gcaidreamh idir an OCO agus Ranna Rialtais, bheadh sé níos fearr dá mbainfeadh siad leas as an deis comhchomhairle a dhéanamh leis an Ombudsman do Leanaí ar bhonn níos comhsheasmhaí agus ag céim níos luaithe sa phróiseas um reachtaíocht a ullmhú.

An Bille Sláinte (Leasú) 2010

I mí an Mhárta 2010, d'fhógair an tAire Leanaí agus Gnóthaí Óige gur bhunaigh sé Grúpa Neamhspleách ina raibh Geoffrey Shannon, Rapóirtéir Speisialta ar Chosaint Leanaí agus Norah Gibbons, an Stiúrthóir Abhcóideachta ag *Barnardos*, le scrúdú a dhéanamh ar thorthaí athbhreithnithe a cuireadh i gcrích ar bhásanna leanaí faoi chúram ó bhí an bhliain 2000 ann. Bhí deacrachtaí ag an nGrúpa Neamhspleách, áfach, leis na doiciméid a raibh gá leo d'fheidhmiú a fheidhmeanna a fháil. Chinn an Rialtas na bacainní seo a shárú agus dul i ngleic leis an gceist ar sholáthar faisnéise íogair ag an FSS do comhlachtaí imscrúdaithe go ginearálta tríd an mBille Sláinte (Leasú) 2010 a thabhairt isteach.

Scríobh an tOmbudsman do Leanaí chuig an Taoiseach i mí na Bealtaine 2010 ag léiriú a buarthaí maidir le feidhmiú na rialach iata, bunaithe ar thaithí an OCO ar ghearáin faoi leanaí faoi chúram a imscrúdú. Go sonrach, mhaígh sí ar an Taoiseach breathnú ar fheidhmiú na rialach seo go ginearálta, d'fhonn a chinntiú go raibh sé solúbtha go leor d'fhonn rochtain réasúnach ar fhaisnéis a cheadú, áit a bhfreastalódh rochtain dá leithéid ar mhaithe leis an bpobal, agus ag an am céanna a chinntiú go bhfuil cosaint imleor i bhfeidhm le meas a thabhairt do chearta leanaí agus do phríobháideacht na bpáirtithe.

Foilsíodh an Bille Sláinte (Leasú) 2010 i mí an Mheithimh 2010 le bacainní ar obair an Ghrúpa Neamhspleách a bunaíodh le scrúdú a dhéanamh ar thorthaí athbhreithnithe a cuireadh i gcrích ar bhásanna leanaí faoi chúram ó bhí an bhliain 2000 ann a shárú. Cé gur chuir an tOmbudsman do Leanaí fáilte roimh an bhfíric go n-éascódh reachtaíocht an Grúpa Neamhspleách i ndáil le rochtain a fháil ar an bhfaisnéis atá riachtanach d'fhonn a thasc a dhéanamh, léirigh sí inné faoi roinnt de ghnéithe an Bhille:

- Ba chúis aiféala é nár tugadh an chumhacht don Ghrúpa Neamhspleách doiciméid agus faisnéis a fháil, agus bhí air brath ar an Aire Sláinte agus Leanaí leis seo a dhéanamh;
- D'fhéadfaí an Bille a neartú trí fhoráil a dhéanamh go mbeadh an Grúpa Neamhspleách ábalta tuarascálacha a fhoilsiú ar a thionscnamh féin, seachas an chumhacht sin a thabhairt don Aire Sláinte agus Leanaí; agus
- Níor phléigh an Bille an cheist ar na doiciméid agus an bhfaisnéis a fhaightear ó imeachtaí i gcúirt iata a fhoilsiú ar mhaithe leis an bpobal.

Chuir an tOmbudsman do Leanaí béim faoi nár thug na buarthaí a léiríodh sa chomhairle le tuiscint nach mbeadh an Grúpa Neamhspleách – a bhí déanta suas de phríomh-shaineolaithe ar chearta agus chosaint leanaí – ábalta a fheidhmeanna a chur i gcrích. Seachas sin, ní raibh an sainordú agus na cumhachtaí a tugadh don Ghrúpa chomh fairsing agus ba chóir dóibh bheith.

D'ardaigh an Bille Sláinte (Leasú) an cheist níos leithne chomh maith maidir le comhoibriú comhlachtaí poiblí le himscrúduithe reachtúla, cosúil leis na cinn a rinne an tOmbudsman do Leanaí. Tháinig friotaíocht roimh an OCO corruair i roinnt bheag de chásanna suntasacha do sholáthar na faisnéise a bhí de dhíth le himscrúdú a dhéanamh, nuair a bhain faisnéis dá leithéid le himeachtaí iata. Chuir tOmbudsman do Leanaí a buairt in iúl don Rialtas go bhféadfadh sé seo institiúidí a chosaint ó imscrúdú reachtúla arna thionscnamh ag leanbh, nó ar son linbh. Ar an dóigh seo is léir go bhféadfadh an léirmhíniú ar an riail iata, a ceapadh le cearta agus leas leanaí a chosaint, feidhmiú go codarsnach dá leasanna is fearr.

Is mí-ámharach é nár cheadaigh an Bille Sláinte (Leasú) i ndiaidh é a rith go tapa trí Thithe an Oireachtais do bhreathnú níos iomláine ar na ceisteanna níos leithne seo arna n-ardú ag an mBille.

An Bille um Páirtnéireacht Shibhialta 2009

I ndiaidh cruinnithe leis an Aire Comhionannais, Imeasctha agus Chearta an Duine i mí Aibreáin 2010 inar ardaigh an tOmbudsman do Leanaí buarthaí a tugadh ar aird a hOifige i ndáil le heasnamh leanaí ón mBille um Páirtnéireacht Shibhialta 2009, thug an tAire cuireadh di comhairle ar an mBille a thabhairt.

Leag an OCO a tuairimí ar an mBille um Páirtnéireacht Shibhialta amach i mí Iúil 2010, ag tabhairt chun suntais an dóigh ar theip ar an mBille soláthar imleor a chur ar fáil ann do leanaí agus ag leagan amach an dóigh a bhféadfadh an Bille soláthar níos fearr a dhéanamh dóibh siúd lena mbaineann. Ba é buairt faoi leith a bhí ag an OCO ná an dóigh shainiúil a ndearnadh leanaí a bhreathnú agus an Bille á dhréachtú. Rinneadh a lán d'fhorálacha an Bhille a bhaint as réimsí eile den dlí teaghlaigh, áit a bhfuil oibleagáid ar na cúirteanna breathnú ar riachtanais leanaí cleithiúnacha, amhail i gcomhthéacs cosaint chomhthithíochta, díscailte, cothabhála agus comharbais. In ailt chomhionanna den Bhille um Páirtnéireacht Shibhialta, áfach, baineadh tagairt ar an ngá le soláthar a dhéanamh do leanbh cleithiúnach de theaghlach amach de bhun tola.

Tá an t-idirdhealú a chruthaigh an Bille idir leanaí páirtnéireachtaí sibhialta agus leanaí a ndéantar soláthar dóibh faoi chodanna eile den dlí teaghlaigh – amhail leanaí i leasteaghlaigh – ansmachtúil ó thaobh na leanaí de. Tá sé dochosanta a áitiú nach bhfuil a ngá le tacaíocht, slándáil airgeadais agus cosaint chomh tábhachtach le riachtanais leanaí eile, nó gur féidir an difríocht seo den dóigh a gcaitear leo a fhírinniú ar bhonn leasanna na leanaí sin.

Is léir dá bhrí sin nach raibh leasanna is fearr leanaí na bpáirtnéireachtaí sibhialta ina phríomhbhreathnú agus forálacha an Bhille um Páirtnéireacht Shibhialta a bhain leo á ndréachtú. Is ábhar imní é go bhféadfadh cur chuige dá leithéid, nach dtagann beagnach ar chor ar bith leis an bprionsabal a leagtar amach in Airteagal 3 den UNCRC (leasanna is fearr an linbh), taca a chur faoi ár bpróiseas déanta dlí.

An Bille um Chúram Leanaí (Leasú) 2009

Phléigh an Bille um Chúram Leanaí (Leasú) 2009 an cheist ar chúram speisialta agus cúrsaí eile lena mbaineann, lena n-áirítear an bonn reachtaíochta le haghaidh caomhnóir ad litem a cheapadh do leanaí i gcomhthéacs imeachtaí cúram leanaí.

Bhí rochtain ar chúram speisialta, an próiseas a bhaineann leis agus iarmhairt orduithe ar dhaoine óga mar ábhar scrúdaithe ag an OCO le linn a cuid oibre ar ghearáin. Bhí an t-easnamh de chreatlach reachtúil trína bheifí ábalta orduithe cúraim speisialta a dhéanamh ina fhoinse d'ímní suntasach don OCO ar feadh tamaill fhada, go háirithe maidir le daoine óga a bhfuil cúram speisialta de dhíth orthu agus a fuarthas ciontach i gcion chomh maith – níor tugadh go leor plé do riachtanais chúraim roinnt daoine óga sa staid seo toisc go bhfuil tosaíocht tugtha do na himeachtaí coiriúla ábhartha thar na himeachtaí cúraim. D'ardaigh an tOmbudsman do Leanaí an cheist seo ina Tuarascáil Bhliantúil 2009 chuig Tithe an Oireachtais.

Ina comhairle don Rialtas ar an mBille, athluaigh an tOmbudsman do Leanaí an bhuairt seo agus d'ardaigh sí roinnt pointí breise a tháinig ó fhorálacha an Bhille. Mhol sí an méid seo a leanas:

- níor cheart athchur faoi choimeád a úsáid le haghaidh cúiseanna leasa de bharr an easpa de shocrúchán cúraim oiriúnach;
- maidir le himeachtaí cúraim, ba cheart breathnú ar phróiseas cúirte níos aontaithe a chruthú ag leibhéal réigiúnach ag a mbeadh pearsanra breithiúnach le hoiliúint speisialta agus a mbeadh soláthartha go cuí ag féachaint ar speictream iomlán riachtanais chúraim leanaí;
- ba cheart do leanaí a bhíonn bainteach in imeachtaí cúraim ceart a bheadh acu caomhnóirí ad litem ionadaíocht a dhéanamh dóibh, nó ba cheart go mbeadh toimhde láidir i bhfabhar ceaptha ar a laghad;
- ba cheart breathnú ar chreatlach rialála a bhunú le haghaidh caomhnóirí ad litem a bheadh neamhspleách ón FSS, a chuirfeadh an obair atá déanta ag eagraíochtaí deonacha cheana sa réimse seo san áireamh agus a dhéanfadh monatóireacht ar fheidhmiú an chórais le himeacht ama; agus
- ba cheart go gcuimseodh an Bille oibleagáid dhearfach ar an Stát iarchúram a chur ar fáil do gach leanbh faoi chúram cé acu faoi chúram deonach, nó faoi ordú cúraim, ordú maoirseachta nó ordú cúraim speisialta atá siad go dtí go mbeidh siad 21 bliain ar a laghad.

Líonraí Idirnáisiúnta

Is í feidhm de chuid an OCO faoi Acht 2002 ná comhoibriú a dhéanamh leis na Ombudsmana do Leanaí stát eile.

Le linn 2010 lean an OCO dá rannpháirtíocht láidir agus ghníomhach leis an Líonra Eorpach le haghaidh Ombudsman do Leanaí (ENOC) chomh maith le Líonra na Breataine agus na hÉireann le haghaidh Ombudsman agus Coimisinéirí (BINOCC).

Bhí an tOmbudsman do Leanaí ina ball d'fheidhmeannas an ENOC go dtí mí Mheán Fómhair 2010 agus ceapadh í mar Chathaoirleach ina dhiaidh sin ar Ghrúpa Oibre an Líonra ar Reachtanna agus Chaighdeán do 2011.

5

GEARÁIN AGUS IMSCRÚDUI THE

Is feidhm lárnach agus ghnóthach de chuid na hOifige í an fheidhm um ghearáin agus imscrúdú. Faoin Acht um Ombudsman do Leanaí 2002, féadann an OCO imscrúdú a dhéanamh ar ghearáin a dhéanann leanaí agus daoine óga, nó a dhéanann daoine fásta ar a son, faoi eagraíochtaí poiblí, scoileanna nó ospidéal. Is seirbhís í seo atá saor in aisce, neamhspleách agus neamhchlaon.

Forálacha ar Leith

Forálann Acht 2002 d'fheidhmiú na bhfeidhmeanna gearán agus imscrúduithe ag an Ombudsman do Leanaí. Leagan na forálacha reachtaíochta seo forais míriaracháin chaighdeánacha maidir le hathbhreithniú a dhéanamh ar ghearáin agus chur i gcrích imscrúduithe. Ag cur san áireamh nach mór go mbeadh an éifeacht de ghníomh ar leanbh mar ábhar imscrúdaithe ar bith a dhéanann an tOmbudsman do Leanaí agus gur féidir le leanaí iad féin gearáin a thabhairt chuig an Oifig, leagan an tAcht raon d'fhorálacha reachtaíochta ar leith amach a chuireann leochaileacht shonrach leanaí san áireamh.

