

2007

Annual Report Tuarascáil Bhliantúil

an independent voice for children guth neamhspleách do leanaí

and young people agus do dhaoine óga

Hearing children

Annual Report of the Ombudsman for Children's Office
January 2007 - December 2007

This is the third Annual Report of the Ombudsman for Children.

It has been submitted to the Oireachtas pursuant to Section 13(7) of the Ombudsman for Children Act, 2002.

The report covers the period 1 January 2007 to 31 December 2007.

Emily Logan
Ombudsman for Children

Ombudsman for Children's Office
Millennium House
52-56 Great Strand Street
Dublin 1

Phone 01 865 6800
LoCall 1890 654 654
Email oco@oco.ie
Web www.oco.ie

Staff

Aoife Greene
Barbara Fowler
Bernard McDonald
Charles Reid
Deirdre O'Shea
Guy Mahon
Jane Boxberger
Karen McAuley
Leigh Snedker
Mánus de Barra
Marianne Cassidy
Mary Kearns
Nikki Gallagher
Sophie Magennis

YAP (Youth Advisory Panel) members

All of whom give their time and energy generously and on a voluntary basis.

Ahmed Ali
Aoife Cotter
Ben English
Cara Sanquest
Ciarán Nolan
Craig Dwyer
Hannah Gribbin
Inga Dalzell
Kim O'Shea
Leylah Mohammed
Lorna Sweetman
Méabh Kinsella
Michael (Mikey) Walsh
Mícheál Callaghan
Niall Fitzgerald
Nichola Moran
Patrick O'Sullivan
Pauline Farrelly
Róisín Reynolds
Saoirse Smith
Shauna Watson
Síona Cahill
Thomas Collins

contents

<i>1. The Role of the Office</i>	6
<i>2. Message from the Ombudsman for Children</i>	8
<i>3. Organisational Development</i>	14
- Human resources	15
- Strategic planning	15
- Financial control	16
<i>4. Complaints and Investigations</i>	18
- Distinct provisions	19
- Complaints and investigations as a constructive function	19
- Work to date	19
- Complaints	21
- Complainants	21
- Case studies	22
- Issues raised by parents, professionals and other advocates	25
- Family support	26
- Children with additional needs	27
- Complaints received from children	27
- Developing best practice	28
- Co-operation with other complaint-handling bodies	28
- Working with professionals	29
- Children and young people complaint-handling research	29
<i>5. Communications and Participation</i>	30
- Recruiting a new Youth Advisory Panel (YAP)	31
- The Big Ballot	33
- Developing and promoting best practice	35
<i>6. Policy and Legislation</i>	36
- The policy role of the Office	37
- Special Report to the Oireachtas	37
- Additional Ministerial requests for Advice	38
- Child Death Review	38
- Discrimination in school admissions policy	38
- Intellectual disability	39
- Children in detention	39
- Visits to detention centres	40
- Child protection	40
- Mosquito devices	41
- Criminal Law (Trafficking in Persons and Sexual Offences) Bill, 2006	41

<i>7. Proposed Constitutional Referendum</i>	42
- The background	43
- The Ombudsman for Children's view	43
<i>8. Research</i>	44
- Barriers to the Realisation of Children's Rights in Ireland	45
<i>9. International Work</i>	46
- ENOC	47
- BINOCC	49
- Contribution to international human rights mechanisms and events	49

01

the role of the office

The Ombudsman for Children promotes and safeguards the rights and welfare of children and young people up to eighteen years of age. The Ombudsman for Children is independent of Government and other civil society actors and is accountable to the Oireachtas. The main functions are:

- to provide an independent complaints handling service regarding public bodies;
- to promote children's rights, including through participation and communications activities;
- to monitor and review legislation concerning matters that relate to the rights and welfare of children;
- to advise any Minister on any matter relating to the rights and welfare of children; and
- to ensure that law, policy and practice meet the highest standards and obligations under the UN Convention on the Rights of the Child.

The Ombudsman for Children's Office (OCO) was established in April 2004 under primary legislation: the Ombudsman for Children Act, 2002.

Emily Logan assumed her post as Ireland's first Ombudsman for Children in April 2004.

02

message from the Ombudsman for Children



I am pleased to present to the Oireachtas my third annual report. Having commenced my position as Ombudsman for Children in April 2004, this reporting year, 2007, has been a busy and exciting time for the Office.

Last year I welcomed the proposal to hold a referendum on the Constitution and said it was essential that this opportunity be taken to establish the principle of the best interests of the child as a primary consideration in all decisions affecting children.

Having dealt with 1,710 complaints from parents and heard directly from thousands of children around the country, there are two key principles – ‘the best interests’, and children and young people’s participation - that continue to be consistently ignored for children and young people living in Ireland. In making decisions that affect children, the principle of **best interests** of the child is not always taken into account; in some instances the name or reputation of an organisation appears to come first. Children are often not asked their views or encouraged to **participate** when making decisions that can sometimes have a profound effect on their lives.

In order for the child’s best interests to be determined, it is important that the child be heard. I believe that these are two fundamental principles to improving the lives of many children in Ireland.

During 2007, we met with many professionals who have dedicated their careers working for, and on behalf of, children. Some have asked the OCO for advice, training or support in these endeavours. We also have direct experience of professionals working as advocates for children. Many education stakeholders including teachers' unions, professional networks and especially schools, made an important contribution to ensuring the success of our Big Ballot consultation and we are very grateful for all of their support and assistance.

Highlights for 2007

My Office played an active role in advising on legislation affecting children, the most significant being the proposed Constitutional amendment; we commissioned research to develop an understanding of the obstacles to children's rights in Ireland which would guide our work; almost 75,000 children voted on the issues they want us to prioritise; we worked with 781 families on complaints; we developed our first strategic plan 2007-2010; and we assumed all financial and accounting operations.

Independent complaints handling mandate

This year has seen a 43% increase in the complaints function. In 2007, we received 741 complaints; 74% of complainants are parents or extended family members representing their children. The nature of the complaints has changed in terms of complexity.

The complaints centre on public sector service provision for children; this year however the complaints have presented more complex issues up to and including child deaths.

While many of these issues have been raised and resolved on an individual basis, there are significant areas of concern which have wider implications. These are issues that my team and I will explore further:

- the mechanisms used in the public sector to deal with inappropriate behaviours towards children;
- the protection of all children in State care;
- support to parents and families of children with chronic illness and or disabilities.

Promoting children's rights and highlighting their concerns

This has been our best year yet in terms of direct contact with children and young people around the country. Over 200 children and young people came to meet us at our offices in Dublin.

I spent the month of October out and about around the country where I met with 5,000 children and young people in their counties. Having visited all of the detention centres, in November I also met with young people in St Patrick's institution. In recruiting our new team of young advisors, Youth Advisory Panel (YAP), we met with 210 children and young people nationally. From this recruitment process, we now have a new YAP with 25 young people who work with us on a voluntary basis.

Through the Big Ballot consultation we heard the views of tens of thousands of children and young people. 150 children and young people helped to determine the issues that children and young people would vote on in the Big Ballot. This group included children with specific experiences – children with a disability, members of the Travelling community, separated children and children in care. Almost 75,000 children voted in our Big Ballot project aimed at giving children a say in the work of our Office. They voted for family and care; play and recreation; having a voice; health; and education as the five priority issues.

I am pleased to report an increasing awareness of children's rights and in the work of the Office amongst members of the public including children.

Our policy and legislation mandate

I regularly receive requests from Ministers to provide advice on forthcoming legislation in accordance with the Ombudsman for Children Act, 2002. I can also present special reports to the Oireachtas of my own volition. In 2007, in response to requests from the Minister for Children, I provided advice on the Twenty Eighth Amendment to the Constitution Bill relating to children's rights, and I submitted a Special Report to the Oireachtas outlining my views on the proposed changes. I was also invited to comment on the Criminal Law (Trafficking in Persons and Sexual Offences) Bill, 2006.

My Office also commenced work on the development of public policy in the area of child death.

Significant advances were made in fulfilling my mandate to co-operate with Ombudspersons in other states. In September I was appointed as forthcoming Chair of the European Network of Ombudspersons for Children, a network of Ombudspersons for Children across 24 Council of Europe member states. In November, Thomas Hammarberg, Commissioner for Human Rights, the Council of Europe visited our Office where we presented our work. In December, I was invited by UNICEF to participate in the second meeting of a global network of Ombudspersons for Children.

Judicial challenge

In 2007, my Office was subject to a judicial challenge for the first time. In early November, shortly before the Big Ballot count event, an application was made by an individual to the High Court for leave to seek an injunction to stop the Big Ballot count event taking place as the individual believed I had exceeded my authority in consulting directly with children about their rights. At a hearing before the High Court, the Court decided that there were no grounds for the person's application to go ahead. The Court held that I was acting within my authority in running the Big Ballot consultation and in promoting the Rights of the Child in materials distributed to schools throughout the county. The Court's decision underlined the clear mandate that my Office has to engage directly with children and young people about their rights.

Staffing

A significant amount of work was achieved by my staff in 2007. I was ambitious in my programme for this year and wish to acknowledge and thank them for their loyalty, good humour, and commitment to our work for 2007. I am fortunate to work with such a talented, and energetic group of people.

The staffing complement of the Office is 15, including myself. This staffing level was determined in 2002, long before the Office was established. While I accept that the Office was an unknown quantity at that time, it is now clear that there is a demand for the specialist work of the Office. I have submitted a business case for additional resources to the Department of Health and await a response to my submission.

While I have no clear indication at this time as to the outcome, I wish to raise the matter as one of concern regarding my ability to fulfil my statutory mandate, in particular in relation to the Complaints and Investigation function, into the future if the staffing resource of the Office is not increased. I intend to seek guidance and support from the Oireachtas in this regard.

Peter Clarke

Sadly, my colleague, Commissioner for Children in Wales, Peter Clarke, passed away in early 2007. Before my Office was established Peter spoke to the Irish Government about the important role of ombuds-work and was instrumental in encouraging the Government to involve young people in the recruitment of my post. When I was later appointed as Ombudsman for Children, Peter was always available for advice and support when I needed it. He was an excellent colleague, a kind man and a good friend. His passing is a great loss and he is sadly missed.

I am proud of the work of the Office to date and look forward to a continuous improvement of the service we provide. As people become aware of the office and its functions, our workload expands; the complexity of many issues related to child rights also demands increasingly sophisticated analysis and creative responses. I feel that my Office is ready for this challenge and I look forward to seeing significant changes in services and behaviours which result in the consistent achievement of their rights by children, especially those who are most excluded and least heard.



Emily Logan
Ombudsman for Children

03

organisational development

The OCO was in its third year of operations in 2007. This milestone saw the organisation enter a new growth stage. We recruited staff up to our full complement of 15 and the first organisational strategy was completed.

Human Resources

The range of experience and expertise at the OCO now includes: child health, education, youth participation, human rights law, communications, human rights education, social work, psychotherapy, social policy, health promotion, and senior public administration.

This year we recruited staff to our full complement of fifteen, including the Ombudsman for Children. This staff allocation was agreed in 2002 in advance of the appointment of the Ombudsman for Children. However, with the increased awareness of the Office nationally, demand for our services increased significantly. We now have a pressing need to increase our staff resources to ensure we can respond to this increase in demand. A business case has been prepared outlining the resource needs of the Office to deliver the strategy for 2007-2010.

To date, the recruitment of staff has involved complex and lengthy processes with the Department of Health and Children, the Department of Finance and the Public Appointments Service. Two key pressures on the OCO by virtue of its size are the need for timely replacement of staff leaving the organisation and the lengthy process involved in recruiting new staff. In 2007, three posts went to confined competition initially and then proceeded to full open competition before being filled successfully. This delay had serious consequences for the operation of the Office. It has placed unnecessary demands on our limited Human Resource capacity.

Strategic Planning

With a growing demand on our services and with the depth and breadth of our work increasing, it is imperative that the Office plans and prioritises its work programme in an intelligent, strategic and effective manner. The OCO is very aware of existing structures and we hope to complement these services rather than duplicate any.

Informed by this, the OCO completed its first strategy plan, which covers the period 2007 to 2010. The strategy was developed after significant internal consultation and external stakeholder analysis.

Financial control

The Ombudsman for Children's Office funding for 2007 was €2.1m.

The Ombudsman for Children is responsible for preparing the Financial Statements as set out in the Ombudsman for Children Act, 2002 and for ensuring the regularity of transactions. The Ombudsman for Children prepares the Financial Statements in accordance with Generally Accepted Accounting Practice in Ireland. The accounting responsibilities are set out in the Ombudsman for Children Act, 2002.

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. Financial Statements are generally not audited at the time of the annual report publication. However, once approved by the Office of the Comptroller and Auditor General, they are published on the OCO's website. Financial accounts for 2004-2005 and 2005-2006 are available at www.oco.ie

CrowleysDFK provide accountancy services to the Ombudsman for Children's Office following a competitive tendering process.

04

complaints and investigations

Historically, the call for a complaints and investigation service came from both within and outside of Ireland. Ten years ago, the UN Committee on the Rights of the Child called for the establishment of an Ombudsman for Children in Ireland with the power to process complaints and take action to remedy problems. Today, the complaints and investigations service is a core and busy function of our Office. Under the Ombudsman for Children's Act, 2002, the OCO can investigate complaints made by children – or by adults on their behalf – about public organisations, schools or hospitals. This is a free, independent and impartial service.

Distinct provisions

There are three distinct provisions in the legislation regarding our complaints function:

1. Children can make a direct approach to our Office.
2. We are obliged to have regard to the best interests of children.
3. We are obliged to consider the wishes of the child, as appropriate.

Complaints and investigations as a constructive function

The OCO investigates individual complaints where children may have been adversely affected and endeavours to find empowering solutions for all parties. The Ombudsman for Children focuses her work in this area on trying to ensure the best outcomes for the child. At the same time, we aim to respect those complained-against and support them in understanding the issues, to learn and where necessary, change its systems and process.

The OCO makes every effort to ensure the experience is a constructive rather than an adversarial one so as to achieve the most positive results possible for the child making the complaint, the public body itself and ultimately for all children in contact with the public body.

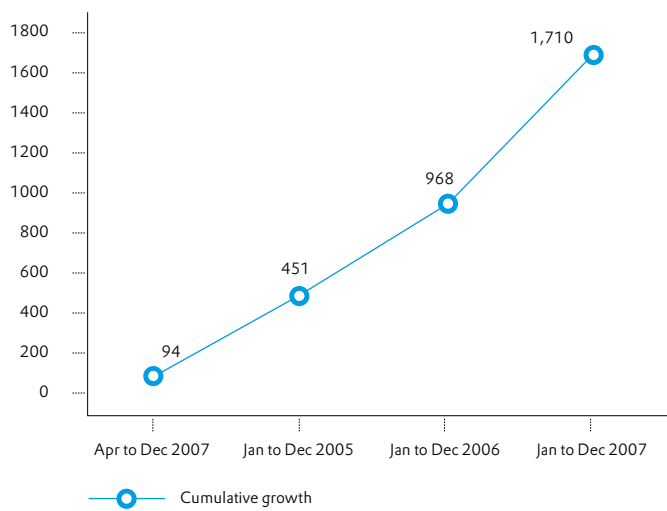
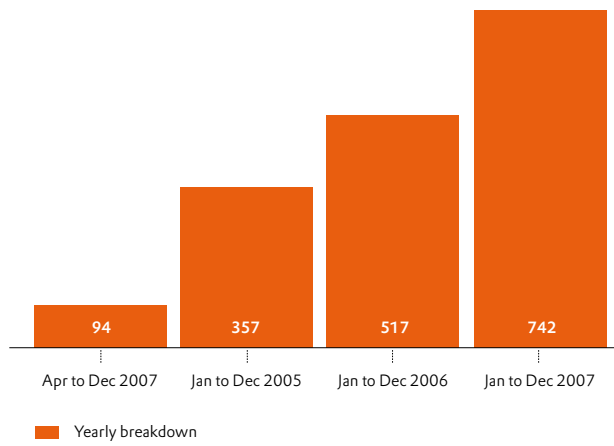
Work to date in this area

Since the OCO was established in 2004 we have had 1,710 complaints to the Office. Based on this body of case study evidence and learning, we now can speak with confidence about the issues and the very real and traumatic obstacles some children face in their day-to-day lives.

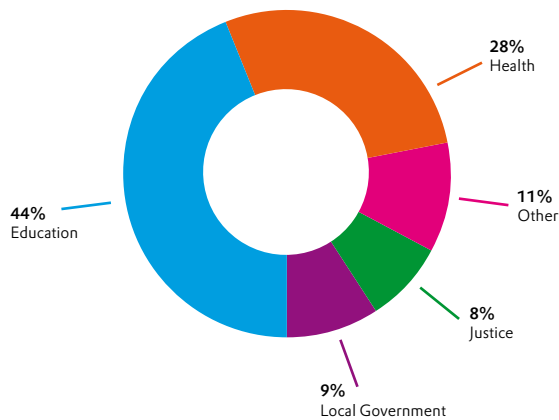
The vast majority of complaints are made by parents and extended family members. It is worth noting that in not one of these complaints has a conflict between the best interests of the child and the rights of parents been the subject of the complaint. It is our experience that parents are the principal advocates for children's rights and welfare.

By December 2007, 1,710 complaints have been received by the OCO. 742 new complaints were received between January and December 2007, representing a 43% increase from 2006.

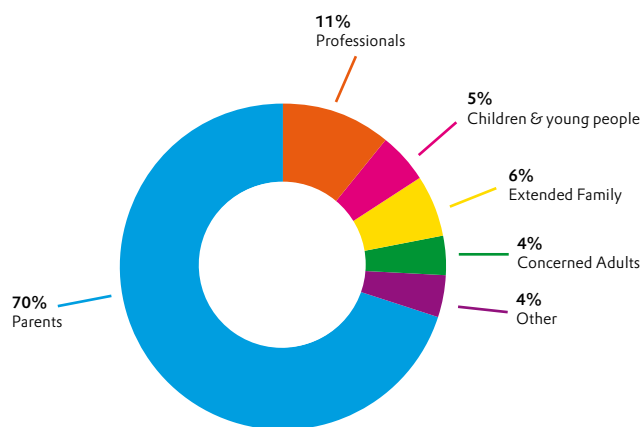
Number of complaints from 2004 to 2007



Complaints



Complainants



In Education category the main issues that arise are:

- School transport
- Special needs allocation
- Handling of bullying
- Procedures and policies
- Mechanisms for handling of inappropriate behaviour towards children

In the Health category the main issues that arise are:

- Child protection
- Access and adequacy of HSE services
- Decisions regarding children in care

In the Local Authority category, the vast majority of complaints regard the access and suitability of local authority/social housing for children, with disabilities.

In the Justice category, complaints relate to children in detention.

In the Other category, most complaints regard a range of private and voluntary services.

Case studies

1. Complaint

K has an acquired brain injury resulting from an accident. An application for exemption for K from the study of a subject was made to the Department of Education and Science. The criteria for exemption are set out in Circular M10/94.

The Department of Education and Science Inspectorate determined that K did not meet the criteria for an exemption as set out in Circular M10/94 and the request was turned down. An appeal of the decision to the Department of Education Inspectorate upheld this decision.

Investigation

In considering this complaint the Ombudsman for Children is obliged to have regard to the best interests of the child concerned. She is obliged to consider whether the child has or may have been adversely affected by the action and whether the action was contrary to fair or sound administration.

During the examination of the case it emerged that the Department of Education had strictly adhered to the guidance offered by Circular M10/94.

However there was clear evidence, supported by the child's parents and by medical and other professionals that the study of this subject was causing the child considerable distress.

Findings

The Ombudsman for Children upheld the view that the child had been adversely affected by the decision not to exempt her from this subject.

However she concluded that the Department of Education and Science had adhered to criteria for exemption and did not find any evidence of maladministration on the part of Department of Education and Science.

This then left the question of whether the circular itself was flawed or needed review given that there was no apparent maladministration and yet a child was clearly adversely affected by the action.

Recommendations

- That the Department of Education and Science reconsider K's case.
- That the Department of Education and Science explored, perhaps in conjunction with medical experts, whether the criteria in the circular needed to be widened to include children like this child with an acquired brain injury.

Response

- The Department of Education and Science reviewed the case and K was awarded an exemption.
- The Department of Education and Science stated that the widening of this circular would be considered in a root and branch review of the criteria for subject exemptions which is currently in progress.

2. Complaint

J is a 17 year old in the care of the Health Services Executive for many years. Her placement broke down and she is now homeless. She avails of out of hours care facilities and recently found out that she was pregnant. J presented three key concerns; that she has no allocated social worker; she has had no care plan for a considerable length of time and has no aftercare plan despite the fact that she will soon turn 18. J had complained to the Health Services Executive but had not received any response.