1. Oibleagáid maidir le féachaint do na leasanna is fearr do leanaí

Forálann an tAcht go bhféachfaidh an tOmbudsman do Leanaí do na leasanna is fearr do leanaí agus í ag feidhmiú a feidhmeanna gearán agus imscrúduithe.

2. Oibleagáid maidir le haird a thabhairt ar mhianta an linbh

Forálann an tAcht go dtabharfaidh an tOmbudsman do Leanaí aird, ag cur aois agus thuiscint an linbh san áireamh, ar a mhianta nó a mianta agus í ag feidhmiú a feidhmeanna gearán agus imscrúduithe.

Foramharc

Soláthraíonn an taithí shuntasach cásoibre arna forbairt ag an Oifig léargas uathúil ar eispéireas maireachtála leanaí agus a dteaghlach. Tugann sé deis luachmhar do chomhlachtaí poiblí chomh maith leis an iarmhairt iarbhír de pholasaithe agus chleachtais ar talamh a mheas, maidir leis an toradh inmhianta d'fheabhas a chur ar staid na leanaí de dhroim seirbhísí atá maoinithe go poiblí.

Le bliain anuas tá freagairt dhearfach feicthe ag an Oifig ó chomhlachtaí poiblí ag céim luath sa phróiseas gearán agus réitíodh roinnt shuntasach de ghearáin ag an gcéim sin. Léiríonn sé seo fócas ar thaobh na hOifige le sásamh áitiúil a bhaint amach idir na páirtithe áit a gceapann sí go bhfuil bonn maith ann d'fhonn go dtarlódh sé seo. Is minic a tharlaíonn sé gur féidir sásamh cuí nó éifeachtach a bhaint amach idir na páirtithe lena mbaineann go díreach.

Más cuí, lean an Oifig d'idirghabhálacha a dhéanamh le comhlachtaí poiblí maidir le céimeanna is féidir a ghlacadh le polasaí, cleachtas agus nós imeachta a fheabhsú agus a mhionathrú d'fhonn na torthaí is fearr do leanaí a bhaint amach. Den chuid is mó, fuair an Oifig freagairt dhearfach ar na moltaí a rinneadh, a bhfuil tionchar aige, ní hamháin ar leanbh amháin ag lár an ghearáin ach ar leanaí eile atá ag lorg na seirbhísí sin nó ag fáil na seirbhísí sin chomh maith.

Go sonrach, áiríodh an méid seo a leanas le príomh-mholta a bhaineann le hoideachas, sláinte agus tithíocht:

- Soiléire agus cumarsáid faoi sholáthar seirbhíse, incháilitheacht agus theidlíochtaí, faoin iarratas ar rochtain a fháil ar sin agus ghníomhartha an chomhlachta phoiblí maidir leis seo.
- Feabhas agus athbhreithniú ar pholasaí agus chleachtas. Dreasachtaí ar leith a sholáthar sna réimsí:
 - Tithíocht – maidir le polasaithe ar iompraíocht fhrithshóisialta, an bpróiseas iarratais ar dheontais tithíochta, trédhearcacht i ndáil leis an bpróiseas um leithdháileadh tithíochta agus próisis aistrithe, lena n-áirítear idirchaidreamh le cumainn tithíochta dheonacha.
 - Oideachas – maidir le hiompar scoile, an bpróiseas iarratais ar dheontais teagasc baile, pleanáil agus soiléire aistrithe maidir le polasaithe scoile, polasaithe frithbhulaíochta agus sruthú ranga.
 - Sláinte – maidir le soláthar a dhéanamh do leanaí le duine fásta a bheith leo agus iad ag freastal ar chóireáil thar lear; forbairt polasaí agus treoir nós imeachta go sonrach i ndáil le seirbhísí éisteolaíochta; agus pleanáil chúraim, lena n-áirítear luathfhorbairt ar phleananna cúraim agus rannpháirtíocht leanaí sa phróiseas seo agus i bpleanáil aistrithe ar bith.
- Treoir nós imeachta shoiléir le haghaidh foirne agus a bhfeidhmeanna riaracháin á ndéanamh acu d'fhonn cothromas an phróisis a chinntiú agus cuidiú a thabhairt d'fhoireann lena chinntiú go mbreathnaítear ar na céimeanna riachtanacha uile, mar shampla a chinntiú go bhfaightear an fhaisnéis riachtanach ar fad a bhaineann leis an gcinneadh.
- Caighdeán na ngearán áitiúil agus nósanna imeachta achomharc, go háirithe maidir le hinfheictheacht, inrochtaineacht, cothromas, gastacht agus trédhearcacht.

Rinneadh moltaí sainiúla chomh maith i roinnt cásanna i ndáil le sásamh agus réiteach don leanbh faoi leith ag lár an ghearáin.

Buaicfhás i nGearáin in 2010

Ag teacht le blianta roimhe seo, tharla méadú suntasach sa líon gearán in 2010 a fuair an OCO agus rinneadh 1,223 gearán a láimhseáil i rith na bliana ina raibh 1,144 gearán úr agus 79 gearán a cuireadh ar aghaidh ó 2009. Is ionann é seo agus méadú de 34% in 2010 agus is é an méadú bliantúil is mó ar ghearáin a fuair an Oifig ó tháinig sí i bhfeidhm. Ó 2008 go 2010 bhí méadú 65% ar ghearáin.

Anailís ar an Méadú ar Ghearáin

Taispeánann anailís ar na gearáin ar ndéileáladh leo in 2010, i gcomparáid le 2009, an méid seo a leanas:

- Méadú foriomlán ar líon na ngearán a fuarthas i ngach catagóir;
- Fuarthas an líon is mó de ghearáin sna catagóirí Oideachais agus Sláinte;
- Mhéadaigh gearáin a bhain le hoideachas agus ba ionann iad agus 38% de na gearáin a fuarthas. Bhain an fhochatagóir is mó le gníomhartha múinteoirí/príomhoidí, lena raibh líon méadaithe de ghearáin faoi Bhoird Bainistíochta, leithdháileadh riachtanas speisialta, agus láimhseáil na líomhaintí bulaíochta;
- Ba ionann gearáin a bhain le sláinte agus 37% den iomlán. Bhain an céatadán is mó de ghearáin dá leithéidí le cinntí maidir le leanaí faoi chúram, arbh ionann é sin agus 25% den iomlán sa chatagóir seo. Bhain céatadán suntasach le leorgacht seirbhísí FSS fosta, mar aon le gearáin faoi chosaint leanaí. I measc réimsí ina raibh na príomh-mhéaduithe i líon na ngearán a fuarthas bhí cinntí i ndáil le leanaí faoi chúram, cúram leanaí/réamhscoileanna poiblí/creiseanna, rochtain a fháil ar sheirbhísí FSS agus gníomhartha fhoireann FSS. Chuimsigh na gearáin a bhain le réamhscoileanna líon gearán maidir leis an Scéim um Chúram agus Oideachas na Luath-Óige (ECCE);
- Mhéadaigh gearáin a bhain le tithíocht ó 4% go 5% den iomlán – d'ardaigh líon mór de na gearáin seo buarthaí faoi oiriúnacht na tithíochta reatha agus faoin bpróiseas iarratais le haghaidh aistrithe go tithíocht eile; agus
- Mhéadaigh gearáin chatagóire eile ó 8% go 12%, agus bhaint an méadú is mó le liúntais/iocaíochtaí.

Mar a léiríodh thuas, fuair an Oifig roinnt gearán a bhain le feidhmiú na Scéime ECCE a lainseáil Oifig an Aire Leanaí agus Gnóthaí Óige (OMCYA) in 2009. Ó chéim luath, agus i rith 2010, fuarthas gearáin ó thuismitheoirí ar son a leanaí, i ndáil le cúrsaí cosúil leis an réasúnaíocht le haghaidh na gcritéar aoise atá curtha i bhfeidhm sa scéim agus soiléire na cumarsáide agus na faisnéise atá an OMCYA ag cur ar fáil don phobal. Cé gur scrúdaíodh cuid de na gearáin a fuarthas agus go ndearnadh cinneadh gan imscrúdú a dhéanamh orthu, tá cuid eile acu ar siúl fós agus tá siad ag céim an réamhscrúdaithe leis an gcomhlacht poiblí.

An gá le Foghlaim Faoin gCóras

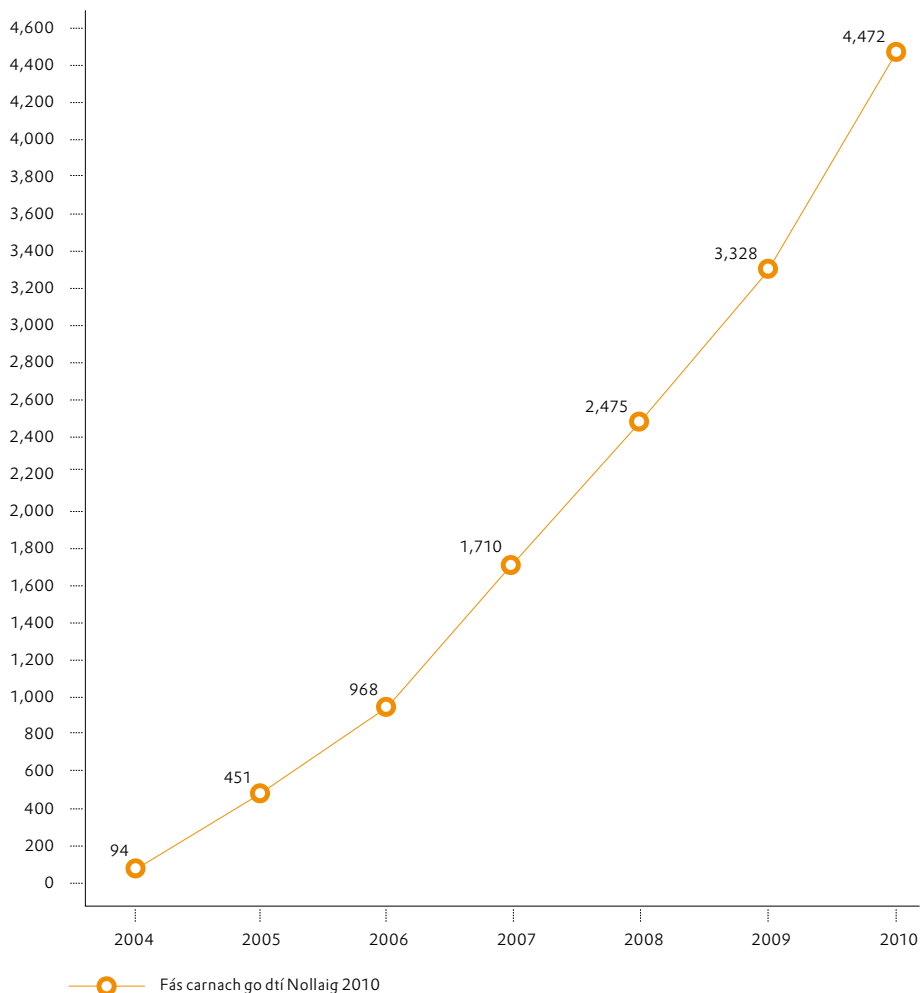
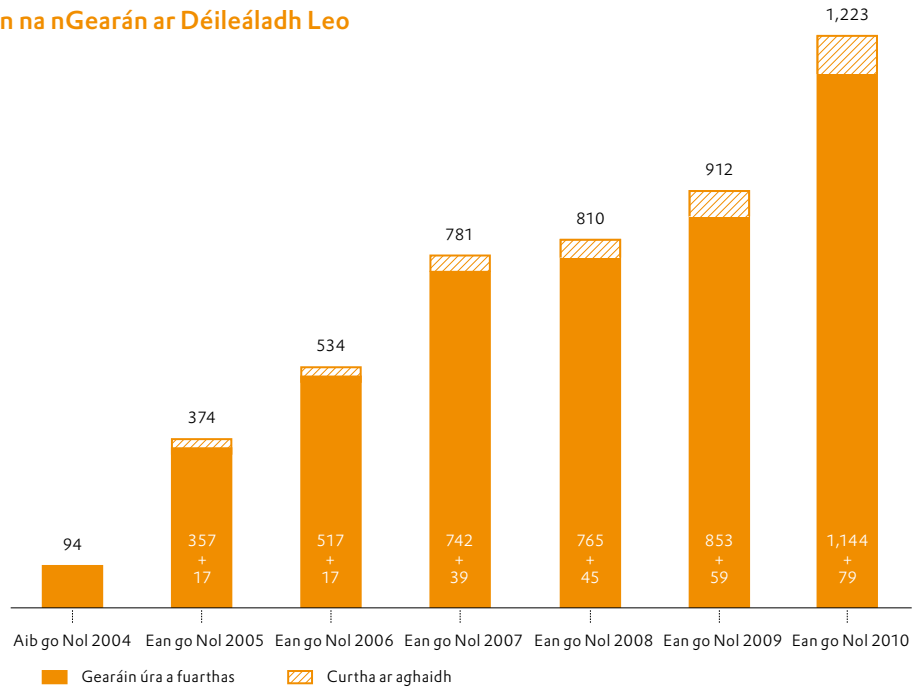
Tá na príomhchatagóirí gearán ar fud Sláinte agus Oideachais an-chosúil le blianta roimhe seo agus is ábhar imní é go leantar de mhéadú a bheith ar líon na ngearán sna réimse áirithe seo. Rinne an Oifig trácht roimh seo maidir leis na bpríomhcheisteanna a ardaíodh sna réimsí seo lena n-áirítear na ceisteanna a d'ardaigh daoine óga faoi chúram agus go sonrach a mbuairt faoi rannpháirtíocht i gcinntí a théann i gcion orthu agus an tuiscint a tugadh dá ndearcaí.

Trí bhéim a chur ar phatrún na ngearán, tugtar an deis do chomhlachtaí poiblí breathnú ar na ceisteanna a ardaíodh, infhaighteacht meicníochtaí gearán áitiúla nó meicníochtaí gearán oiriúnacha eile agus an dóigh ar féidir an polasaí, cleachtas agus nós imeachta is fearr a fhorbairt le foghlaim leathan agus bhríoch ar an gcóras a thaispeáint ón taithí ar imscrúduithe.

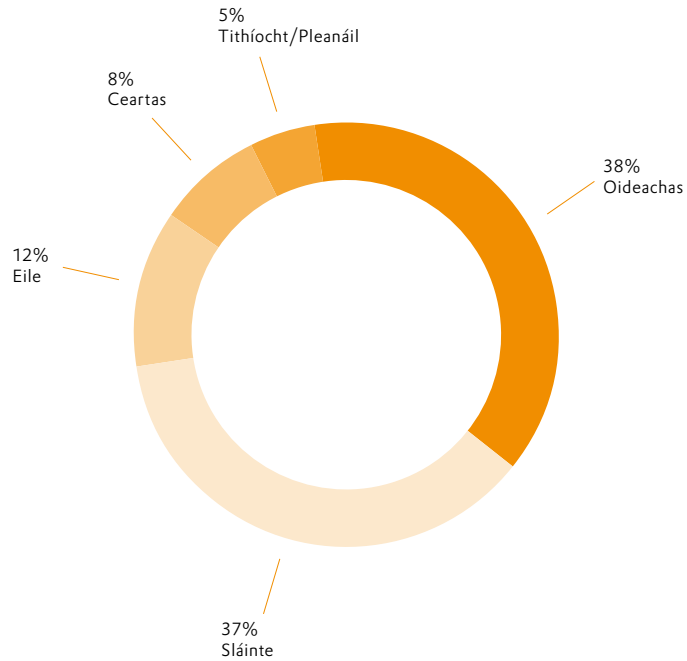
Gearánaigh ag Déanamh Teagmhála leis an Oifig

Mar a bhí i mblianta roimhe seo, ba iad tuismitheoirí agus baill teaghlaigh shínte a rinne an chuid is mó de na gearáin a fuarthas. Is í taithí na hOifige ná gurb iad tuismitheoirí na príomh-abhcóidí le haghaidh cearta agus leas leanaí. Bhí méadú i líon na ngairmithe a rinne teagmháil leis an Oifig chomh maith lena n-áirítear oibrithe sóisialta, tuismitheoirí altrama, múinteoirí, Príomhoidí agus eagraíochtaí/grúpaí tacaíochta. Bhí na gairmithe seo ag tabhairt tacaíochta do leanaí lena ngearán féin a dhéanamh nó ag cur gearán isteach ar son leanaí leochaileacha, iad siúd go minic nach raibh cúram tuismitheoirí acu nó nach raibh rochtain fhurasta acu ar abhcóide a bheadh ábalta gearán a dhéanamh ar a son. Gan bainteacht na ngairmithe sin, d'fheadfadh sé nach n-éisteofaí leis na leanaí sin. Ag cur a bpost san áireamh, cuireann na gairmithe sin taithí agus tuiscint ar fáil ar na ceisteanna a théann i gcion ar leanaí agus na seirbhísí atá á soláthar dóibh agus tá sé seo an-luachmhar don OCO.

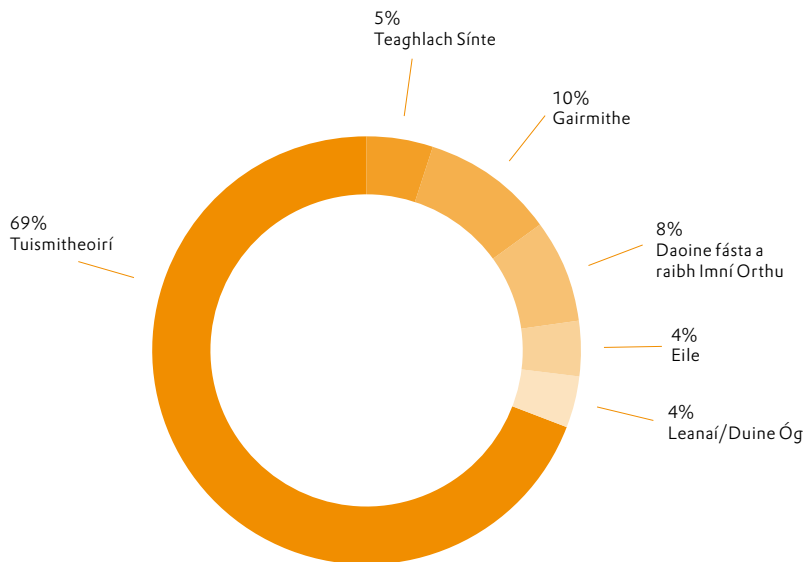
Líon na nGearán ar Déileáladh Leo



Catagóir Gearán (Eanáir – Nollaig 2010)



Gearánaigh (Eanáir – Nollaig 2010)



Treochtaí Suntasacha

Tugann an rannán seo den tuarascáil príomhbhreithnithe le chéile a baineadh as an taithí ar dhéileáil le gearáin le linn 2010. Tá cuid de na breithnithe nach bhfuil úr ach is fiú iad a athlua toisc go bhfuil sé tábhachtach do chearta agus leas leanaí a chur ar aghaidh go dtabharfaí freagairt éifeachtúil ar na dúshláin áirithe a ardaíonn siad.

Oideachas – An Gá le Nósanna Imeachta Reachtúla a Chur i bhFeidhm

Mar a cruthaíodh thuas, bhaint an céatadán is mó de ghearáin a fuair an Oifig in 2010 le hoideachas agus thaispeáin sé mhéadú de 36% ar líon na ngearán den sórt sin a fuarthas le linn na bliana roimhe sin. D'fhéadfadh sé go léiríonn seo, go méid áirithe, an fhíríc nár ndéanamh na socruithe reachtúla arna leagan síos do thuismitheoirí maidir le buarthaí faoi ghníomhartha scoileanna (faoi alt 28 den Acht Oideachais 1998) agus faoi ghníomhartha múinteoirí (faoi Chuid V den Acht um Chomhairle Mhúinteoireachta 1998) a ardú a chur i bhfeidhm. Ina Tuarascáil Bhliantúil 2008, tharraing an tOmbudsman do Leanaí aird ar na bearnaí reachtaíochta agus riaracháin toisc gur teipeadh cloí le cur i bhfeidhm na bhforálacha seo.

I mí na Nollag 2010 scríobh an tOmbudsman do Leanaí chuig an Roinn Oideachais agus Scileanna agus d'iarr sí an méid seo a leanas:

- nuashonrú ar an dul chun cinn atá déanta ag an Roinn ar nósanna imeachta gearán a fhorbairt de réir alt 28 den Acht Oideachais;
- soiléireacht i ndáil leis an bpróiseas achomharc arna sholáthar faoi alt 29 den Acht sin; agus
- nuashonrú ón Roinn ar an bhfráma ama atáthar ag súil leis d'fhonn tús a chur le Cuid V den Acht um Chomhairle Mhúinteoireachta, a chuirfeadh ar chumas na Comhairle gearáin a bhaineann le hiompar gairmiúil na foirne teagaisc a scrúdú.

Creideann an tOmbudsman do Leanaí go bhfuil gá láidir ann anois le haghaidh gníomhaíochta cinntithe leis na cúrsaí seo a chur ar aghaidh.

Oideachas – Ceisteanna um Choinneáil taifead agus Thrédhearcacht

Lean an Oifig de ghearáin a cuireadh ar aghaidh a bhain le gníomhartha scoileanna a fheiceáil. Ag cur pholasaí na hOifige meas a thabhairt do nósanna imeachta áitiúla san áireamh, bhain na gearáin a fuarthas le cásanna sa chás nár tharla réiteach áitiúil. Ba de bharr nár thug údarais scoile cúiseanna a bhí mionsaothraithe go leor le haghaidh cinntí a rinneadh go raibh deacracht ann maidir le scrúdú agus imscrúdú gearán dá leithéid a chur chun cinn go héifeachtúil, agus go deimhin boinn fhéideartha le haghaidh réiteach áitiúil a shainaitint.

Sa chás ina dtugann Boird Bhainistíochta go leor faisnéise faoina mbreithniúcháin ar ghearáin, féadann sé seo deacrachtaí a chruthú do ghearánaigh i dtéarmaí tuiscint a bheith acu ar na cinntí a dhéantar nó iad a ghlacadh. Go minic léiríonn faisnéis a fhaigheann an Oifig seo nádúr gairid an taidif scríofa de chinntí a ghlactar maidir le gearáin a bhíonn casta corrúair a dhéantar chuig Bord. Tá freagairtí cosúil le 'níor tugadh bunús leis an ngearán', 'níor cuireadh

go leor faisnéise ar fáil', 'sásta nach bhfuil gá leis an ngearán a chur ar aghaidh níos faide', nó 'déileáladh go sásúil le cúrsaí' a tharlaíonn ar leithligh i ngearáin aonair a dhéantar i gcúinsí sa chás nach mbíonn níos mó faisnéis tacaíochta nó réasúnaíochta, míshásúil do ghearánaigh. D'fhéadfaidh cur chuige dá leithéid drochéifeacht a bheith aige ar an gcaidreamh idir scoileanna agus teaghlaigh sa chás nach ndéantar cinntí a bhféadfaí a bheith déanta ar fhorais mhaithe agus réasúnta a mhíniú.

D'fhéadfadh sé seo drochéifeacht a bheith aige ar an iontaofacht agus an trédhreachacht a theastaíonn ó nós imeachta gearán scoile chomh maith. I roinnt cásanna, d'fhéadfadh sé go dtarlódh cliseadh sa chaidreamh idir an ngearánach agus an scoil toisc go mothaíonn gearánaigh nár éistítear leo nó lena leanaí go himleor.

Comhoibriú agus Dúshlán ag Comhlachtaí Poiblí agus Scoileanna Maidir le Faisnéis a Chur ar Fáil

Tá feidhm gearán agus imscrúdaithe na hOifige leagtha amach in ailt 8 go 16 d'Acht 2002. Forálann an tAcht, agus na nósanna imeachta a bunaíodh faoi, do phróiseas gearán agus imscrúdaithe atá an-láidir, an-neamhchlaon agus an-neamhsháraíoch. Pléann an Oifig fiosruithe agus buarthaí a d'fhéadfadh ceachtar de na páirtithe a chur in iúl faoin bpróiseas, cé acu ag céim an réamhscrúdaithe nó céim an imscrúdaithe, ar bhealach trédhearcach agus pras. Ag an tús, sonraítear go soiléir do gach páirtí nach abhcóide í an OCO do leanaí ná ní coimhlinteoir de chuid an chomhlachta poiblí lena mbaineann í agus léirítear é seo i nósanna imeachta agus i ngníomhartha na hOifige. Tugann an próiseas seo malairt inmharthana ar dhul i muinín an dlí le gearáin a phlé.

Téann scrúdú agus imscrúdú thromlach na ngearán ar aghaidh le rannpháirtíocht iomlán ó chomhlachtaí poiblí agus scoileanna. Mar sin féin, léiríonn roinnt cásanna go nglactar modh agus tuin freagartha níos dlíthiúla ar iarratais ar fhaisnéis ón Oifig. Tugadh cásanna faoi leith den chur chuige seo faoi deara iontu seo a leanas:

- FSS – Lorg roinnt de na freagairtí a fuarthas ó réimsí áirithe de FSS ar iarratais ar fhaisnéis i ndáil le gearáin a bhain le leanaí faoi chúram dúshlán a chur ar shainchúram imscrúdaithe na hOifige seo. Tá buairt ar an tOmbudsman do Leanaí nuair a úsáidtear comhairle dlí go luath sna cásanna seo. Corruair, is é an chéad fhreagairt a fhaigheann an Oifig ar litir ón Ombudsman do Leanaí ná litir aturnae.

Tá an tOmbudsman do Leanaí buartha go bhféadfadh cásanna tarlú nuair a lorgódh comhlacht poiblí ar ndearnadh gearán faoi maoirseacht neamhspleách a eisiamh go dírialta de bharr cur chuige dá leithéid. Bheadh impleachtaí soiléire ag cur chuige ar bith dá leithéid, dá nglacfaí go leathan leis, maidir le hoscailteacht agus trédhearcacht na gcomhlachtaí poiblí a mbeadh gearáin á ndéanamh fúthu agus go mbeadh tuilleadh drochéifeachtaí aige ar leanaí agus ar dhaoine óga trí mhoill ar shásamh ar bith a mbeadh údar leis.