Examination

In considering this complaint the Ombudsman for Children is obliged to have regard to the best interests of the child concerned. She is obliged to consider whether the child has or may have been adversely affected by the action and whether the action was contrary to fair or sound administration.

Findings

The child had been adversely affected by the action of the HSE and there appeared to be maladministration.

The HSE confirmed that the child did not have an allocated social worker, care plan or after care plan. While the child's complaint had been received, it had not been directed through the appropriate channel.

Recommendations

The Ombudsman for Children recommended that the HSE resolve the matter with some urgency.

Response

The HSE immediately allocated a social worker and discussions have been initiated with the 17 year old about a care plan and aftercare plan.

3. Complaint

The Office recently received a number of complaints from non-Irish nationals who considered that their child was being denied their right to an education. The Department of Justice Equality and Law Reform had informed the parents that, due to conditions set out in their visa, their children could not avail of public education.

Action

This is an issue which raises important human rights and policy considerations. This Office made contact with the relevant authority and indicated that all children have the right to an education and that a child should not be denied this right on the basis of the immigration status of their parents.

Response

The Department of Justice Equality and Law Reform agreed to consider making an exception for the current school year. All of the children concerned have remained in public school.

Postscript

The immigration legislation is currently changing and will most likely determine the situation into the future.

In this case the Ombudsman for Children has continued working on this issue in accordance with Section 7 of the Act which provides that the Ombudsman for Children can advise on any matter related to the rights and welfare of children.

The Ombudsman for Children was invited to comment on the new Immigration Residence and Protection Bill, 2008, which, at the time of writing is currently before the Oireachtas. In her Advice, the Ombudsman expressed concern at the extent of Ministerial discretion provided for in the Bill for the setting of conditions for residence in the State.

She emphasised that children's Constitutional rights – including the right to free primary education – and their rights under the UN Convention on the Rights of the Child are not dependent on their nationality.

She recommended that an explicit requirement for the Minister to have regard to those standards – especially the best interests principle contained in the UN Convention on the Rights of the Child – when making such regulations be included in the Bill.

Issues raised by parents, professionals and other advocates

The themes of the complaints received by the Office vary widely but the main categories regard the action or inaction of the State in responding to or supporting families in answering the child's needs.

While the breadth of the issues is wide, the cross-cutting themes in those complaints are:

- lack of respect for the **voice of the child**;
- the child's **best interests** not being taken into consideration; and/or
- **families** not being sufficiently assisted by the State.

Voice of the child: The OCO regularly hears of cases where children's views and opinions are not sought, often ignored or not taken seriously at times when important decisions are being made about their lives. Here are some examples that have been brought to our attention:

- children in care not being involved in the development, implementation, review of their care plans;
- children in care experiencing difficulties and support in having access to their siblings;
- aftercare planning and provision; and
- concerns raised by children about their views or concerns not being taken seriously.

Best Interests: At present public bodies have no clear obligation to consider the best interests of children when making decisions. Some of the difficulties that arise as a consequence:

- children being placed inappropriately in emergency situations due to the lack of an out-of-hours service;
- lack of availability of, and delay in securing a suitable placement for children leaving secure care;
- access to, and supervision when availing of school transport;
- mechanisms used for dealing with inappropriate behaviours towards children;

- handling of bullying in schools;
- no obligation on local authorities to consider the child's overall needs and cooperate with other relevant bodies to address those needs; and
- no obligation to consider children in the context of local authority planning.

Family support



Families tell us that they often have to struggle to understand and access services for their children. Some of the problems they encounter include:

- considerable delays in providing suitably adapted local authority housing for children with disabilities;
- poor housing and facilities for Traveller children;
- fragmentation of services, and the resulting burden on families of children with disabilities accessing all the necessary services;
- difficulties/delays accessing health services such as orthodontic treatment, speech and language therapy, occupational therapy;
- access to and adequacy of special needs resource supports in schools;
- difficulties in accessing the child protection system and inadequate support for children and their families making child protection disclosures; and
- chronic inaction by State agencies and then on occasion a disproportionate response.

All of this usually means a poor outcome for the child in whose name a complaint is made. Delays in providing vital services and the speedy progress of complaints are especially significant for children because they are going through key developmental and learning milestones in their lives.

Children with Additional Needs

35% of complaints dealt with in 2007 regarded children with additional needs.

A significant number of complaints were received in relation to children with disabilities across all complaint categories.

In education these complaints related to providing adequate resources for special needs. In health the key issues tended to involve accessing services such as speech and language therapy and occupational therapy. Complaints about local authorities generally concerned the suitability of social housing and the lengthy application process to secure it.

The OCO will undertake a Special Report on the provision and response of Local Authorities for children with a disability.

Complaints received from children

While we are not surprised that in most cases parents and extended family make complaints on behalf of children, the Office can and does accept complaints directly from children and young people. Although the number of complaints received directly from children and young people is relatively small, the nature and seriousness of the complaints made are worth noting. Uniquely, the Ombudsman for Children has a mandate to highlight issues relating to the rights and welfare of children that are of concern to children themselves. This is a summary of some of the things they have raised with us through our complaints work.

Most of the children contacting the Office directly are children in State care.

The issues they are concerned about include:

- lack of involvement in a decision to find or change their placement;
- not being included in care planning, especially around issues of access to parents or siblings;
- social workers not being allocated;
- lack of support or access to therapies such as counselling while in care;
- absence of an aftercare plan or children unhappy with their aftercare plans; and
- how decisions are made and communicated to children and young people.

A number of children in secure care, remand and detention also contacted the OCO in 2007. While their issues are broadly similar to children in care, particular concerns are raised by them regarding the availability of a placement when they leave secure care and the suitability of the placement. We know that some children experience lengthy delays in accessing a suitable placement.

Other children contacted the Office regarding their concerns about not having their voices heard in on-going custody proceedings.

Children also contacted us about the lack of play and recreation facilities in their area and about issues in their schools such as bullying, school uniform policy, and conditions of their school facilities.

Developing best practice

In dealing with complaints, it is normal to expect members of the public who are making the complaints to feel upset and emotional. In this type of work it is important to ensure that we as an organisation develop our resilience and that staff are well able and supported to deal with some of the more challenging behaviours of members of the public. We accept that some behaviour is naturally connected to a frustration on behalf of a child and this is why we train staff to separate the behaviour from the individual and respond in a respectful and understanding manner. We have developed a policy which helps staff differentiate between people's understandable frustrations and upset and those behaviours which would be deemed unacceptable by any sensible person and which are unfair on our staff. We have also initiated a 'Staff Care' programme to support our staff.

Co-operation with other complaint-handling bodies

The OCO and the Ombudsman's Office

The Memorandum of Understanding (MoU) between the OCO and the Ombudsman's Office is currently being reviewed. The purpose of this MoU is to clarify the ways in which the Ombudsman for Children's Office and Office of the Ombudsman will deal with matters which may fall within the remit of either organisation. Without prejudice to the independence of each office, this MoU has been prepared with a view to enhancing the effectiveness of our organisation and helping the general public understand our respective responsibilities.

The OCO and GSOC

The OCO has developed liaison arrangements with the Garda Síochána Ombudsman Commission. As the OCO cannot investigate actions by An Garda Síochána, we refer complaints to GSOC when appropriate. It is also anticipated that the liaison arrangements could provide support and advice in relation to matters relating to children.

Working with professionals

We regularly meet with professionals who have dedicated their careers working for, and on behalf of, children. Some have asked the OCO for advice, training or support in these endeavours.

In 2007 the OCO published a guide to complaint handling for professionals. This booklet was developed in order to allow public bodies within our investigative remit to understand the manner in which the Office conducts its Complaints and Investigation function. The OCO circulated this guide to all such public bodies. Additional copies can be obtained from the OCO and are available to download at www.oco.ie

We have direct experience of professionals working as advocates for children. Over the past 12 months, we have also seen significant numbers of psychiatrists, teachers, principals, community or youth workers, careworkers, social workers and solicitors contact the OCO on behalf of children and young people with complaints. In the vast majority of cases, the children they represented were very vulnerable and often without any other advocates in their lives. In some cases, the advocates supported parents with literacy issues through our complaints process.

Children and young people complaint handling research

Under the Ombudsman for Children Act, 2002, the OCO can accept complaints from children and young people. The parameters of the OCO's complaint handling role mean that young people with complaints will need to bring their complaints to local complaint handling bodies first and, in some cases to national complaint handling bodies other than the OCO. In early 2007 the OCO commenced a piece of participative research in an effort to make the OCO's complaints function more accessible to children and young people.

The children and young people who took part in the research made the following recommendations to us:

- create materials for different age groups;
- make sure the materials are appealing;
- use different formats such as DVDs, posters;
- translate the materials into different languages;
- use examples to explain the process step by step;
- do not use the word complaint as they do not like it;
- set up a free phone telephone number that will not be listed on mobile phones or on phone bills; and
- use the phrase 'Ombudsman for Children and Young People' instead of 'Ombudsman for Children: do Leanaí'.

05

communications and participation

The Ombudsman for Children's Office has a statutory responsibility to promote the rights and welfare of children and young people in Ireland. It must also promote awareness of children's rights, including the UN Convention on the Rights of the Child which Ireland ratified in 1992.

Article 12 of the UN Convention is forthright in saying that children and young people must have a say in decisions that directly affect them. It's about providing the significant platforms and tools for them to have their say in the first place. It's about supporting them and building their capacity to make their mark. It's about ensuring that all children, including the most silent and the most marginalised are given a safe and welcoming space to make their voice heard. And then, we need to hear and consider their ideas, insights, imagination and solutions.

The Ombudsman for Children Office believes that children and young people must be provided with the participative opportunities to influence and shape our work.

According to key sections of the Ombudsman for Children Act, 2002, the Ombudsman for Children must promote awareness among the public – and that public includes children – of children's rights and welfare and we must establish structures to hear the views of children and young people to ensure we represent them effectively. We must also highlight issues relating to the rights and welfare that are of concern to children themselves.

In 2007 we took some significant steps to ensure that this happened in an effective way, but also in a way that children and young people would find engaging.

Two major events – the establishment of a new team of young advisors, and the Big Ballot – helped the OCO to hear, and take on board, the voices of almost 75,000 children and young people. They also helped generate awareness about the role of the Ombudsman for Children and the UN Convention on the Rights of the Child. Many education stakeholders including teachers' unions, professional networks and especially schools, made an important contribution to ensuring the success of both and for that we are very grateful.

Sharing responsibility for our work: Recruiting a new Youth Advisory Panel (YAP)

One of the most interesting and unique elements of Emily Logan's appointment as Ireland's first Ombudsman for Children was the very significant involvement of fifteen young people in the interview process. Many of these young people continued their involvement when the OCO was established and became the first group of young advisors to Emily and OCO staff. They named themselves the Youth Advisory Panel or YAP for short. However, by 2007 many of these young people became young adults and the group decided it was time to make room for others.

At the end of January 2007, a campaign was launched calling for young people aged 12-17 to apply to become members of the new advisory group. The previous YAP played an important part in all levels of the campaign. They came up with the idea to use posters to advertise the campaign. Some had their photograph featured on the poster, others made local radio adverts in English and in Irish, and all helped to promote the recruitment drive through media interviews or by spreading the word in their local communities. The posters were sent to all post-primary schools, Youthreach and other settings and venues frequented by young people.

200 young people from around the country applied for the 25 places on the new Advisory Panel. The OCO asked the young people themselves to determine who would secure a place by inviting them to peer nominate from the applicants. Five regional workshops were held in locations around Ireland which the young people were invited to attend. At the end of each workshop, the young people had developed a better understanding of what it meant to be an advisor to the OCO and the level of commitment involved. Through a ballot, they then elected the new YAP members.

The new team attended the first meeting in May 2007. Fourteen girls and nine boys, ranging in age from twelve to seventeen secured a place on the panel. They were from both rural and urban areas and reflected the diversity that now exists in Irish society. They identified many reasons for applying to become a youth advisor. These included becoming involved in children's rights, ensuring that young people's voices are heard, gaining new experiences and developing new skills. They were also wanted to develop their understanding of children with different backgrounds, help to improve young people's lives, get involved and really achieve something.

Parents, guardians and other family members were invited to attend this first meeting as a way of getting to know the OCO. The Ombudsman for Children and senior OCO staff made presentations on the different aspects of the work of the Ombudsman for Children's Office and members of the previous YAP explained the work they had carried out. The former YAP members were presented with certificates in recognition of the important contribution they had made to the establishment of the OCO and its work in the early years. We were delighted that so many parents, guardians and other family members attended the first meeting. The OCO's believes that it is very important to engage with the parents and guardians of the new YAP members from the outset to ensure they have an understanding of the work and ethos of the OCO; the way in which we work with young people; and the contribution that YAP members make to our work. The meeting also provided an opportunity for the new YAP members to meet each other for the first time.

Several more meetings of the new YAP followed throughout the rest of the year.

Much of the focus of the meetings was on settling everyone into their new role and deciding what ways they could make a significant contribution to the work of the OCO. Individual skills and areas of interest were identified, and training and support was provided to YAP members to help them with their work.

The first major event for the new members was their involvement in the Big Ballot. They were involved in the production of the DVD for the resource materials and took part in various elements of the media campaign which supported the Ballot. They also acted as ambassadors for the OCO at the count event in November when they took responsibility for the groups of children and young people from their own counties who attended the event. YAP's contribution added greatly to the success of the event.

In a review at the end of their first period, the team felt that they had a really good experience. They had made good friends and developed new skills. They enjoyed the different projects they worked on and liked doing concrete and practical things as well as playing an active role in shaping ideas and activities. They also felt a sense of achievement from the work they had been involved in but were very keen to have a stronger role in shaping projects; and would like a more active role in helping to improve attitudes to young people.

The Big Ballot

The Big Ballot was a three phase project by the Ombudsman for Children's Office. It involved academic research, qualitative research, and a national consultation process with children and young people.

The academic research was conducted by Dr Ursula Kilkelly of University College Cork to identify the main issues affecting children and the obstacles to children's rights in Ireland. This report was published in full in August 2007.

On the basis of an interim report from Dr Kilkelly, 150 children and young people from all over Ireland, and from very different backgrounds, took part in focus groups conducted by an independent consultant for the OCO. The groups examined the obstacles identified in the UCC research and translated them into a list of five issues they perceived as relevant to their own lives.

The issues, which all relate to a right listed in the UN Convention on the Rights of the Child, are:

1. Education;
2. Play and Recreation;
3. Having a Voice;
4. Family and Care;
5. Health, wealth and material well-being.

Following extensive consultation with education stakeholders including unions, professional networks, parent and management organisations, the OCO worked with two teams of experienced resource writers to produce teacher-friendly, age-appropriate resource materials dealing with each of the five issues identified in the research. These materials complimented the SPHE curriculum at primary level and the CSPE curriculum at post-primary level.

All schools, Youthreach Centres and Senior Traveller Training Centres were invited to participate in the Big Ballot. More than 1,000 schools registered to take part. These education centres explored the issues over a number of weeks in September and October and once they had completed the lessons their pupils and students voted in a referendum-style event for the issue most important to them.

In October, a specially branded Big Ballot bus took Emily, some OCO staff and members of YAP to visit more than 30 schools and education centres all around Ireland to promote the Big Ballot and support the fantastic work taking part in participating schools. During the tour, Emily and her team met with approximately 5,000 children and young people and dozens of dedicated teachers, principals and youth workers who work hard to promote children's rights every day of their professional lives. Emily was honoured to be welcomed into so many schools and education centres and was delighted to hear directly the views and experiences of such a large group of children and young people.

74,000 children and young people voted in the Big Ballot, the largest consultation with children and young people ever held in Ireland. The results were announced at a special count event, compered by RTÉ's Miriam O'Callaghan, and hosted at City Hall, Dublin on 20th November, Universal Children's Day. 500 children and young people joined the Ombudsman for Children at the event to hear the results. Family and Care was overwhelmingly voted the most important issue for children and young people winning 31.5% of the vote.

The results of the Big Ballot were disseminated to all participating schools and to the various stakeholders who had given so generously of their time and advice in the Ballot's planning phase. We were delighted to receive a large volume of feedback from the various schools which took part. Emily Logan received 76 letters from children and young people, and 27 from school communities about their experience of the Ballot. The overwhelming response was very positive with teachers and young people telling us how much they enjoyed taking part. They also had recommendations about how we could improve future projects – such as extending the timeframe – which we are happy to take on board.

The OCO is grateful for all the support we received from a wide range of education stakeholders and from schools who worked hard to ensure the voices of their pupils and students was heard, and who made the Big Ballot such a success.

The OCO has committed to working on all of the issues over the coming years. It is already working hard on securing a constitutional amendment that will support families and children, and is planning to link in with Local Authorities on a child-friendly city initiative.

Developing and promoting best practice

As part of its commitment to ensure that all of its work with children and young people applies best practice, the OCO developed its own child protection guidelines in 2007. These guidelines are available at www.oco.ie

A set of ethical guidelines for children's involvement in the research, policy, communication and participation work of the OCO was also developed.

The OCO is approached regularly by organisations seeking our advice and input on how to involve children and young people in their work. We are happy to share our own experiences of, and learning from the participation of children and young people.

OCO staff participated in many conferences and seminars in 2007, where we took the opportunity to promote children's rights, network with professionals working with children, hear about their experiences and raise awareness about the role of our Office.

06

policy and legislation

In order to protect and promote children's and young people's rights and welfare, it is crucial that the OCO's work is based on careful and insightful policy development. The reality is that for a number of complex reasons, many children are vulnerable in Ireland today. This needs to change. We work hard to ensure that legislation, national policy and State services to children and young people meet the highest standards and that they satisfy our obligations under the UN Convention on the Rights of the Child and other international human rights standards.

The policy role of the Office

The Ombudsman for Children Act, 2002 sets out the policy and research role of the OCO. This role includes:

- advising Ministers on the development and co-ordination of policy relating to children;
- monitoring and reviewing the operation of legislation relating to the rights and welfare of children;
- monitoring and reviewing the operation of the Ombudsman for Children Act and, whenever necessary, making recommendations for amending it;
- undertaking, promoting and publishing research into any matter relating to the rights and welfare of children; and
- exchanging information with Ombudspersons for Children of other States.

In addition, the 2002 Act makes clear that the Ombudsman, Emily Logan, may give advice to Ministers on any matter relating to the rights and welfare of children. This includes the important function of advising Ministers on the consequences of implementing relevant legislative proposals and the implications of such proposals for children and their wellbeing.

Special Report to the Oireachtas

On foot of requests from Government – or on the Ombudsman's own initiative – we provided advice on a range of issues during 2007. As part of this important work, in accordance with Section 13(7) of the Ombudsman for Children Act, 2002, which provides for the submission of occasional reports to the Oireachtas, we compiled and presented a *Special Report to the Oireachtas on the Twenty-Eighth Amendment to the Constitution Bill*. This was the first time the Children's Ombudsman submitted such a report, and was done of her own volition.

The Office has also made submissions to Oireachtas Committees and important international bodies to strengthen respect for the rights of children in the State.

Additional Ministerial requests for Advice

The Minister for Children requested the Advice of the Ombudsman for Children on two Briefing Documents setting out proposals for Constitutional Changes. The Ombudsman for Children responded by providing Advice in relation to each of the documents. Later in March, when the Twenty Eighth Amendment of the Constitution Bill was published, the Ombudsman for Children submitted a report to the Oireachtas setting out her views in relation to the Bill.

Child Death Review

During 2007, a number of worrying cases were brought to the attention of the OCO. These were cases in which children had died and where there had been either no independent review or where the review had been inadequate. In April, the Ombudsman for Children proposed to the Minister for Health and Children that she should establish a standing 'child death review mechanism' in Ireland. The purpose of setting up a child death review mechanism is to guarantee a consistent approach which would inform and deepen our understanding of key issues relating to child death and help reduce the number of preventable deaths.

Having received a positive initial response from the Minister, the OCO engaged in a scoping exercise to examine international best practice in this area. A period of consultation then followed in which the OCO briefed key stakeholders of its work on child death review and sought their views on the possible establishment of such a mechanism in this jurisdiction. The next step in this process will be the convening of a high-level roundtable with an even wider range of individuals and organisations, with a view to discussing a range of specific models of child death review that would be suitable for Ireland.

Discrimination in school admissions policy

During 2007 it came to the attention of the Ombudsman for Children that a young person in transition year was being denied access to a particular school solely on the basis of her gender identity. Having been treated in this manner, the young person did not then wish to attend the school so she chose not to appeal its decision to refuse her admission. However, she was concerned that other young people might face similar difficulties so she asked this Office to seek clarification from the Department of Education and Science whether the school in this instance had acted in contravention of relevant legislation.