- Buarthaí faoi Chosaint Leanaí ó fhoireann FSS – Tháinig roinnt bhaill de chuid FSS chuig an OCO le buarthaí faoi chosaint leanaí toisc nach bhfuil siad compordach na buarthaí sin a ardú laistigh de FSS nó má dhéanann siad amhlaidh, ní bhíonn siad sásta leis an bhfreagairt a fhaigheann siad. Ag cur nádúr tromchúiseach na mbuarthaí seo san áireamh d'ardaigh an tOmbudsman do Leanaí an chúrsa seo ag leibhéal POF.

- FSS – I roinnt bheag cásanna luaigh roinnt Oifigigh Sláinte Áitiúla an rialail iata mar bhac ar sholáthar na faisnéise atá riachtanach d’fhonn go mbeadh réamhscrúdú nó imscrúdú na ngearán ábalta dul ar aghaidh. Bhreithnigh an Oifig seo gur cuireadh an réasúnaíocht seo ar fáil i gcásanna ina bhfuil an rialail á léirmhíniú ró-leathan mar bheith ag tuairisciú faisnéise ar bith atá á iarraidh. I ndiaidh tuilleadh scrúdaithe ar an gcúrsa, tá an Oifig seo sásta go bhfuil na cumhachtaí a theastaíonn uaithi aici d’fhonn faisnéis agus doiciméid i gcásanna dá leithéidí a fháil. Faoi mar a thagraítear dó níos luaithe, i mí an Mheithimh 2010, d’fhoilsigh an Oifig seo a tuairim ar éifeacht na rialach iata trí chomhairle a thabhairt don Rialtas ar an mBille Sláinte (Leasú) 2010 atá molta.
- Scoileanna – I roinnt cásanna nuair a d’fhéadfadh réiteach a bheith indéanta, bhreithnigh an Oifig an claonadh freagairt a thabhairt trí ionadaíocht dlí nó trí argóint chomhsheasmhach leis na príonsabail dlí de ráiteas éilimh a shéanadh nó a chonspóid. Is féidir le glacadh scoileanna de chur chuige atá ró- dhleathaíocht deireadh a chur leis an bhféidearthacht bealach nach bhfuil chomh cuimsitheach nó chomh sáraíoch a fháil ar réiteach ceiste.

Tá an Oifig seo den tuairim go gcailleann cineálacha cur chuige den chineál thuasluaite an deis don chomhlacht poiblí nó don scoil lena mbaineann a bpolasaithe agus nósanna imeachta a dhearbhu, a athbhreithniú nó a fhorbairt mura mbíonn a dteagmháil leis an Oifig seo chomh oscailte agus is féidir. Mar thoradh ar sin, d’fhéadfadh moill mhíchúí nó bac míchúí a bheith ann maidir leis an bpríomhfaisnéis riachtanach a fháil d’fhonn go gcinneadh an Oifig seo cé acu a raibh na gníomhartha riaracháin cothrom agus slán nó nach raibh.

Athbhreithnithe Inmheánach a Dhéanamh go héifeachtach

Baineann príomhchuspóir de chuid an Ombudsman do Leanaí le cleachtais agus nósanna imeachta níos meabhraithe agus atá riartha níos fearr a chur chun cinn agus teagmháil á déanamh le leanaí agus daoine óga nó le habhcóidí ar a son.

Go ginearálta, tá an Oifig den tuairim go dtugann an chuid is mó de chomhlachtaí poiblí, nuair a chuirtear an deis ar fáil dóibh ag an gcéim imscrúdaithe nó ar chuma eile, comhairle gur mhian leo machnamh gníomhach agus athbhreithniú a dhéanamh ar na ceistanna atá á n-ardú. Corruair, d’fhéadfadh freagairt dá leithéid bheith ina chuid de phróiseas athbhreithnithe atá ar siúl cheana, nó d’fhéadfadh sé go mbainfeadh sé leis an gceist nó an gcleachtas a ardaíodh a ionchorprú isteach i dtéarmaí athbhreithnithe mholta.

Cé go bhféadfadh an cur chuige seo a bheith tairbhiúil, tagann buairt chun cinn don Oifig seo maidir le cuspóir agus treoshuíomh athbhreithnithe dá leithéidí. I roinnt imscrúduithe nó scrúduithe a tugadh chun críche, rinneadh na moltaí agus na spreagthaí a rinne an Oifig seo a chomhshamlú isteach in athbhreithniú níos leithne de chleachtas a tharlóidh agus a chuirfear i gcrích ag dáta amach anseo. Bhí roinnt de na hathbhreithnithe seo neamhiata agus is é tuiscint na hOifige seo go bhfuil roinnt acu á leanúint ar aghaidh roinnt bliana ina dhiaidh sin. Go sonrach, thug an Roinn Oideachais freagairt ar mholtaí an OCO roinnt uaireanta trí iad a ionchorprú isteach in athbhreithnithe ar pholasaithe seachas gníomh sainiúil d’am a ghlacadh.

Go bunúsach baineann buairt na hOifige seo leis na fachtóirí seo a leanas:

- an méid ama a glacadh le hathbhreithnithe dá leithéidí a dhéanamh agus an ábharthacht láithreach agus iarmhairt fhéideartha don leanbh lena mbaineann;
- an t-easnamh cinnteachta i roinnt cásanna ón tús faoi aidhmeanna, chuspóir agus fhad sonraithe na n-athbhreithnithe;
- iarchur, críoch feithimh an athbhreithnithe, maidir le cinntí ba cheart a ghlacadh go réasúnta níos luaithe, nó ar bhonn eatramhach;
- próisis athbhreithnithe a bhféadfadh treoshuíomh luach ar airgead den chuid is mó a bheith acu, gan cothromaíocht fhollasach imleor i dtéarmaí dul i ngleic le drochéifeachtaí ar leanaí agus a dteaghligh i ndáil le rochtain ar sheirbhísí agus úsáid seirbhísí; agus
- an cruthú féideartha de shraith eile riaracháin, i bhfoirm próisis riaracháin nach bhfuil sainithe go himleor agus a bheidh faoi cheangal ama, laistigh de chomhlachtaí poiblí i gcúinsí ina bhféadfaí ardleibhéal riaracháin a lua mar chúis le drochéifeacht cosúil le moill.

Bíonn an tOmbudsman do Leanaí an-chúramach lena chinntiú go ndeantar moltaí a ndéanfaí i ndiaidh imscrúdaithe ar bhealach a sholáthródh sochar ní hamháin do leanbh a ndearnadh dochar dó/di, ach más féidir do gach leanbh agus gach abhcóide a oibríonn ar a son agus a bhfuil na córais riaracháin chéanna os a gcomhair.

Agus an Oifig ag leanúint d'fhreagairt a fháil ó chomhlacht poiblí ar mholadh, lorgóidh sí i gcónaí a fháil amach cá mhéad d'athbhreithniú foriomlán molta nó leanúnach a rachaidh i ngleic go díreach leis na ceisteanna a ardaíodh agus an dóigh a mbainfidh leanaí sochar astu sin. Tá gá leis an gcur chuige seo, nuair a bhreathnaíonn athbhreithniú molta ar na polasaithe agus na treoirlínte réamhbheithreacha, agus dá gcloífi leo siúd sa chéad áit bheadh sochar díreach acu ar an leanbh.

Féadfar sampla den chur chuige seo a léiriú trí athleanúint na hOifige ar fhreagairt FSS ar thoradh imscrúdaithe de chuid an OCO i ndáil le pleanáil agus an tacaíocht a chuirtear ar fáil do leanaí faoi chúram altrama ag a bhfuil riachtanais speisialta. Leag an fhreagairt a fuarthas an dóigh a ndéanfadh moltaí dá leithéidí fónamh do ghrúpa oibre a bhfuil sé d'aidhm acu torthaí dá leithéidí a chur i bhfeidhm agus iad a threorú agus cuireadh amlíne ar fáil don mhéid sin.

Spreag an bhuairet maidir le sochar inláimhsithe agus tráthúil athbhreithnithe dá leithéidí an Oifige seo lena fháil amach cén dóigh a gcuirfeadh an t-athbhreithniú feabhas ar shaolta na leanaí lena mbaineann agus cén dóigh a gcuideodh sé leis na habhcóidí sin, cé acu gairmiúla nó eile, a oibríonn ar a son.

Leanann an Oifig seo de gharmhonatóireacht a dhéanamh ar na cúrsaí seo d'fhonn iarmhairt na n-athbhreithnithe inmheánacha a gcuireann comhlachtaí poiblí tús leo ar an bhforáil luath um shásamh a thomhas le drochéifeachtaí gníomhartha ar leanaí a mhaolú mar a shaináithnítear iad le linn imscrúduithe.

Feidhmeannacht na Seirbhíse Sláinte – Éagsúlacht Gheografach i Soláthar Seirbhíse.

Fuair an Oifig roinnt gearán inar chuir na gearánaigh buarthaí in iúl go bhfuil ceisteanna i ndáil le héagsúlacht gheografach i soláthar seirbhíse FSS. Tháinig difríochtaí i riarachán scéimeanna agus seachadadh seirbhísí ag FFS ar bhonn náisiúnta chun cinn le linn imscrúduithe chomh maith. Baineann sé seo le héagsúlacht ar fud limistéir Oifig Sláinte Áitiúil laistigh den réigiún FSS céanna nó éagsúlachtaí ar fud réigiúin FSS maidir leis an méid seo a leanas:

- rochtain ar sheirbhísí teiripeacha cosúil le Síciatracht do Leanaí agus d'Ógánaigh (lena n-áirítear seirbhísí le haghaidh atreoruithe neamhéigeandála agus seirbhísí do leanaí le huathachas), Teiripe Urlabhra agus Teanga, Teiripe Shaothair, Fisiteiripe, agus Síceolaíocht;
- na próisis riaracháin a leantar i ndáil le hiarratas a dhéanamh ar scéimeanna áirithe; agus
- struchtúr agus formáid an tseachadta seirbhíse, mar shampla, tá braistint agus taithí ag roinnt tuismitheoirí maidir le neamhchothroime i ndáil le hacmhainní a sholáthar, go háirithe maidir le tacaí sláinte a bhaineann le scoileanna agus gur féidir éagsúlacht a bheith in amanna feithimh do sheirbhísí.

D'fhéadfadh neamhábalacht rochtain thráthúil a fháil ar thacaí oideachais sa chás ina dteastaíonn go ndéantar réamh-mheasúnuithe sláinte gairmiúla atá faoi réir liostaí feithimh fada nó srianta acmhainní iad féin a bheith mar thoradh neamhbheartaithe ar an staid seo.

Aithníonn an Oifig seo go bhfuil srianta suntasacha ar na hacmhainní atá ar fáil le freastal ar éileamh na seirbhísí poiblí a thagann ó pholasaí an Rialtais d'fhonn aghaidh a thabhairt ar airgeadas poiblí. Mar sin féin, is féidir caighdeán agus dea-chleachtais riaracháin a choinneáil agus tá sé tábhachtach a chinntiú go ndéantar acmhainní ganna a sheachadadh ar bhealach a meastar cothrom agus réasúnta. Ní mór don Fheidhmeannacht cásanna ina bhféadfadh teorainneacha riaracháin laistigh de FSS difríochtaí suntasacha a thabhairt chun cinn maidir le rochtain ar sheirbhísí agus infhaighteacht seirbhísí a shainaithe agus a phlé go córasach.

Moilleanna i Soláthar Socrúcháin ar Aghaidh do Leanaí agus do Dhaoine Óga

Fuair an Oifig roinnt gearán maidir le moilleanna socrúcháin oiriúnacha ar aghaidh a fháil do leanaí agus do dhaoine óga i dtimpeallachtaí ospidéil. Bhain sé seo le gearáin i ndáil le moilleanna socrúcháin oiriúnacha ar son leanaí a d'fhan san ospidéal a fháil de bharr moilleanna pacáistí tacaíochta um chúram baile nó socrúcháin oiriúnacha ar aghaidh a fháil.

Bhain cásanna dá leithéidí le leanaí agus daoine óga a d'fhan i socrúcháin faoinar mheas gairmithe nach iad an socrúchán is oiriúnaí d'fhonn freastal ar a riachtanais. I gcás amháin, d'fhan leanbh a bhí bliain d'aois san ospidéal ar feadh 7 mí breise, ag feitheamh seirbhísí pobalbhunaithe riachtanacha le haghaidh scaoileadh abhaile, cé go raibh na tuismitheoirí ag iarraidh go dtiocfadh an leanbh ar ais abhaile. Tharla ceist cosúil leis seo i ndáil le haosach seacht mbliana déag a bhí faoi dhian-mhíchumas intleachta a d'fhan san ospidéal ar feadh 6 mhí de bharr deacrachtaí socrúcháin cónaithe oiriúnach a fháil, cé go raibh sé réidh le

scaoileadh abhaile. Sa dá chás mhol na tuismitheoirí go raibh sé de thuairim gairmithe leighis nár raibh cóireáil ospidéal de dhíth ar na leanaí agus d'áitigh na tuismitheoirí go raibh éifeacht dhiúltach ag an moill seo scaoileadh abhaile ón ospidéal ar a leanaí agus ar a dteaghlaigh.

Tá an chuma ann go bhféadfadh sé gur chuir breithnithe buiséid inmheánacha agus deacrachtaí socrúcháin oiriúnacha ar aghaidh a fháil leis an moill an staid a réiteach i gcuid de na cásanna seo. Ardaíonn sé seo buarthaí i ndáil leis an iarmhairt ar leanaí agus ar dhaoine óga nuair a bhíonn moill den chineál seo ann agus d'fhéadfadh leanaí agus daoine óga tréimhse shuntasach ama a chaitheamh i socrúchán mí-oiriúnach dá bharr seo.

Údarás i ndáil leis an gComhairle Náisiúnta um Oideachas Speisialta

Le linn 2010, bunaithe ar chomhairle dhlíthiúil a lorgaíodh agus a fuarthas maidir lena sainchúram imscrúdaithe, chuir an OCO stop le himscrúdú ar ghearán faoi ghníomhartha na Comhairle Náisiúnta um Oideachas Speisialta (CNOS) ar feitheamh ordú á dhéanamh ag an Rialtas, mar a fhoráiltear dó faoi Acht 2002, d'fhonn an Chomhairle a chuimsiú go sainráite laistigh dá sainchúram gearán agus imscrúdaithe. Admhaíonn an Oifig comhaontú an CNOS don ghníomhaíocht mholta seo. I mí na Samhna 2010, scríobh an tOmbudsman do Leanaí chuig an Aire Sláinte agus Leanaí ag iarraidh go n-eagrófaí an t-ordú riachtanach a dhéanamh go luath.

Chomhaontaigh an Oifig agus an CNOS, próiseas eatramhach trína dtabharfaí na buarthaí a tugadh chuig an Oifig ar aird dhíreach an CNOS le haghaidh freagairt a fháil. Scríobh an Oifig chuig na gearánaigh ar fad ar bhain an cinneadh seo leo le hinsint dóibh faoi.

Ba chóir a thabhairt faoi deara go leanann an Oifig d'fhorálacha reachtúla alt 7 d'Acht 2002 a úsáid d'fhonn comhlachtaí poiblí a spreagadh chun polasaithe, cleachtais agus nósanna imeachta atá deartha chun cearta agus leas leanaí a chur chun cinn a fhorbairt agus chun ceisteanna agus buarthaí a bhaineann leis seo a thabhairt chun suntais. Cuimsíonn an obair seo aghaidh a thabhairt ar cheisteanna a bhaineann le hoideachas speisialta. Faigheann an Oifig an-chuidiú maidir leis seo ón rannpháirtíocht dhíreach a thagann ón teagmháil a fhaigheann sí ó leanaí, tuismitheoirí, chaomhnóirí, agus ghairmithe nó adhcóidí eile a ghníomhaíonn ar a son, d'fhonn ceisteanna imní atá acu a thabhairt chun suntais.

Ceisteanna Inimirce

Fuair an Oifig roinnt gearán ar son leanaí náisiúnta neamh-Éireannacha a bhain leis na ceisteanna a bhaineann le soláthar seirbhíse agus leis an bpróiseas tearmainn agus inimirce. Nuair a bhaineann ceisteanna a ardaítear le soláthar oideachais agus sláinte is féidir leis an Oifig imscrúdú a dhéanamh ag brath ar nádúr faoi leith an ghearáin. Tá bac ar an Oifig, áfach, ó imscrúdú a dhéanamh ar ghearáin faoi riarachán dlí a bhaineann le tearmann agus inimirce, eadóirseacht nó saoránacht. Sin ráite, is ábhar imní faoi leith é na dúshláin agus na deacrachtaí atá os comhair an ghrúpa leochailigh seo de leanaí agus dhaoine óga dealaithe don Oifig seo ag cur san áireamh a tiomantas cearta agus leas leanaí agus daoine óga a chur chun cinn, is cuma cé acu Éireannaigh nó náisiúnaigh neamh-Éireannacha iad. Tá sé tábhachtach, de bhrí sin, na ceisteanna a ardaítear leis an Oifig maidir lena dtaithí ar an méid seo a leanas a thabhairt chun suntais:

- rochtain ar oideachas, (a bhaineann le fad cónaitheachta sa tír);
- measúnú ar aois agus an próiseas ina diaidh sin;
- rochtain ar shiblí nuaire a chuirtear leanaí i gcóiríocht dhifriúil agus i bpáirteanna difriúla den tír b'fhéidir;
- na himpleachtaí a bhaineann le gan aitheantas foirmiúil a bheith acu; agus
- iarratais ar lorg tearmainn agus dídeanaithe – an fad ama atá i gceist leis an bpróiseas agus an t-easpa cumarsáide i ndáil le cur chun cinn a n-iarratas.

Tháinig a lán de na ceisteanna seo chun cinn in obair an OCO chomh maith le leanaí dealaithe ag lorg tearmainn, mar a leagadh amach níos luaithe. Is é seo réimse ina leanfaidh an OCO de mhonatóireacht a dhéanamh air agus breathnóidh sí ar bhealaí eile laistigh dá cumhachtaí reachtúla le hathrú a chur chun cinn a rachaidh chun sochair an linbh agus daoine óga lena mbaineann.

Cásobair

Imscrúdú Féintola, Náisiúnta Córasach

Foráil an tAcht um an Ombudsman do Leanaí 2002 gur féidir leis an Ombudsman do Leanaí tús a chur le himscrúdú as a treoir féin nuair a bhíonn an chuma ann go bhfuil gá le himscrúdú ag féachaint do na cúinsí agus gan a bheith de riachtanas go bhfuarthas gearán faoi leith. Tá imscrúduithe féintola go háirithe úsáideach nuair nach mbíonn sé go dóchúil go ndéanfadh leanaí nó teaghlaigh a mbeadh fadhb acu gearán a dhéanamh nó nuair a bhíonn sé soiléir go bhfuil ceisteanna ann a bhaineann le roinnt mhór leanaí. Tugann sé an chumhacht don Ombudsman do Leanaí imscrúduithe córasacha a dhéanamh leis an acmhainneacht athrú níos leithne a spreagadh sa chóras riaracháin a rachadh chun leasa níos mó ná leanbh aonair amháin.

Imscrúdú Children First

I mí na Samhna 2008, chuir an tOmbudsman do Leanaí tús le himscrúdú as a treoir féin ar Children First: National Guidelines for the Protection and Welfare of Children, a dhírigh ar ghníomhartha riaracháin FSS i dtéarmaí cur i bhfeidhm agus Oifig na Roinne Sláinte agus Leanaí de chuid an Aire Leanaí agus Gnóthaí Óige (OMCYA) de barr a sainchúraim monatóireacht a dhéanamh ar chur i bhfeidhm na dtreoirlínte. Bhí sé seo bunaithe ar:

- na buarthaí tromchúiseacha a tháinig as toradh athbhreithniú an OMCYA ar Children First a foilsíodh i mí iúil 2008; agus
- faisnéis a tháinig ar aird an OCO le gairid a léirigh nach rabhthas ag cur Children First i bhfeidhm go hiomlán.

Ba é seo an chéad imscrúdú córasach a rinne an tOmbudsman do Leanaí agus trí shainiú aithníonn sé an acmhainneacht atá ag an Ombudsman do Leanaí athrú níos leithne a spreagadh sa chóras riaracháin a rachadh chun leasa níos mó ná leanbh aonair amháin.

Cuireadh tuarascáil imscrúdaithe deiridh i gcrích i mí Aibreáin 2010 agus foilsíodh í ina dhiaidh sin. Tá cuid de na conclúidí a fuarthas as dearfach. Go sonrach, aithníodh go ndearnadh iarrachtaí suntasacha ag amanna éagsúla ó bhí 1999 ann maidir le Children First a chur i bhfeidhm. Tá cuid de na conclúidí diúltach, áfach, agus fuarthas 11 cásanna de dhroch-riarachán, as a rinne an OCO 22 moladh.

I measc na bpríomhbhuarthaí a fuarthas bhí:

- an cliseadh meicníochtaí oiriúnacha a chur i bhfeidhm don chur i bhfeidhm idirghníomhaireachta Children First a bhrú ar aghaidh ag an Roinn Sláinte agus Leanaí ó 2003 suas go dtí 2008;
- ní dhearnadh go leor iarrachta cur i bhfeidhm Children First a bhrú ar aghaidh laistigh de FSS go dtí gur bunaíodh an tascfhórsa i mí Feabhra 2009;
- theip ar Bhoird Sláinte fadhbanna a tháinig chun cinn maidir le Children First a réiteach lena n-áirítear cur i bhfeidhm athraitheach;
- theip ar FSS dearbhú cáilíochta cuí a chur i bhfeidhm trí iniúchadh inmheánach ar cháschomhaid;
- theip ar an Athbhreithniú Leorgachta 2008 a rinne FSS cinneadh leorgachta a chinntiú ar bhealach bríoch ar bith i ngach réimse feidhmiúil;
- theip ar an OMCYA a bheith trédhearcach i ndíospóid an caidrimh tionscail a bhain le cur i bhfeidhm Children First, ina Athbhreithniú ar Children First a foilsíodh in 2008; agus
- bhí easpa soiléire agus comhsheasmhachta ann i ndáil le príomhréimsí Children First lena n-áirítear nósanna imeachta áitiúla, sainithe ar mhí-úsáid; buarthaí faoin mbonn le haghaidh mí-úsáid leanaí a thuairisciú; teip cur i bhfeidhm bileoga agus fógraí comhghníomhaíochta a chinntiú leis na Gardaí agus teip rochtain sheachtrach 24 uair an chloig ar an gCóras Fógartha um Chosaint Leanaí a chinntiú.

Tháinig deacracht faoi leith leis an gcur i bhfeidhm chun cinn i roinnt limistéar sa tír i ndáil le buarthaí arna ndéanamh ag an gceardchumann IMPACT agus a bhail maidir leis an bpáipéarachas breise a bhí de dhíth do Children First. Cinneadh san imscrúdú go raibh ordú ó IMPACT nó comhaontú idir IMPACT agus iar-Údarás Réigiúnda Sláinte an Oirthir gan Children First a chur i bhfeidhm gan aontú IMPACT agus go raibh sé seo fós i bhfeidhm ag tráth an imscrúdaithe. Chiollaigh sé seo i ngníomh nach raibh a lán den pháipéarachas a bhí de dhíth do Children First críochnaithe i gcuid mhaith de réigiún iar-Údarás Réigiúnda Sláinte an Oirthir. In easnamh cur i bhfeidhm comhsheasmach de Children First, bhí ilíocht de nósanna imeachta um chosaint leanaí i bhfeidhm sna limistéir lena mbaineann.

Chinn an OCO nár tugadh tús áite do chosaint leanaí ag amanna le linn na tréimhse ina raibh seirbhísí sláinte agus sóisialta á leasú. Go sonrach, cailleadh an móiminteam i ndáil le cur i bhfeidhm idir 2003 – 2008, suas go dtí le gairid. Ó lainseáladh an t-imscrúdú thionscain FSS roinnt tionscnamh ag a bhfuil acmhainneacht dhearfach.

Bhain na 22 moladh a rinneadh le:

- go mbuailfidh an grúpa ardleibhéal a bhunaigh an OMCYA le chéile leis na ceisteanna ar fad ar pholasaí idirghníomhaireachta amuigh a bhaineann le Children First a réiteach;
- feabhas a dhéanamh ar cheisteanna agus oibriú polasaí idirghníomhaireachta;
- iniúchadh ar obair cosanta leanaí ag Cigireacht na Seirbhísí Sóisialta lena n-áirítear scrúdú ar cháschomhaid agus comhiniúchadh leis an gcomhlacht Gardaí ábhartha i ndáil le Fógraí na nGardaí, comhoibriú na nGardaí/FSS agus cruinnithe straitéise a thionól;
- go ndéanfar iarrachtaí leis na ceisteanna caidreamh tionscail amuigh a réiteach;
- Athbhreithniú ar ról Bainisteoir Cúram Leanaí, a chuimseoidh an cheist ar rochtain ar fhaisnéis dóibh;
- cur i bhfeidhm de réir a chéile de sheirbhísí Lasmuigh de Ghnáthuaireanta ar fud an Stáit;
- go mbreathnófar ar Chóras Fógartha um Chosaint Leanaí a chruthú;
- go leagfaí amach go follasach go mbeadh feidhm ag na treoirlínte Children First leasaithe maidir le séipéil;
- go mbreathnófar ar sheirbhís cosanta leanaí tiomanta sa Gharda Síochána;
- go mbunófar comhstruchtúir idirchaidrimh idir FSS agus an Garda Síochána i ngach réimse ina bhfuil siad amuigh;
- feabhas a chur ar choinneáil taifead agus é sin a chur i bhfeidhm ag an SSI;
- prótacail ar aistriú comhad le hiniúchadh chomh maith;
- FSS le hoiliúint a sholáthar do ghairmithe maidir lena ndualgas mí-úsáid a thuairisciú, lena n-áirítear cásanna iardhearcacha;
- Gach céim riachtanach a ghlacadh lena chinntiú go dtabharfar liosta de chiontóirí gnéis ciontaithe sa cheantar do gach Oifig Sláinte Oifigiúil sa dóigh go mbeidh sé ábalta an riosca do leanbh ar bith a mheas; agus
- an gá le treoir ar roinnt faisnéise agus cosaint sonraí a chur ar fáil, nár cheart feitheamh ar reachtaíocht ar bith atá ag teacht ar an gceist.