The Ombudsman for Children then contacted the Minister for Education and Science to clarify the obligations on schools in relation to issues of discrimination in access to education and also to ascertain whether all schools were aware of those obligations. The Minister wrote back to confirm that a refusal to admit a student on the basis of gender (which includes gender identity) violates Ireland's equality legislation and that guidelines on how that legislation affects schools had been distributed to every school in the country.

The young person who initially brought this matter to the attention of the Ombudsman for Children has since found a satisfactory outcome to the question of her schooling.

Intellectual Disability

In the previous Annual Report, the Ombudsman for Children raised concerns about the lack of monitoring of residential services for children with intellectual disabilities. The OCO had received a number of complaints involving children with intellectual disabilities. The complainants were not willing to pursue a complaint through the OCO because of fear of repercussions. The complaints appeared to indicate a lack of appropriate inspection, monitoring and complaints mechanisms for children with intellectual disabilities in residential care.

Since then the Children's Ombudsman has convened a series of meetings with those responsible in this area to ascertain what plans were underway to establish inspection services for residential centres for children with intellectual disabilities. The bodies the Ombudsman for Children met with include the SSI (now HIQA), HIQA, the Department of Health and Children and the Minister for Children.

In the course of these meetings, it was noted that standards for the inspection of residential centres for children with disabilities would need to be developed in advance of the commencement of inspection, and that inspections were unlikely to start before the end of 2008/beginning of 2009. The Ombudsman for Children raised concerns about the continued lack of an inspection regime for residential centres for children with disabilities in the interim and the Ombudsman for Children was informed that a HSE working group has been established to look at this matter.

The Ombudsman for Children initiated several follow-up meetings throughout 2007 with the relevant bodies to monitor progress in this area. She will continue to monitor the situation closely and encourage all involved to commence the inspections of the centres at the earliest opportunity.

Children in detention

Unfortunately, hundreds of children and young people continue to be deprived of their liberty and spend significant amounts of their childhood in detention. As a core part of her brief, the Ombudsman for Children monitors and when necessary, takes appropriate action on issues to do with children and young people in detention centres.

Given the significant commitment to capital investment in the area of Youth Justice, our Office is keen to play a role in seeking the views of young people in detention, and we plan to commence work in this area in 2008.

Visits to detention centres

In November, the Ombudsman for Children visited St Patrick's Institution. St Patrick's is a prison – it is a closed, medium security place of detention for males aged 16 to 21 years of age serving sentences up to life. International human rights treaties – treaties Ireland has signed up to – and our amended Criminal Justice Bill make it clear that children should not be detained together with adults. The Ombudsman for Children has previously called for an end to the practice of detaining boys aged 16 and 17 in St Patrick's Institution. Although there is now some degree of separation between those under and over 18 years of age within St Patrick's, the Ombudsman for Children has called for the use of St Patrick's as a place of detention for children to end as soon as possible.

On the day of the Ombudsman for Children's visit, 50 children were detained in St Patrick's Institution. 16 of them were aged 16 years and 34 were aged 17 years. The children were locked up in their cells from 7pm until 8am. They were again locked in their cells for breakfast and supper. Lunch was the only communally eaten meal. No open visits were allowed, that is, the children sat on one side of a perspex panel while their visitors sat on the other. The sound quality in the visiting room was very poor. St Patrick's is an old building and the material conditions of detention were very poor. The poor state of the building and the cell accommodation has been well documented by the Inspector of Prisons and the European Committee for the Prevention of Torture.

The visit provided an opportunity to meet with the Governor and his staff who are all clearly committed to doing the best they can for the children in their care. It also provided an opportunity to meet briefly with some of the children and to think about how we could best prepare a return visit to St Patrick's to hear the voices of those children.

The Governor kindly extended an open invitation to the Ombudsman for Children to visit St Patrick's and additional visits are planned for 2008.

Child protection

In addition to dealing with child protection matters on an individual basis through our complaints function, the Ombudsman for Children, once again raised concerns about child protection services and the lack of a 24-hour social work service in the State with UN Committee on the Rights of the Child in October 2007.

Mosquito devices

The Ombudsman for Children wrote to both the Minister for Environment, Heritage and Local Government and Minister for Justice, Equality and Law Reform expressing her concern at the possible use of noise-emitting devices which are primarily designed to disperse groups of young people. She also wrote to the Commissioner of An Garda Síochána to inquire how An Garda was handling complaints regarding the use of such devices. In response, the Commissioner clarified that members of An Garda Síochána have been directed to investigate fully all complaints received regarding the use of such devices with a view to seeking the directions of the Director of Public Prosecutions.

Criminal Law (Trafficking in Persons and Sexual Offences) Bill, 2006

The General Scheme of the Criminal Law (Trafficking in Persons and Sexual Offences) Bill was referred to the Office by the Minister for Justice, Equality and Law Reform pursuant to Section 7(4) of the Ombudsman for Children Act, 2002.

The Ombudsman for Children submitted her comments on the Bill to the Minister for Justice, Equality and Law Reform in May 2007. This very significant Bill was designed to ensure compliance with a number of key international instruments relevant to trafficking and sexual offences against children (including the Optional Protocol to the UN Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Pornography, the UN Palermo Protocol on Trafficking and the Council of Europe Convention on Action Against Trafficking in Human Beings).

While the Bill largely satisfied Ireland's international obligations in relation to enabling the authorities to prosecute traffickers, the OCO pointed out that it did not adequately take into account the particular vulnerability of child victims and provide for their needs. A full copy of the report is available at www.oco.ie

07

proposed constitutional referendum

The proposed referendum marks a milestone for the development of legislation in Ireland. Its wording and intent will also benchmark how seriously we value children and how willing we are to recognise children as having an inherent value. As noted in the last Annual Report, in November 2006, An Taoiseach announced his intention to hold such a referendum on children's rights. Discussions and debate about the content and format of such a referendum continued throughout 2007.

The background

Constitutional change aimed at enhancing the protection of children's rights has been called for by many since the early 1990s and the Ombudsman for Children very much welcomed the announcement of the proposed referendum. During 2007, the Ombudsman for Children set out her view on what should be included in the referendum in a number of documents including her initial advice to the Minister for Children which was published in January 2007. She also responded in writing to two briefing documents on the constitutional referendum produced by the Minister for Children.

In February, the Twenty-Eighth Amendment of the Constitution Bill, 2007 was published. This set out the Government's proposal for Constitutional change to be decided upon by the people in a referendum. The Ombudsman for Children submitted a Special Report on this Bill to the Oireachtas in March.

The process was interrupted by the general election that took place in the summer of 2007. It was then resumed when, in November, the incoming Dáil established a Joint Committee on the Constitutional Referendum on Children with a mandate to examine the Twenty-Eighth Amendment Bill and to make such recommendations as seem appropriate to the Committee. The Ombudsman for Children was invited by the Chair of the Committee to make a written, and later an oral submission to the Committee in early 2008. The discussions on the proposed referendum continue as at the time of this Annual Report going to print.

The Ombudsman for Children's view

In summary, the Ombudsman for Children's recommendations for amendment of the Constitution, as set out in the documents published on this issue are:

- the inclusion in the Constitution of an express statement of the rights of the child;
- the inclusion in the Constitution of the 'best interests' principle;
- the inclusion in the Constitution of a State duty to support families and a duty to act in a proportionate manner; and
- the inclusion in the Constitution of a provision to enable the sharing of soft information.

08

research

In 2007 the OCO commissioned important research into the nature and extent of the difficulties and barriers faced by children and young people. This qualitative research will inform the development of effective solutions and will provide a sound basis for our advice to government, policy makers and service providers.

Barriers to the Realisation of Children's Rights in Ireland

The report *Barriers to the Realisation of Children's Rights in Ireland*, commissioned by the Ombudsman for Children's Office and produced by Dr Ursula Kilkelly of University College Cork was published in August 2007 (see Executive Summary in Appendices). The report identifies the principal obstacles children and young people face in accessing their rights as set out in the UN Convention on the Rights of the Child.

In planning the kind of academic research we needed to commission, we decided we should go beyond reviewing what the 'rights problems and issues' are for children and young people in Ireland and find out what obstacles are preventing them from realising their rights. By identifying these obstacles and researching how to overcome them, we now have a sound academic base upon which to launch specific initiatives aimed at breaking down those barriers.

The barriers identified by Dr Ursula Kilkelly in the research include: the invisibility of children in the decision-making fabric of Irish life; gaps in law, policy and implementation; a lack of adequate mechanisms to assist children in asserting their rights; inadequate services, supports and investment; and inadequate training and information about children and their rights. For many children belonging to particular vulnerable groups identified in the research, these barriers are compounded by their circumstances and they are more likely to experience multiple breaches of their rights.

The research has already been utilised to provide an academic underpinning of the qualitative research undertaken with children and young people from marginalised groups and in the preparations for the "Big Ballot" Project (see section 5, Communications and Participation on page 30).

09

international work

In accordance with Section 7(4) of the Ombudsman for Children Act, 2002, the Ombudsman for Children is obliged to exchange information and to cooperate with the Ombudspersons for Children in other States.

The OCO has been very active in furthering its statutory mandate to work with Ombudspersons for Children in other jurisdictions. In 2007 the Office took on a more significant role internationally.

ENOC (European Network of Ombudspersons for Children)

In 1997, the European Network of Ombudspersons for Children (ENOC) was established to bring together the then 10 Ombudspersons in Europe. The membership has since grown to 34 members from 24 states. The work of ENOC is supported by UNICEF and the Council of Europe. At EU level, the Vice President of the Commission, Franco Frattini, recently launched the development of a new EU strategy on children's rights. ENOC is a member of the EU Forum on the Rights of the Child which is charged with bringing this strategy forward.

Role of ENOC

The role of the network is to facilitate the promotion and protection of the rights of children, as formulated in the UN Convention on the Rights of the Child. Its objectives include facilitating information exchange between members and other regional groups and to support the development of new children's rights institutions in Europe and worldwide.

Membership

ENOC currently has members from 24 Council of Europe Member States including: Austria, Belgium, Croatia, Denmark, Finland, France, Georgia, Greece, Hungary, Iceland, Ireland, Latvia, Lithuania, Luxembourg, the former Yugoslav Republic of Macedonia, Malta, United Kingdom, Norway, Poland, Portugal, Russian Federation, Slovenia, Spain, Sweden.

There are several offices from some of these states. In respect of the United Kingdom, for example, the Children's Commissioners from Northern Ireland, Scotland, and Wales are members of ENOC.