Braitheadh go raibh Athbhreithniú Straitéiseach ar Sheachadadh agus Bhainistíocht seirbhísí Cosanta Leanaí ar siúl ag FSS ag an am agus maidir leis seo mhol an OCO gur cheart breathnú an bhfuil sé níos fearr seirbhísí cosanta leanaí a sheachadadh laistigh de chomhthéacs FSS, agus más amhlaidh. an dóigh lena cinntiú nach gcailltear fócas air de bharr buarthaí níos leithne faoi sheirbhísí sláinte.

Rinne an OCO idirchaidreamh le FSS Náisiúnta agus an OMCYA i ndáil leis na moltaí a rinneadh agus cuireann siad fáilte roimh na freagairtí dearfacha a cuireadh ar fáil. Cinneadh athbhreithniú a dhéanamh ar an dul chun cinn maidir leis na moltaí 12 mhí i ndiaidh thuarascáil an imscrúdaithe, agus mar sin beidh an Oifig ag plé an chúrsa seo arís le linn 2011.

Fuair an OCO freagairt dhearfach ón nGarda Síochána i ndáil leis na moltaí agus bhuail sí le Cigireacht an Gharda Síochána.

Rinneadh plé suntasach maidir leis na ceisteanna a ardaíodh le linn an imscrúdaithe sa dá Theach de chuid Thithe an Oireachtais. Bunaíodh fochoiste de Chomhchoiste an Oireachtais ar Shláinte agus Leanaí d'fhonn aghaidh a thabhairt ar na moltaí ó roinnt tuarascálacha a chur i bhfeidhm, lena n-áirítear imscrúdú an OCO.

Cás-Staidéir

Is ionann na cás-staidéir agus sampla den obair a rinne an Oifig le linn na bliana. Tá sé beartaithe roinnt imscrúduithe a fhoilsiú i bhfoirm níos mionsonraithe in iris choimriúcháin de chásanna le linn 2011. Is é an cuspóir nó na ceisteanna a ardaíodh sna cásanna a leagan amach i gcomhthéacs an CRC agus ionstraimí eile um chearta an duine a chomhlíonadh.

Tithíocht

Cás-Staidéir 1

Rinne tuismitheoirí linbh óig ag a bhfuil riachtanais speisialta teagmháil leis an Ombudsman do Leanaí le gearán a dhéanamh faoi oiriúnacht an tí údaráis áitiúil a bhí siad ann maidir le freastal ar riachtanais leighis a linbh, agus faoin mhoill a dteaghlach a aistriú go dtí tithíocht níos oiriúnaí. Bhí imní ar an teaghlach go raibh an leanbh i mbaol é féin a ghortú de bharr leagan amach a thí reatha. Thacaigh gairmí leighis leis an imní seo, agus thug an gairmí comhairle don Údarás Áitiúil gur theastaigh foirgneamh a bhí oiriúnaithe go speisialta d'fhonn dul i ngleic leis na riachtanais sláinte agus sábháilteachta don leanbh.

Le linn imscrúdú an OCO ar an ngearán tugann roinnt ceisteanna chun cinn:

- Bhí an teaghlach ag ardú buarthaí faoi oiriúnacht an tí reatha don leanbh ó bhí 2003 ann. Níor tugadh aghaidh ar na buarthaí seo nuair a tugadh an gearán chuig an OCO.
- Rinne an tÚdarás Áitiúil roinnt oiriúnuithe ar an gcóiríocht mar bheart eatramhach ach ní raibh sé críochnaithe ar fad.
- Dréachtaíodh pleananna in 2007 le haghaidh maoin shaincheaptha nár cuireadh ar aghaidh.

Chuir Oifig an Ombudsman do Leanaí buarthaí an teaghlaigh faoi bhráid an Údaráis Áitiúil agus d'iarr siad go ndéanfaí meicníochtaí sásaimh áitiúla a scrúdú.

I ndiaidh na hidirghabhála seo, chuir an tÚdarás Áitiúil in iúl don OCO gur shainaithe siad maoin oiriúnach a d'fheadfaí a leathnú le freastal ar riachtanais an duine óig. Bhí na gearánaigh sásta leis an sásamh a thairg an tÚdarás Áitiúil.

Chuir an Oifig seo an gá le cumarsáid shoiléir a chur ar fáil don teaghlach agus dá n-abhcóidí ar bhfáth an Údaráis go dtí go mbogfaidh an teaghlach agus an leanbh isteach ina dteach úr.

Cás-Staidéar 2

Rinne tuismitheoir linbh óig ag a bhfuil riachtanais speisialta gearán leis an OCO faoi mhoill a dteach a shíneadh, a faomhadh faoi Dheontas Oiriúnaithe an Údarás Áitiúil do Dhaoine faoi Mhíchumas.

Ar imscrúdú a dhéanamh, shainaithin Oifig an Ombudsman do Leanaí go raibh an chuma ann nach raibh tuiscint idir ag an Údarás Áitiúil agus ag an tuismitheoir mar an gcéanna maidir leis an obair shínidh a aontaíodh agus teorainneacha ar an gcineál d'obair shínidh a cheadaítear faoin Deontas do Dhaoine faoi Mhíchumas.

Ghlac an tÚdarás Áitiúil le dearcadh an OCO faoin easpa cumarsáide leis an tuismitheoir maidir le sonraíochtaí na hoibre a d'fhéadfaí a dhéanamh faoin scéim. D'aontaigh an tÚdarás Áitiúil freastal ar iarratais an tuismitheora agus bhog an duine óg isteach go dtí an síneadh tí. Mhol an Oifig go ndéanfadh an tÚdarás Áitiúil athbhreithniú ar na nósanna imeachta riaracháin a chruthaigh na deacrachtaí sa chás seo.

Cás-Staidéar 3

Rinneteaghlach gearán leis an OCO faoin mhoill ag an Údarás Áitiúil dul i ngleic lena mbuarthaí faoi leibhéal taise ina dteach agus faoi iompraíocht fhrithshóisialta sa chomharsanacht. D'iarr an teaghlach go ndéanfaí iad a aistriú go dtí cóiríocht eile.

Rinne an Oifig scrúdú ar an gcás agus fuair sí faisnéis ón Údarás Áitiúil maidir le dhá iniúchadh innealtóireachta ar an maoin agus rinneadh deisiúcháin ina ndiaidh. Dúirt an tÚdarás Áitiúil nach raibh sé ábalta dul i ngleic leis na buarthaí faoin iompraíocht fhrithshóisialta de bharr nach raibh go leor faisnéise faighte aige.

Chinn an OCO gur chloígh an tÚdarás Áitiúil lena pholasaí agus lena nósanna imeachta agus nach raibh fianaise ar bith ann go raibh míriarachán i gceist.

Sláinte

Cás-Staidéar 1

Fuair Oifig an Ombudsman do Leanaí gearán faoin easpa seirbhísí ortadóntacha a bhí ar fáil do leanbh faoi chúram altrama. Ardaíodh buarthaí chomh maith faoin dóigh a raibh coinní á mbainistiú agus faoin dóigh ar tuigeadh plé leis an leanbh agus an teaghlach altrama faoi chúinsí maolaitheacha, a bhí mar chúis anacara don leanbh agus d'fhéadfadh sé gur chuir sé seo moill ar an rochtain ar chúram. Shonraigh an gearánach fosta go raibh méid suntasach ama i gceist idir measúnú tosaigh iarratas an linbh ar chóireáil ortadóntach agus an chumarsáid don teaghlach faoin gcinneadh deiridh.

Óna himscrúdú ar an gcás shainaithin Oifig an Ombudsman do Leanaí nár chuir FSS soiléireacht ar fáil don leanbh agus don teaghlach altrama faoi na teidlíochtaí chun cóireáil ortadóntach do leanaí faoi chúram. Ná níor chuir FFS na himpleachtaí a bhaineann le cóireáil phríobháideach a d'fhoinsigh na tuismitheoirí altrama roimhe sin a lorg in iúl go soiléir don teaghlach.

Ghlac FSS torthaí an OCO go raibh easpa soiléireachta ann i ndáil le teidlíocht i leith cóireála; agus go raibh drochbhainistiú ar choinní agus cumarsáid neamhshoiléir ina chúis anacara don leanbh.

Shonraigh FSS nach raibh an leanbh i dteideal cóireála ortadóntaigh. I bhfianaise idirghabháil na hOifige, áfach, d'athbhreathnaigh FSS ar chúinsí faoi leith an cháis agus d'inis siad don OCO go gcuirfeadh siad sásamh ar fáil don leanbh.

D'inis FSS don OCO chomh maith go raibh sé bearthaithe acu leasú a dhéanamh ar a modhanna cumarsáide go ginearálta le cúramóirí altrama faoi chóireáil ortadóntach.

Cás-Staidéar 2

Rinne tuismitheoir gearán leis an OCO faoin easpa seirbhísí a bhí ar fáil dá mhac seacht mbliana d'aois faoi uathachas. Ní bhfuair an leanbh teiripe urlabhra agus teanga ar bith ar feadh tréimhse trí bliana i ndiaidh a dhiagnóise. Chuaigh sé faoi mheasúnú teiripe shaothair a mhol tuilleadh idirghabhála ach bhí sé fós ag fanacht le seirbhísí nuair a rinneadh an gearán.

Ag an am rinne an tuismitheoir téagmháil leis an OCO, bhí an leanbh ag fanacht le seirbhísí trí soláthar seirbhíse speisialaithe do leanaí faoi mhíchumais intleachta. Bhí amanna feithimh suntasacha suas le 4 bliana i gceist le haghaidh na seirbhísí seo.

Chinn an limistéar FSS lenár bhain gur cheart seirbhísí teiripeacha do leanaí faoi uathachas a chur ar fáil trí na seirbhísí meabhairshláinte áitiúla do leanaí agus d'ógánaigh. Ní raibh na hacmhainní ildisciplíneacha a theastaíonn ag na seirbhísí seo, áfach. Dá bharr seo lorgaíodh seirbhísí trí theiripe urlabhra agus teanga agus shíceolaíocht an phobail. Tháinig deacrachtaí chun cinn de bharr infhaighteacht soláthar foirne agus acmhainní mar aon le próisis inmheánacha atreoraithe agus riaracháin.

Agus imscrúdú déanta aici ar an gcás, fuair an Oifig roinnt torthaí ar ghníomhartha riaracháin FSS agus an tsoláthraí seirbhíse lenár bhain maidir le pleanáil agus seachadadh seirbhíse don leanbh.

I measc mholtaí an Ombudsman do Leanaí bhí:

- an gá le sásamh don leanbh ag lár an ghearáin lena n-áirítear rochtain ar sholáthar seirbhíse;
- an gá le feabhas ar phleanáil chúraim agus aistriú cásanna ar fud soláthraithe seirbhíse;
- athbhreithniú a dhéanamh ar dheacrachtaí liostaí feithimh agus straitéisí a fhorbairt ina leith; agus
- athbhreithniú a dhéanamh ar sholáthar seirbhíse do leanaí faoi uathachas sa réimse seo.

Le linn imscrúdú an OCO, d'fhorbairt FSS tionscnamh um liosta feithimh agus mar thoradh air sin fuair an leanbh na seirbhísí a bhí de dhíth air. Rinne FSS tiomantas go leanfaí de na seirbhísí seo go dtí go mbeadh fáil aige ar sheirbhísí ón soláthraí seirbhíse speisialaithe lena mbaineann.

Dhearbhaigh FSS don OCO chomh maith go ndéanfaí athbhreithniú ar sholáthar seirbhíse do leanaí a dhiagnóisítear le hauthachas de réir na Straitéise Náisiúnta um Uathachas agus an Chreat Náisiúnta maidir le Soláthar Seirbhísí Teiripe do Leanaí 6-18 mbliana d’aois.

Cás-Staidéar 3

Rinne tuismitheoir gearán leis an OCO faoi leibhéal na teiripe urlabhra agus teanga agus na teiripe saothair a bhí á chur ar fáil ag FSS dá mhac i ndiaidh dó scaoileadh abhaile as an ospidéal.

Le linn imscrúdú na hOifige ar an gcás thug FSS mionsonrú ar na seirbhísí a soláthraíodh ón liostú feithimh le haghaidh seirbhísí mí na Samhna roimhe sin, a chuimsigh bloc de theiripe urlabhra agus teanga a soláthraíodh idir mí an Mhárta agus mí an Mheithimh agus bhí bloc eile le soláthar i mí Iúil. Soláthraíodh bloc teiripe shaothair ó mhí Mheán Fómhair go dtí mí na Nollag, agus soláthraíodh clár baile ina dhiaidh, clár grúpa idir mí an Mhárta agus mí na Bealtaine le grúpa eile beartaithe don tSamhain le teacht.

Chinn an Oifig gur chloígh FSS lena pholasaí agus lena nósanna imeachta agus chinn sí nach raibh gá le tuilleadh imscrúdaithe.

Cás-Staidéar 4

Rinne tuismitheoirí altrama teagmháil le hOifig an Ombudsman do Leanaí agus rinne a leanbh altrama teagmháil léi ina dhiaidh sin i ndáil le plean FSS socrúchán an linbh a athrú. D’ardaigh an duine óg buarthaí faoin athrú socrúcháin agus an iarmhairt a bheadh aige sin ar a scoláireacht.