The Ombudsman for Children was honoured to be elected incoming chair of the European Network of Ombudspersons for Children at its annual meeting in Barcelona in September 2007. The OCO will be proud to assume the chair in September 2008 and will sit on the Bureau for a three-year period which commenced in September 2007.

This central role in the management of ENOC comes at a particularly interesting and important time. The Council of Europe is running a dedicated programme on Children's Rights and has highlighted the promotion and protection of children's rights as one of its main priorities. The European Union's Strategy on Children's Rights was adopted by the EU in July 2006 and the European Forum on Children's Rights, designed to facilitate the contribution of Ombudspersons for Children, NGO's, children and young people and others was launched in June 2007. Other EU institutions including the EU Fundamental Rights Agency and the European Parliament have also committed to working in the children's rights field.

During 2007, ENOC adopted a statement on the rights of children with disabilities which was launched on International Day of Disability. The aim of the statement is to encourage full and speedy implementation by all member states of the new UN Convention on the Rights of Persons with Disabilities. ENOC also adopted a statement on Violence against Children and its members agreed to encourage national authorities to support the establishment of a Special Representative of the Secretary General on Violence against Children by the United Nations.

In December 2007, the UN held an event in New York to commemorate the UN Special Session on Children of 2002. A ten year plan of action entitled *A World Fit for Children* was adopted at the Special Session in 2002 and the commemorative event provided an opportunity to check on progress regarding implementation of the plan. There was a global presence at the event with representatives from States, non-governmental organisations and international organisations in attendance. The Ombudsman for Children represented the European Network of Ombudspersons for Children at the event and she participated in a number of meetings co-ordinated by UNICEF aimed at enhancing efforts to implement *A World Fit for Children*.

During the UN Special Session commemorative event, UNICEF hosted the second meeting of the Global Network of Independent Human Rights Institutions for Children. The meeting was attended by Ministers from a number of States, including Portugal which held the EU Presidency at the time, and the Chair of the UN Committee on the Rights of the Child. In her capacity as incoming Chair of ENOC (the European Network of Ombudspersons for Children), the Ombudsman for Children spoke at the event, outlining the work of the Network and calling for the full implementation of the commitments undertaken at the Special Session in 2002.

BINOCC

During 2007, the OCO continued to link up with similar Offices in England, Wales, Scotland and Northern Ireland. Together with the Children's Commissioners in Northern Ireland, England, Scotland and Wales, the OCO continuously shares learning and best practice through BINOCC (the British and Irish Network of Ombudspersons and Commissioners for Children). The Network meets at Ombudsman/Commissioner level and also in groups charged with specific remits. For example the policy and research group shares information and develops joint initiatives, and the communications and participation teams share experiences and knowledge of the respective offices.

The Second Annual BINOCC staff conference was held in London in November 2007 and the network has provided mutual support in the preparation of reports to the UN Committee on the Rights of the Child and to other international bodies.

Contribution to international human rights mechanisms and events

In November 2007, the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, visited Ireland. It was the first such visit by the Council of Europe Commissioner. During his visit, the Commissioner focused on the situation of children and young people in Ireland. The Commissioner visited the OCO to meet with the Children's Ombudsman. During this meeting she outlined her concerns and suggestions for change. The report of his visit is expected in early 2008.

In October 2007, the UN Committee on the Rights of the Child reviewed Ireland's record under the Optional Protocol on the involvement of Children in Armed Conflict. The Optional Protocol is an 'add on' to the UN Convention on the Rights of the Child and it places obligations on Member States to prevent children from being involved in conflict and to assist former child soldiers to recover from their experiences. The OCO submitted an independent report to the Committee and attended a preparatory meeting, or 'pre-sessional', to outline its concerns to the Committee.

In its report and presentation to the Committee, the OCO highlighted: the lack of a statutory ban in Ireland on the involvement of children in armed conflict; the lack of adequate support to children in Ireland who may have been involved in armed conflict overseas and issues with regard to the small arms trade and extra-territorial jurisdiction for crimes involving child soldiers. The OCO's report was well received by the Committee and its report on Ireland will be published in early 2008.

appendices

appendix 1

Barriers to the Realisation of Children's Rights In Ireland

BY

DR URSULA KILKELLY, SENIOR LECTURER,
FACULTY OF LAW, UNIVERSITY COLLEGE CORK

COMMISSIONED BY THE OMBUDSMAN FOR CHILDREN

EXECUTIVE SUMMARY

29 AUGUST 2007

Introduction

The United Nations Convention on the Rights of the Child sets out the rights of children and young people in all areas of their lives, and Ireland agreed to implement these rights when it signed the Convention fifteen years ago. In 2006, the Ombudsman for Children commissioned research to examine the barriers to the protection of children's rights in Ireland. Its aims were to identify the areas in which children's rights are being ignored or underplayed and more particularly, to identify the barriers to the full realisation of children's rights in Ireland.

The research was a desk-based study, designed to collate available data and literature on children's rights in Ireland. It used the Convention on the Rights of the Child and associated literature to develop a set of benchmarks against which progress implementing the Convention could be measured. In line with the advice of the Committee on the Rights of the Child, particular focus was placed on the structural barriers that impede effective protection of children's rights. These are detailed below. The research also identified children who face multiple barriers to their rights and particular difficulties seeking to have those rights vindicated as follows:

- Children in the care system;
- Children in the criminal justice system;
- Traveller children;
- Immigrant and asylum seeking children;
- Homeless children;
- Children in poverty;
- Children at risk of abuse and neglect.

These children endure barriers to their rights that cut across many areas of their lives, including family, education, health and material deprivation. They have not to date benefited from coherent policy or targeted intervention, supports or services and they suffer marginalisation and, in some cases, discrimination. Many of these children also face the additional obstacle of being isolated from their families and friends, without advocacy or support or anyone to lobby on their behalf.

Notwithstanding existing policy, the situations of these children require an overhaul of how existing services and supports are delivered and to this end, it is recommended that targeted, high level task forces be convened with a view to ensuring that the necessary co-ordinated, intensive, strategic action is taken to mainstream targeted, child focused and rights-based services in these areas. Awareness also needs to be heightened among the public, service providers and Government generally about the problems these children face in the realisation of their rights. The Ombudsman for Children is particularly well placed to advocate on behalf of these children, and to present their concerns from a children's rights perspective.

The main purpose of the research was to identify the barriers to the realisation of children's rights in Irish law, policy and practice. In all, six general barriers under the following headings:

- 1. Invisibility of Children:** Children are largely invisible in law and policy and in 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 co-ordinate the implementation of children's rights which cut across areas of government responsibility. To address this barrier, children's voices must be integrated into mainstream political and administrative decision-making structures at local and central levels, and consideration given to introducing a legal duty to incorporate children's views into decisions that affect them. Inter-departmental structures must be established to bring about more effective delivery of services and mechanisms put in place to regularly review law, policy and budgets from a children's rights perspective.
- 2. Law and Policy:** Children's rights are not explicitly protected in the Constitution, in law or in policy with the effect that they are often ignored in decision-making processes that affect them. Fundamental children's rights principles (non-discrimination, the requirement to take best interests into account and to ensure the voices of children are heard) should be given explicit protection in the Constitution and in law and policy particularly in areas of education, health care, youth justice and family law. Law and policy already in place should be fully implemented without further delay.
- 3. Advocacy, Complaints and Monitoring:** The absence of effective advocacy mechanisms to represent children and their rights, and to monitor services designed to meet their needs frustrates the implementation of children's rights. The establishment of effective, independent complaints mechanisms, and systems to compel the highest children's rights standards are secured in children's services are vital, especially to ensure that the rights of children who are very young, sick, in residential care or at risk, are fully protected.
- 4. Provision of Services and Supports:** There is an absence of dedicated supports and services for children especially in the areas of mental health, family breakdown and adolescent health including drug treatment and sexual health. The fragmented co-ordination of available services and the failure to mainstream positive initiatives means that children's rights are ignored in areas of

education, health care and family support. Particular problems are experienced with respect to measures designed to target disadvantage, and in areas where children have complex needs that require services to cut across different state agencies or government departments. Awareness needs to be raised about the existence of available services, especially locally-based services, and these need to be mainstreamed.

5. Lack of Investment: Lack of sustained and substantial investment in children's lives has acted as an obstacle to their rights being implemented in areas of education (including early childhood care and education, psychological support and class size), children's health services, play and leisure services, and housing and family support. These are basic needs in a child's life and inability to access adequately resourced services in these areas can lead to fundamental rights like survival and development being ignored or underplayed.

6. Information and Training: Awareness about children's rights among children and adults is vital to the implementation of those rights and is a legal duty under the Convention on the Rights of the Child. Greater training is also required for all those working with children including health professionals, teachers, An Garda Síochána, lawyers, judges, service providers and all those working in the delivery of services. Awareness among children and their parents/carers is also integral to the effective protection of children's rights.

This research makes clear that while some children are particularly vulnerable, the obstacles that frustrate the effective protection of their rights affect all children. In particular, despite many positive initiatives, Ireland lacks the children's rights infrastructure necessary to underpin effective protection of children's rights for this and future generations, and to ensure that their childhood is happy and safe.

Successful realisation of children's rights depends on getting the framework right and establishing a child-focused, rights-based legal platform on which policy, practice and all decision-making can be based. The absence of independent express rights for children in the Constitution, particularly their right to a say in their lives, means that currently, this basis is weak. Overall, it is apparent that the necessary shift away from the paternalistic approach, whereby adults know best, to the recognition that children are rights-holders, with a right to have a say in their lives, has yet to take place fully both in Government and in society.

The research is not intended to be comprehensive, rather it identifies key obstacles to the full implementation of the Convention on the Rights of the Child and makes wide-ranging recommendations for both minor and major change to law, policy and practice in a number of areas. It provides a useful snapshot of the progress still to be made to ensure children's rights are protected and promoted fully in Ireland.

This research is intended to inform the work of the Ombudsman for Children in protecting and promoting children's rights. The use of a rights and evidence-based approach is key to maximising the potential of the Office to affect change by acting as a champion for the rights of all children in all areas of their lives and influencing Government to progress change.

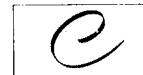
appendix 2

Letter of Support for the work of the OCO from Thomas Hammarberg, Council of/Europe Commissioner for Human Rights



COMMISSIONER FOR HUMAN RIGHTS

COUNCIL OF EUROPE



Ref: CommHR/JAK/sf 023-2008

Mrs. Emily LOGAN
Ombudsman for Children
Millennium House
52-56 Great Strand Street
Dublin 1
Ireland

Strasbourg, 12 February 2008

Dear Emily,

It was a pleasure to meet you again in Strasbourg and thank you for sharing with me your submission to the Joint Committee on the Constitutional Referendum on Children.