I ndiaidh idirghabháil an OCO sa chás seo, mhol FSS don Oifig gur buaileadh agus gur labhraíodh leis an leanbh agus ceapadh bainisteoir áitiúil le hathbhreithniú a dhéanamh ar an ngearán. Ina dhiaidh sin chuir FSS in iúl don OCO go ndearnadh céimeanna a ghlacadh le dul i ngleic leis an gceist ar theagmháil lena theaghlach agus lena theaghlach altrama, agus bhí monatóireacht á déanamh ar na buarthaí i ndáil lena oideachas agus bhíothas lena n-athbhreithniú agus bhainfeadh sé seo le dul i gcomhchomhairle leis. Bhí an Oifig sásta go raibh an FSS ag glacadh céimeanna le dul i ngleic le buarthaí an duine óig agus nach raibh gá le tuilleadh imscrúdaithe.

Cás-Staidéar 5

Rinne tuismitheoirí linbh a bhí 14 mhí d’aois agus atá faoi mhíchumas fisiceach teagmháil leis an Oifig le gearán a dhéanamh faoi nár eagraíodh dáta do mháinliacht a linbh, d’aineoinn go raibh gá leis an máinliacht sula mbeadh an leanbh 18 mí nó dá dteipfí air seo bheadh an leanbh ainimheach go buan.

I ndiaidh teagmhála ag an OCO, mhol an t-ospidéal go raibh deacrachtaí i gceist maidir le leithdháileadh amanna don obrádlann don chineál seo máinliachta de bharr méadaithe ar an líon atreoruithe dá leithéidí, le cois méadaithe ar an éileamh don obrádlann. Thuairiscigh an t-ospidéal na céimeanna a ghlacadh le haghaidh a thabhairt ar na deacrachtaí seo don Oifig.

Tá sé sonraithe gur tairgeadh coinne don leanbh lena mbaineann toisc go rabhthas ábalta am breise obrádlann a leithdháileadh go sonrach don chineál máinliachta a bhí i gceist.

D'ínis an t-ospidéal don OCO chomh maith go ndearnadh athbhreithniú ar an liosta feithimh don mháinliacht seo agus dúirt siad go bhfuair gach leanbh a bhí ar an liosta don mháinliacht seo dáta máinliachta sceidealaithe.

Chinn an Oifig nach raibh gá le tuilleadh imscrúdaithe ar an gcúrsa seo toisc gur chuir an t-ospidéal sásamh ar fáil don leanbh aonair agus gur glacadh céimeanna le haghaidh a thabhairt ar na deacrachtaí a tháinig chun cinn.

Cás-Staidéar 6

Rinne tuismitheoirí teagmháil leis an Oifig le buarthaí a ardú faoi na seirbhísí cúram faoisimh a bhí á soláthar ag FSS do leanbh faoi mhíchumas foghlama. Shonraigh na tuismitheoirí go raibh socrúchán cúram faoisimh FSS, cé go raibh sé suite sa chontae ina raibh an teaghlach ina gcónaí, os cionn 60 míle ar shiúl ó scoil speisialta an linbh i gcontae eile. Bhí drochéifeacht ag an eagrúchán a bhí i bhfeidhm ar an leanbh toisc go ndearna an t-am agus an fad a bhain leis na sainacmhainní a fháil sochar gach cinn a laghdú.

Bhí na tuismitheoirí ag iarraidh ar FSS go gcuirfí seirbhísí faoisimh ar fáil níos gaire don scoil. D'ínis na tuismitheoirí don OCO gur dhiúltaigh FSS an t-iaratas seo.

Nuair a rinne an Oifig imscrúdú maidir leis seo, dhealraigh sé go raibh an leanbh ag freastal ar scoil speisialta i gcontae amháin de bharr chineál ardspeisialaithe na gclár oideachais a dhéantar ansin, ach bhí an fachtóir cinntitheach maidir le suíomh sheirbhísí faoisimh FSS ar fáil don leanbh ag brath ar an gcontae ina raibh an teaghlach ina chónaí. Ba é limistéar FSS difriúil a bhí ag cur seirbhísí cúram faoisimh ar fáil sa limistéar ina raibh an scoil lonnaithe.

I ndiaidh idirghabháil an Ombudsman do Leanaí, bhuail foireann ón dá limistéar FSS leis na tuismitheoirí agus aontaíodh seirbhísí faoiseamh cúraim comhroinnte a chur ar fáil sa limistéar céanna ina raibh a scoil d'fhonn tacú lena oideachas leanúnach. Mhol FSS don Oifig go ndearnadh an moladh leasaithe de bharr gur faomhadh acmhainní breise. Thiomnaigh sé don OCO go n-oibreodh FSS sa dá cheantar go dlúth leis na tuismitheoirí maidir le socrúithe, lena n-áirítear an t-aistriú i soláthar an chúraim fhaoisimh

Chinn an Oifig nach raibh gá le tuilleadh idirghabhála toisc gur cuireadh sásamh ar fáil agus gur glacadh céimeanna le dul i ngleic leis na deacrachtaí a tháinig chun cinn.

Cás-Staidéar 7

Rinne duine óg a bhí faoi chúram gearán leis an Ombudsman do Leanaí faoin dóigh a rabhthas ag caitheamh leis nuair a rinne sé gearán faoi theagmhas tromchúiseach a tharla ina aonad cónaithe.

Cé gur réitíodh an timpiste féin ag leibhéal áitiúil i ndiaidh idirghabháil an Ombudsman do Leanaí, d'ínis an duine óg don OCO go raibh siad míshásta leis an bhfreagairt a fuarthas mar chreid siad go rabhthas ag cur an lochta orthusan as an teagmhas a tharla.

Léirigh an duine óg gurbh é an fáth a raibh siad ag iarraidh gearán a dhéanamh leis an OCO ná gur cheart go mbeadh an fhoireann ábhartha eolasach faoina bhfreagairt ar an gceist faoi

leith, go n-inseofaí don fhoireann gur ghníomhaigh siad go míchuí maidir leis sin agus gur chuir siad an locht ar an duine óg as an teagmhas ina dhiaidh sin.

Bhí an dóigh ar fhreagairt an fhoireann áitiúil mar a tharla leis an duine óg lena mbaineann, ina ábhar suime faoi leith don Ombudsman do Leanaí, maidir leis na bacainní atá ar dhaoine óga a mbuarthaí a thabhairt chucu siúd is mó atá ábalta cuidiú leo a thuiscint.

I ndiaidh rannpháirtíocht an OCO, gheall FSS athbhreithniú a dhéanamh lena chinntiú go ndéantar treoirlínte agus nósanna imeachta maidir le teagmhais a láimhseáil a leagan amach go soiléir. Chinn siad i bhfabhar an duine óig maidir leis an gceist a ardaíodh agus moladh go mbuailfeadh an fhoireann FSS ábhartha leis an duine óg d'fhonn na céimeanna a ghlac siad a mhíniú agus d'fhonn leithscéal iomlán a ghabháil leis.

Tá sé tábhachtach go mothaíonn leanaí faoi chúram muinín faoi rochtain a fháil ar nósanna imeachta gearán a thagann chun cinn ó ghníomhartha a bhfuil éifeacht dhíreach acu ar a saolta agus a bheith rannpháirteach iontu. I bhfianaise na freagartha dearfaí athbhreithniú gníomhach a dhéanamh ar an polasaithe agus na nósanna imeachta atá i bhfeidhm agus na gcéimeanna a ghlacadh d'fhonn foghlaim ón teagmhas a chur chun cinn, cinneadh nach raibh gá leis an Oifig tuilleadh gníomhaíochta a dhéanamh.

Oideachas

Cás-Staidéar 1

Rinne an Oifig seo imscrúdú ar ghearáin faoi dhiúltú iompar scoile ag an Roinn Oideachas agus Scileanna do dhuine óg toisc nach raibh an duine óg ag freastal ar a scoil is gaire. Mhol an gearánach go raibh cóuta rollaithe na scoile is gaire líonta agus dá bhrí sin ní raibh an duine óg ábalta rollú ansin agus dá réir sin, bhí ar an tuismitheoir an duine óg a chlárú sa dara scoile is gaire.

Rinne an OCO an fhaisnéis seo faoin easpa soláthair de agus/nó teidlíochta d'iompar scoile do leanaí nach raibh ábalta freastal ar an scoil is gaire dóibh de bharr ceisteanna acmhainne ag an scoil sin a chur faoi bhráid na Roinne Oideachais agus Scileanna.

Mar fhreagairt, mhol an Roinn Oideachais agus Scileanna d'Oifig an Ombudsman do Leanaí go raibh siad sa phróiseas maidir le polasaithe ar iompar scoile a leasú le dul i ngleic leis na ceisteanna a ardaíodh sa chás seo i ndáil le hacmhainn chóiríochta rollaithe.

Mhol an Roinn don Oifig chomh maith, agus iad ag feitheamh cheapadh an pholasaí leasaithe, go dtabharfaí iompar lámhaltais don duine óg sa chás, agus do dhaoine óga eile a bhí faoi chúinsí cosúil leis seo, chuig an dara scoile is gaire dá mbaile, ag aithint go deimhin gurb í seo an scoil is gaire ina raibh áiteanna ar fáil.

Cás-Staidéar 2

Rinne tuismitheoir gearán leis an Ombudsman do Leanaí maidir lena mac a bhí faoi uathachas, agus a bhí ag freastal ar aonad uathachais i scoil phríomhshrutha. Shonraigh an tuismitheoir go gcaithfeadh a mac a bhunoideachas a chur i gcrích i 7 mbliana san aonad uathachais éagosúil leis na leanaí a fhreastalaíonn ar an scoil phríomhshrutha a chuireann a dtimthriall bunoidreachais i gcrích in 8 mbliana. Bhí imní ar an tuismitheoir nach a leanbh réidh le meánoideachas a thosú agus nár chuir cinneadh na scoile leasanna an linbh san áireamh.

D'iarr an OCO faisnéis ón scoil faoin gcás seo lena n-áirítear polasaithe gaolmhara. D'fhreagair an Bord Bainistíochta ar an Oifig ag moladh don Oifig go raibh timthriall 7 mbliana á sholáthar i bpolasaí iontrála an aonaid uathachais. Mhol an Bord don OCO, áfach, go ndearna siad polasaí leasú d'fhonn an teorainn aoise a bhaineann leis an aonad uathachais a bhaint amach.

Dá bhrí sin, i ndiaidh idirghabháil an OCO, bhí an leanbh lena mbaineann i dteideal fanacht ar scoil agus an timthriall iomlán 8 mbliana de bhunoideachas a chríochnú.

Cás-Staidéar 3

Cuireadh gearán isteach ar son duine óig maidir le cinneadh na Roinne Oideachais agus Scileanna iompar bunscoile chuig an scoil ina raibh sé rollaithe, agus ar a raibh sé ag freastal le 18 mí anuas, a dhiúltú.

I ndiaidh scrúdaithe ar an gcás, chinn an OCO gur chloígh an Roinn Oideachais agus Scileanna le polasaí iompair na Scoile, toisc gur athraigh an duine óg lena mbaineann a sheoladh agus ní raibh sé ag freastal ar an scoil is gaire dó níos mó. Dá bhrí sin ní raibh an duine óg i dteideal iompair faoi théarmaí na scéime.

6

OBAIR RANNPHÁIRTÍOCHTA AGUS OIDEACHAIS IN 2010

Faoi alt 7 d’Acht 2002, tá oibleagáidí dearfacha ag an Oifig maidir le:

- polasaithe, nósanna imeachta agus cleachtais a chuireann cearta agus leas leanaí chun cinn a spreagadh;
- feasacht a spreagadh i measc bhaill an phobail, lena n-áirítear leanaí, ar chúrsaí a bhaineann le cearta agus leas leanaí;
- struchtúir chun comhchomhairle a dhéanamh le leanaí a bhunú; agus
- ceistanna a bhaineann le cearta agus leas leanaí agus atá ina n-ábhar imní do leanaí iad féin a thabhairt chun suntais.

Cuimsíonn cur chuige an OCO maidir leis na hoibleagáidí seo a chomhlíonadh a príomhfheidhmeanna reachtúla agus tá tiomantas do chultúr a fhorbairt ina dtugtar meas do chearta leanaí sa dlí, i bpolasaí agus i gcleachtas mar bhonn eolais aige. Glacann sé go leor ama cultúr dá leithéid a bhunú. Cuimsíonn obair an OCO maidir leis seo tuiscint ar chearta leanaí a fhorbairt mar aon le cinnteoirí a spreagadh agus dúshlán a chur orthu tús áite a thabhairt do na leasanna is fearr do leanaí agus a dtuairimí agus a mbuarthaí a chur san áireamh go cuí.

Le linn 2010, lean an Oifig dá hobair le héisteacht le tuairimí leanaí agus lena mbuarthaí a thabhairt chun suntais. Bhain cinneadh tábhachtach a rinne an OCO maidir leis seo in 2010 leis an bPainéal Comhairleach don Óige (YAP). In 2009, chuir dara YAP na hOifige, ina raibh os cionn fiche duine óg ó pháirteanna éagsúla d’Éirinn, a théarma dhá bhliain i gcrích. Tá forbairt dhinimiciúil déanta ar an Oifige óna bunú in 2004. Soláthraíodh do rannpháirtíocht leanaí agus cuireadh an rannpháirtíocht sin chun cinn agus sa chomhthéacs seo – bhí sé seo ina phróiseas foghlama agus leanfaidh sé de bheith ina phróiseas foghlama – agus rinne an OCO a chur chuige a fhorbairt agus a éagsúlú le dul i dteagmháil go díreach le leanaí agus le daoine óga. Ag cur staid agus obair fhorbartha an OCO, mar aon le forbairtí seachtracha san áireamh, chinn an Oifig gan buanphainéal leathanbhunaithe cosúil le YAP a bhunú in 2010. Ina áit sin, dhírigh an Oifig ar ghrúpaí comhairleacha sainfhócasaithe de leanaí a bhunú le páirt a ghlacadh i dtionscadail faoi leith. Le linn 2010, ba é fócas áirithe maidir leis seo ná an réimse de dhaoine óga i bhForas Naomh Pádraig. Trí thionscnaimh cosúil lena Clár Cuairteanna, lean an OCO de leanaí agus dhaoine óga d’aoiseanna éagsúla, agus a bhí ina gcónaí faoi chúinsí éagsúla a éascú, d’fhonn ábhar suime agus buartha a bhí acu a chur faoina bráid.

Clár Cuairteanna Scoile an OCO

Le linn 2010, thug na céadta leanaí agus daoine óga cuairt ar an OCO lena múinteoirí le páirt a ghlacadh i gceardlanna a bhí bunaithe ar ghníomhaíochtaí. Chomh maith le hobair an OCO a chur in aithne do leanaí agus do dhaoine óga agus iad a éascú le scrúdú a dhéanamh ar chúrsaí a bhaineann le cearta leanaí, is deis iad na ceardlanna seo do leanaí agus dhaoine óga a dtuairimí ar chúrsaí a théann i gcion orthu a chur in iúl chomh maith le ceisteanna is ábhar suime nó buartha dóibh a ardú. Mar a bhí i mblianta roimhe seo, roinn leanaí agus daoine óga a thug cuairt ar an OCO a n-eispéiris agus a bpeirspictíochtaí ar raon éagsúil de cheisteanna, lena n-áirítear oideachas, sláinte fhisiceach agus mheabhair, drugaí, an córas dlí agus ceartais, agus go n-éistodh daoine fásta leo agus go gcuirfeadh siad a dtuairimí san áireamh.

Tacaíocht a Thabhairt d'fheasacht agus Thuiscint ar Chearta Leanaí

Le 2010, d'fhorbair an Oifig ábhair acmhainn oideachais do mhúinteoirí lena n-úsáid i mbunscoileanna, iar-bhunscoileanna agus ionaid Fhor-rochtana. Cuideoidh na hábhair *What do you say?* le múinteoirí scrúdú a dhéanamh ar cheisteanna a bhaineann le cearta agus saolta leanaí in Éirinn le leanaí agus daoine óga i gcomthéacs theagasc agus fhoghlaim an churaclaim. Is iad seo a leanas na ceisteanna:

- Guth a bheith acu agus éisteacht leo;
- Teaghlach agus cúram;
- Sláinte agus rachmhas;
- Oideachas;
- Súgradh, caitheamh aimsire agus fóillíocht;
- Cuimsiú; agus
- Leanaí agus an Dlí.

Táirgeadh na hábhair i mBéarla agus i nGaeilge agus cuimsíonn siad ceithre lámhleabhar le haghaidh bunscoileanna agus lámhleabhar amháin le haghaidh iar-bhunscoileanna agus ionaid Fhor-rochtana. Bhain an obair ar na hábhair seo le comhoibriú le múinteoirí a d'oibrigh leis an OCO i dtosach ar an hábhair Big Ballot d'fhonn dhá cheacht úra agus bhreise a fhorbairt do gach ceann de na ceithre lámhleabhar. Chuimsigh sé roinnt de phóstaeir úra a fhorbairt chomh maith agus DVD nuashonraithe a tháirgeadh le cuidiú le múinteoirí ina gcuid oibre.

I mí Mheán Fómhair agus Dheireadh Fómhair 2010, spreag an Oifig feasacht ar na hábhair a bhí ar fáil i measc múinteoirí trí roinnt foilseachán ábhartha (m.sh. *InTouch*, *ASTIR* agus nuachtlitr *Gaelscoileanna*) agus láithreáin ghréasáin. Ag cur na freagartha dearfaí ar na hábhair ó mhúinteoirí a oibríonn ag bunleibhéal oideachais agus ag iar-bhunleibhéal oideachais san áireamh, chuir an OCO tús le socruithe maidir le cóip de na hábhair a éisiúint chuig gach bunscoil, gach iar-bhunscoil agus gach ionad For-rochtana sa tír. Tá sé beartaithe go dtacóidh na hábhair seo le hobair na mílte múinteoir agus go dtabharfaidh sé deis do na mílte eile leanaí agus duine óg a bhfeasacht agus a dtuiscint ar chúrsaí a bhaineann le cearta leanaí in Éirinn a fhorbairt.

Comhchomhairle le Daoine Óga i bhForas Naomh Pádraig

In 2010 chuir an OCO próiseas comhairliúcháin i gcrích le daoine óga 16 agus 17 mbliana d'aois ag Foras Naomh Pádraig, príosún dúnta le meánslándáil a reáchtáilann Seirbhís Príosún na hÉireann. Ba é cuspóir foriomlán an chomhairliúcháin seo ná cloisteáil go díreach ó dhaoine óga faoina n-eispéiris ar bheith faoi choimeád ag féachaint dá bpeirspictíochtaí ar an réimeas agus na coinníollacha sa phríosún. Ba é an sprioc a bhí ann ná go mbreathnódh bainistíocht Fhoras Naomh Pádraig, Seirbhís Príosún na hÉireann (IPS), agus lucht déanta polasaí go cuí ar a dtuairimí, agus a n-idéanna le haghaidh athraithe, ag leibhéal náisiúnta.

Chuir an Oifig sraith d'agallaimh ghrúpa i gcrích le daoine óga rannpháirteacha sa phríosún agus d'ullmhaigh sí tuarascáil ar thorthaí an chomhairliúcháin. Chuimseodh an tuarascáil seo, le foilsiú go luath in 2011, roinnt moltaí maidir le gníomhaíochtaí ón Ombudsman do Leanaí. Ina measc siúd bheadh moladh láidir gur cheart don Aire Sláinte agus Leanaí, le comhthoil ón Aire Dlí agus Cirt agus Athchóirithe Dlí, ordú a dhéanamh de réir Alt 11(2)(a) d'Acht 2002 chun cur ar chumas an OCO gearáin ó dhaoine óga faoi 18 mbliana atá faoi choimeád i bhForas Naomh Pádraig a láimhseáil.

Admhaíonn an tOmbudsman do Leanaí oscailteacht an IPS agus na foirne agus na bainistíochtaí i bhForas Naomh Pádraig maidir le hoibriú leis an Oifig agus an comhairliúchán seo á dhéanamh agus an tuarascáil á hullmhú. Cuireann an OCO fáilte roimh na hiarrachtaí atá déanta ag an IPS agus Foras Naomh Pádraig cheana mar fhreagairt ar mholtaí an Ombudsman do Leanaí.

Tá an Oifig ag tnúth le tuilleadh rannpháirtíochta cuidithe leis an dá pháirtí maidir leis seo. Cuimsíonn an rannpháirtíocht seo tionscnamh a thosaigh i ndeireadh 2010 agus a fhorbróidh ar mholadh sa tuarascáil maidir le hábhair úra faisnéise a fhorbairt do dhaoine óga atá faoi choimeád san Fhoras, in iarracht cumarsáid a dhéanamh le seirbhísí, réimeas agus rialacha an phríosúin ar bhealaí a dtuigeann siad.

Comhchomhairle le Daoine Óga ar Cheartas a Thacaíonn le Leanaí

Le linn na bliana, rinne an OCO comhchomhairle spriocdhírthe le leanaí agus daoine óga ar an gceist ar cheartas a thacaíonn le leanaí. Chuir an chomhchomhairle seo le tionscnamh de chuid Chomhairle na hEorpa faoi chlár *Building a Europe for and with Children* d'fhonn treoirlínte ar cheartas a thacaíonn le leanaí a chruthú agus d'fhonn tuairimí leanaí i mBallstáit a lorg i gcomhthéacs na treoirlínte seo a fhorbairt.

Chuaigh an OCO i gcomhchomhairle le ceithre ghrúpa leanaí agus daoine óga a raibh taithí roimh ré nó reatha acu ar an dlí agus ar an gcóras dlí in Éirinn. Áiríodh orthu daoine óga a bhí rannpháirteach i dTionscadal Athstíúrtha Garda, daoine óga a bhí faoi choimeád i bhForas Naomh Pádraig agus daoine óga a raibh taithí acu mar leanaí dealaithe ag lorg tearmainn in Éirinn.

Cuireadh tuarascáil ar thorthaí chomhchomhairle an OCO seo isteach chuig Comhairle na hEorpa agus is féidir iad a fheiceáil ar láithreán Gréasáin na hOifige www.oco.ie agus láithreán Gréasáin Chomhairle na hEorpa www.coe.int/children. Rinneadh na torthaí a chomhtháthú isteach i dtuarascáil ar na comhchomhairlí le leanaí a tionóladh i 25 tír.

I mí na Samhna 2010, ghlac an Coiste Airí de Chomhairle na hEorpa leis na Treoirlínte úra ar Cheartas a thacaíonn le Leanaí, agus is é an aidhm atá leo ná a chinntiú go dtugtar meas iomlán do chearta leanaí, lena n-áirítear a gcearta chun faisnéise, chun ionadaíochta, chun rannpháirtíochta, agus chun cosanta, agus laistigh de, chórais cheartais, lena n-áirítear in imeachtaí breithiúnacha mar aon le malairtí ar imeachtaí dá leithéidí.

Taighde do Leanaí agus le Leanaí

Taighde ar Oideachas le haghaidh Leanaí Faoi Chúram

I mí Mheán Fómhair 2010, choimisiúnaigh an OCO taighde ar oideachas le haghaidh leanaí faoi chúram de réir oibleagáidí reachtúla na hOifige faoi alt 7 d'Acht 2002 agus i bhfianaise buarthaí agus gearán a thug leanaí faoi chúram chuig an OCO nó a tugadh chuig an OCO ar a son, maidir le dúshlán a bhíonn os comhair leanaí faoi chúram altrama agus faoi chúram cónaithe i ndáil le rochtain a fháil ar oideachas nó a bheith rannpháirteach in oideachas. Tá an taighde á dhéanamh ag an Institiúid Taighde Eacnamaíochta agus Sóisialta agus an Ionad Taighde Leanaí, Coláiste na Tríonóide, Baile Átha Cliath d'Oifig an Ombudsman do Leanaí. Lena fhócas soiléir ar réitigh a fháil, tá sí mar aidhm ag an tionscadal um thaighde cáilíochtúil bearta nithiúla, praiticiúla a shainnaint a thabharfaidh tuilleadh tacaíochta do rochtain, rannpháirtíocht agus ghnóthú in oideachas do leanaí faoi chúram. Is éard atá i gceist leis an bpróiseas taighde ná athbhreithniú a dhéanamh ar na caighdeáin, polasaithe, nósanna imeachta, cleachtais agus tionscnaimh speisialta ábhartha ar bith in Éirinn agus i ndlínsí eile mar aon le taighde príomhúil le raon páirtithe leasmhara, lena n-áirítear leanaí agus daoine óga atá faoi chúram, nó a bhí faoi chúram. Táthar ag súil go mbeidh an taighde tugtha chun críche faoi mhí Mheán Fómhair 2011.

Gradam Staidéarachta do Thaighde

In 2009, lainseáil an tIonad Taighde Leanaí, Coláiste na Tríonóide, Baile Átha Cliath agus an tIonad Taighde Leanaí agus Teaghlach in Ollscoil na hÉireann, Gaillimh PhD Struchtúraithe úr i dTaighde Leanaí agus na hÓige. I gcomhpháirtíocht leis an dá ionad taighde agus an gclár PhD úr seo, bhunaigh an OCO staidéarachta úr le haghaidh taighde dochtúireachta ar chearta agus leas leanaí. I ndiaidh próiseas iarratais, bronnadh an chéad staidéarachta ar thaighdeoir a ndíríonn a thaighde dochtúireachta ar chearta chun éisteachta leanaí i dtimpeallacht bhunscoile. Cuimseoidh an taighde, a ghlacann cur chuige cáilíochtúil, taighde príomhúil ar roinnt de ghrúpa páirtithe leasmhara, lena n-áirítear leanaí. Cuireadh an taighde ar aghaidh in 2010.

Ombudsman for Children
Millennium House
52-56 Great Strand Street
Dublin 1.

Phone 01 865 6800
Complaint line 1800 20 20 40
Email oco@oco.ie
Web www.oco.ie

Ombudsman do Leanaí
Teach na Mílaoise
52-56 Sráid na Trá Mhór
Baile Átha Cliath 1.

Guthán 01 865 6800
Líne ghearáin 1800 20 20 40
R-phost oco@oco.ie
Gréasán www.oco.ie