Enhancing the protection of the rights of children is a major priority for the Council of Europe and I greatly welcome efforts at national level to further the implementation of international standards. As you know, the Council of Europe has a long history of promoting and protecting children's rights. Over the recent year, the Council of Europe launched a programme "Building a Europe for and with children" aiming at further reinforcing children protection. I have personally taken concrete actions on supporting this programme and promoting children's rights through my constant dialogue with national authorities.

During my week long visit to Ireland last November, I gained a deeper understanding of the need to provide further protection for the rights of children in the Constitution. At the close of my visit, I welcomed the plan to hold a referendum and said it was essential that this opportunity be taken to establish the principle of the best interest of the child as a primary consideration in all decisions affecting children. This idea will be reflected in my assessment report on Ireland which I plan to publish in late spring this year.

I see from your submission that you are calling for the insertion of express rights for children and the best interests principle into the Constitution. I support your recommendations and, in particular, your view that the best interests principle should apply to all children and not be confined to the discrete situations envisaged under the current proposals.

Many Council of Europe member states have undertaken legal change, including at Constitutional level to guarantee children's rights and I hope that Ireland will use this opportunity to become a leader in the promotion and protection of children's rights.

I wish you well in your work and allow me to assure you that you enjoy my continued support in your endeavours.

Yours sincerely,

Thomas Hammarberg

appendix 3

The groups and organisations we met with in 2007 include:

- Amnesty
- Archbishop Diarmuid Martin
- ASTI
- Ballyfinane National School
- Barnardos
- BeLonG2
- BINOCC
- BIOA
- Brunswick Street School
- CAAB
- Chilax Café, Thurles
- Children in Hospital Ireland
- Children's Commissioner Wales
- Club 4 U
- Colaiste de hIde, Tallaght
- Community Development Evaluation of Public Library Provision for Teenagers - Professor Robbie Gilligan
- Council of Europe
- CSPE Support Service
- Department of Health & Children
- Digital Hub
- DPP & Chief Prosecutions Solicitor
- Drumcondra NS, Drumcondra
- Dublin North West Citizen's Advice
- East Cork Area Development (ECAD)
- Enable Ireland
- ENOC
- European Forum on the Rights of the Child
- Finglas Child and Adolescent
- French Defenseur des Enfants's Office
- Gaelscoil Bhaile Munna, Ballymun
- Garda Síochána Complaints Board
- Garda Síochána Ombudsman Commission
- Griffeen Valley, EducateTogether, Lucan
- Good Shepherd NS, Churchtown
- IAYPIC
- Irish Wheelchair Association
- School Completion Programme Beaufort College Navan
- The Crib in Sligo
- HIQA
- Hospital Youth Reach, Co. Limerick
- HSE consumer affairs
- International Youth Mental Health Conference
- INTO
- Irish Association of Teachers in Special Education
- Irish Film Censor
- Irish Film Institute (IFI)
- Irish Play Therapy Association
- Irish Primary Principals Network (IPPN)
- ISPCC
- Killarney Community College
- Laois County Development Board
- Lucan Youth Reach
- Malahide CC, Co. Dublin
- Middlequarter - Building Social Impact
- Minority Languages in Education
- National Association Youthreach Coordinators (NAYC)
- National Parents' Council
- Navan Traveller Training Centre
- NCCA
- NCSE
- NEWB
- Ombudsman's Office
- Our Lady's Traveller Training Centre, Mallow
- Presentation SS, Galway
- Presentation Loughboy, Kilkenny
- Presentation SS, Warrenmount, Dublin
- Primary Curriculum Support Programme
- Rutland Street School

The groups and organisations we met with in 2007 (cont.)

- Sandy Road Training Centre, Galway
- Scoil Mháthair Dé, Limerick
- Scoil Bhríde, Leixlip
- Sn Ard Mhuire, Drogheda
- Senior Travellers' Training
Centre National Co-ordinator
- Sparks
- SSI
- St Aidan's NS, Mayo
- St Aloysius College, Cork
- St Columba's Facility for Deaf Children, Cork
- St Catherine's Vocational, Killybegs
- St Conleth's Vocational, Newbridge
- St Joseph's NS, Ardenvue, Tullamore
- St Nesson's CC, Limerick
- St Ultan's Special School, Navan
- St Patrick's Boys NS
- St Patrick's Grammar School
- St Rose's NS, Balrothery, Tallaght
- St Oliver's Education Centre, Clondalkin
- Swim Ireland
- TASC
- The Irish Family Lawyers Association
- The Training and Education
Support Project (TESO) Finglas
- Thomas Hammarberg, EU Commissioner for
Human Rights
- TUI
- UN Special Session on Children
- UNICEF
- Youth Reach Knocknaheeny
- Youth Reach, Galway

Ombudsman for Children

Children and Young People's Annual Report 2007



message from Emily

Hi everyone,

My name is Emily Logan and I am the first Ombudsman for Children in Ireland. My job is to speak up on issues affecting children and young people living in Ireland and to promote their rights. This means that I work on behalf of everyone under 18 living in Ireland, not just Irish young people.

To do this job I need to hear what children and young people have to say. The past year has been really great for all of us in OCO as we got to meet more children and young people than ever. Over the past twelve months we have met thousands of children and young people from all over Ireland.

Getting a chance to hear children and young people's opinions means that I can do a better job in speaking out on their behalf, especially when I know the kind of things that they are really worried about.

I feel that I know what I am talking about when I say to government and politicians in the Oireachtas "This is what young people are telling me is important to them".

The last twelve months have been so busy in the OCO it was hard to fit everything in to this years' report! I really want to thank our very first YAP who finished up with us summer 2007. Your hard work and dedication and advice was very much appreciated over the last 3½ years.

I also want to welcome our new YAP who are doing a great job. If anyone wants to question whether rights and responsibilities go together, come and meet our YAP. I am very proud but not surprised by their serious approach to wanting to improve things for young people in Ireland. I always feel great hope for Ireland when I'm talking to them. I hope together we can get out the message that the young people care and want Ireland to be a good place not only for the future but for children and young people now.

So thanks to Ahmed, Aoife, Ben, Cara, Ciaran, Craig, Inga, Hannah, Kim, Leylah, Lorna, Méabh, Mikey, Mícheál, Niall, Nichola, Patrick, Pauline, Róisín, Saoirse, Shauna, Síona and Thomas. It is a privilege for us to have you on board.

Emily

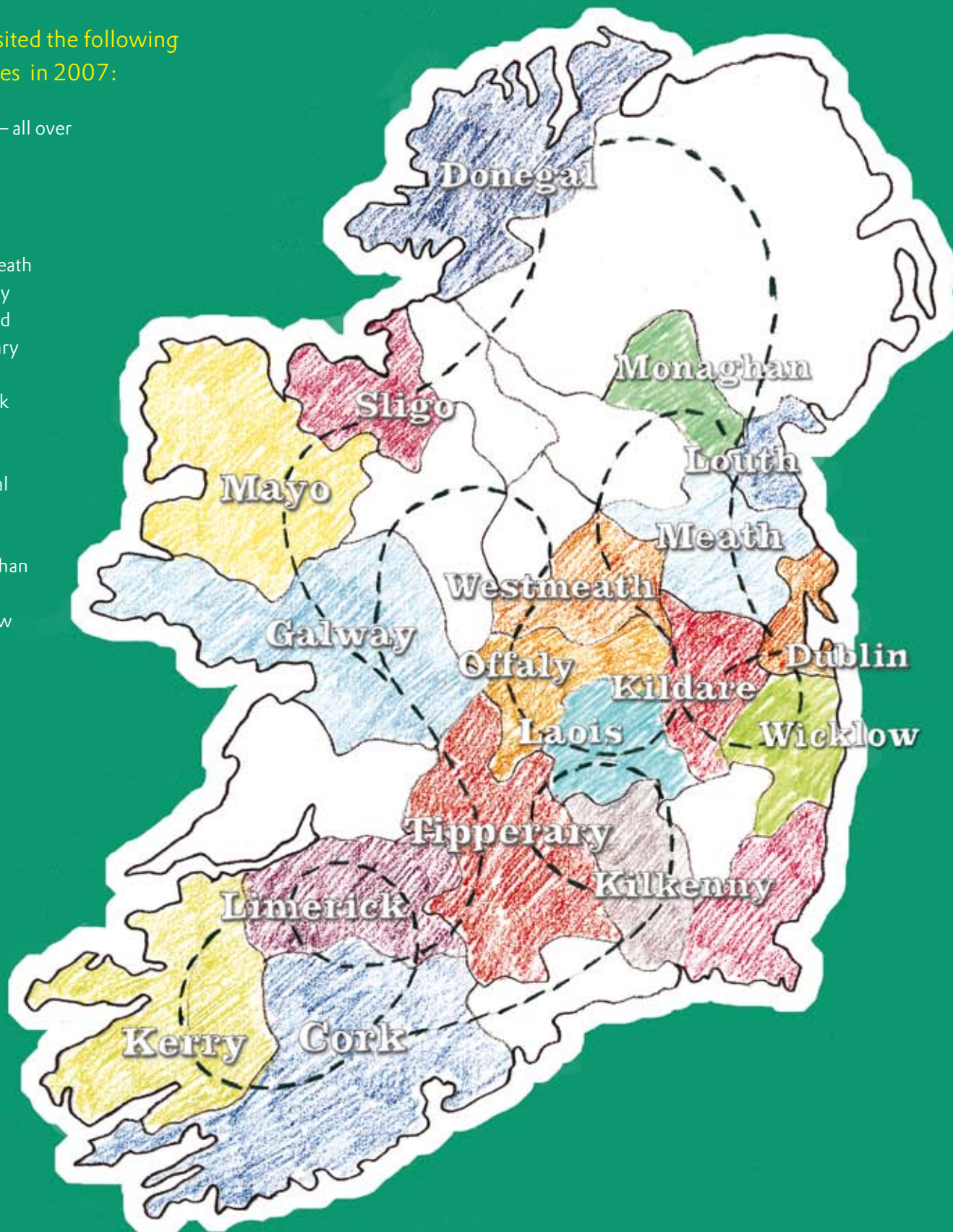
All drawings in this report are by children and young people who visited the OCO in 2007.



counties we visited in 2007

We visited the following
counties in 2007:

Dublin – all over
Louth
Offaly
Kildare
Meath
Westmeath
Kilkenny
Wexford
Tipperary
Cork
Limerick
Kerry
Galway
Donegal
Sligo
Mayo
Monaghan
Laois
Wicklow



YAP campaign

January 2007

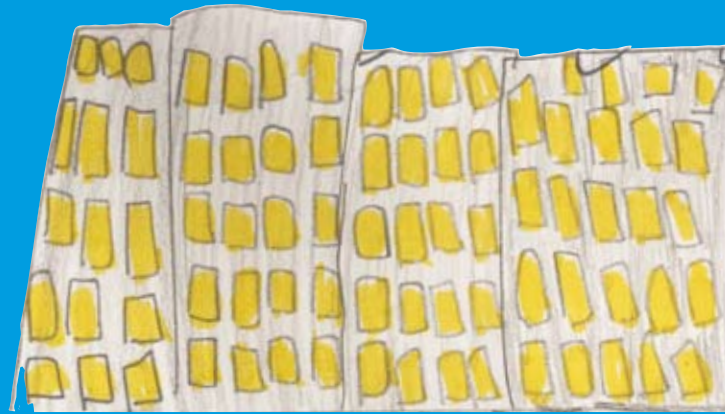
YAP recruitment

OCO: 10 +11 April 2007

Sligo: 13 April

Cork: 28 April

The first big event of 2007 was recruiting our new YAP (Youth Advisory Panel). The first YAP took part in our poster and radio campaign to ask young people from all over Ireland to apply. Around 200 young people from all over Ireland applied. They met in groups of 50 in workshops held in Dublin, Cork and Sligo to decide amongst themselves who would go forward to the new YAP.



Recruitment at OCO



Recruitment in Cork





Recruitment in Cork



YOUR OMBUDSMAN NEEDS YOU

Ombudsman? Why does she need you? Find out more.

you want new horizons, new people and new experiences in your life? I'm inviting anyone between 12 and 17 - to become one of twenty important voices to the Ombudsman for Children and Young people, Emily Logan. She makes sure that young people and children are getting a fair deal.

It's work is vital but stress-free and often fun. I'm looking for all kinds of young people to apply. So if you're not sure or curious, we need you - please take the next step: 1. Commitment. Find out more about it on our Youth Advisory Panel.

ombudsman
for children and young people

JOIN THE OMBUDSMAN'S TEAM OF YOUNG ADVISORS
12-17 VISIT OCO.IE CLICK ON YA



YAP

In 2007 we said goodbye to our first YAP (Youth Advisory Panel) and welcomed our new group of 25 young people from all around Ireland and of all different backgrounds.

Over the next couple of years they will work with different OCO staff on specific projects as well as helping to inform us of different issues for children and young people.





big ballot materials & dvd

The Big Ballot was Ireland's first ever national ballot of children and young people and was organised by the OCO.

In September we sent out teaching materials to over 1000 primary and post-primary schools, Youthreach centres and Senior Travelling Training Centres to help children and young people learn about important issues. These materials included a DVD which we had lots of help making from the members of both the first and current YAP.



Kevin's Choice





Caitlin's Mirror



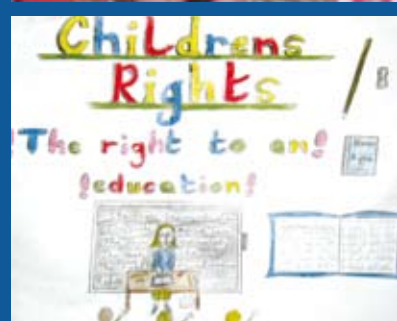
YAP Interview with Emily

OCO on the road

To hear the voices of as many children and young people as possible, Emily and some of her team spent the month of October travelling around Ireland.

We met with thousands of children and young people and Emily got to hear many of the serious and wide ranging issues that children and young people wanted to raise with us. We also put a blog about the tour and a photo gallery of all the visits on our website

www.oco.ie





YAP on tour

As we were visiting many of the counties that some of our YAP were from, different members often joined us on tour.

They spoke of their experience of being on a youth panel as well as talking about the importance of having a say and exercising your vote!





national count event

20 November 2007 -
Universal Children's Day

Once all the votes were in from all the participating schools and centres, they were counted and a big event was held on Universal Children's Day to find out the result. Over 70,000 children and young people voted to tell us what they thought was the most important issue affecting children and young people in Ireland today! Children and young people from the 26 counties attended the event in City Hall, Dublin and we had entertainment from Ma Samba and RTÉ Cor na Nóg.





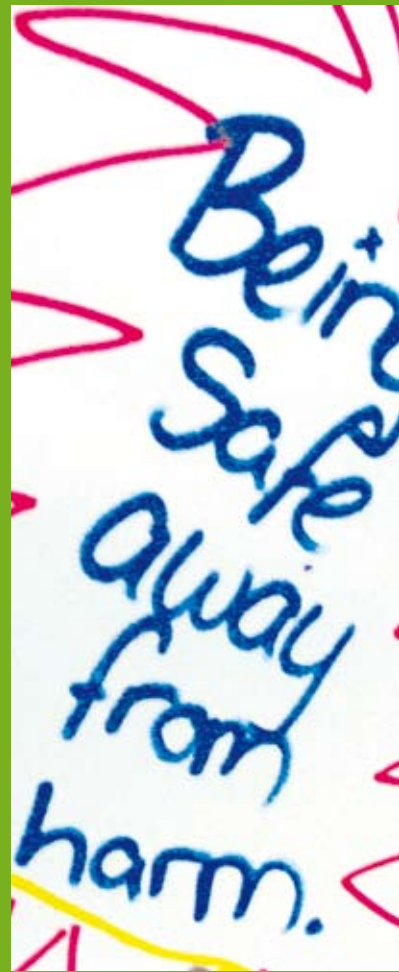
Results: National Total

Combined totals:

Children's Right to be Heard	11,398
Family & Care	21,760
Health & Well-being	11,152
Education	8,209
Play, Leisure & Recreation	16,525

issues raised by children and young people

In their own words below are some of the issues raised by children and young people over the last 12 months with the OCO.



I believe that the ombudsman for children needs to understand that children in the Ireland of today are stereotyped and discriminated against too easily.





I feel that young people need more facilities and places to go in our free time. I also feel that bullying is a major issue in today's society and needs to be stopped.

I think that the Ombudsman has to understand the terrible pressures put on young people from exams, ~~the~~ our peers etc. These pressures are a huge part of a young person's life and I think more needs to be done to ease these pressures. I also think the Ombudsman needs to know about the lack of facilities for young people

Now

- Farm
- (Fighting Now.)
- Youth Centre
- Stereotyping (A)

What we want our life to be like.

- No Drugs
- (No Fighting.)
- No Stereotyping (A)
- Safe Cars
- Cinema

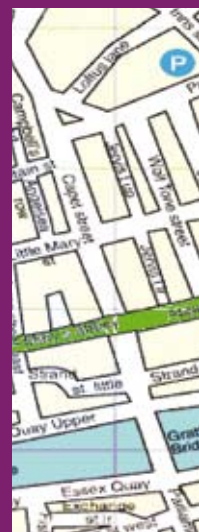
think it is very hard to be a young person in Ireland today. Because as everyone knows bullying is a very big issue, & so is peer pressure. Alcohol, smoking & maybe even drugs are all temptations of being a young person today. And something most people forget about "suicide".

our space

This year we welcomed hundreds of children and young people to our office.

This space was designed to be welcoming to children and young people, and we are delighted that children from Rutland Street Primary School and young people from Larkin Community College donated their fantastic artwork which we have used all around the place.

Ombudsman for Children's Office
Millennium House
52-56 Great Strand Street
Dublin 1





Cluas le hÉisteacht do leanaí

Tuarascáil Bhliantúil Oifig an Ombudsman do Leanaí
Eanáir 2007 - Nollaig 2007

Is í seo an tríú Tuarascáil Bhliantúil ón Ombudsman do Leanaí.

Cuireadh faoi bhráid an Oireachtais í de bhun Alt 13 (7) den Acht um Ombudsman do Leanaí, 2002.

Clúdaítear an tréimhse 1 Eanáir 2007 go dtí 31 Nollaig 2007 sa Tuarascáil.

Emily Logan
An tOmbudsman do Leanaí

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

Fón 01 865 6800
Lóghlao 1890 654 654
Ríomhphost oco@oco.ie
Gréasán www.oco.ie

An Fhoireann

Aoife Greene
Barbara Fowler
Bernard McDonald
Charles Reid
Deirdre O'Shea
Guy Mahon
Jane Boxberger
Karen McAuley
Leigh Snedker
Mánus de Barra
Marianne Cassidy
Mary Kearns
Nikki Gallagher
Sophie Magennis

Comhaltaí Phainéal Comhairleach na nÓg (YAP)

Tugann siad seo uile a gcuid ama agus fuinnimh go fial agus go deonach.

Ahmed Ali
Aoife Cotter
Ben English
Cara Sanquest
Ciarán Nolan
Craig Dwyer
Hannah Gribbin
Inga Dalzell
Kim O'Shea
Leylah Mohammed
Lorna Sweetman
Méabh Kinsella
Michael (Mikey) Walsh
Mícheál Callaghan
Niall Fitzgerald
Nichola Moran
Patrick O'Sullivan
Pauline Farrelly
Róisín Reynolds
Saoirse Smith
Shauna Watson
Síona Cahill
Thomas Collins

clár

1. Ról na hOifige	6
2. Teachtaireacht ón Ombudsman do Leanaí	8
3. Forbairt na hEagraíochta	14
- Acmhainní daonna	15
- Pleanáil straitéiseach	15
- Rialú airgeadais	16
4. Gearáin agus Imscrúduithe	18
- Forálacha ar leith	19
- Gearáin agus imscrúduithe mar fheidhm chuiditheach	19
- An obair go dtí seo	19
- Gearáin	21
- Gearánaithe	21
- Cás-staidéir	22
- Saincheisteanna ardaithe ag tuismitheoirí, gairmithe agus ag pléadálaithe eile	25
- Tacaíocht teaghlaigh	26
- Leanaí le riachtanais bhreise	27
- Gearáin a fuarthas ó leanaí	27
- An cleachtas is fearr a fhorbairt	28
- Comhoibriú le comhlachtaí eile a láimhseálann gearáin	28
- Obair le gairmithe	29
- Taighde ar láimhseáil ghearán leanaí agus daoine óga	29
5. Cumarsáid agus Rannpháirtíocht	30
- Painéal Comhairleach na nÓg nua (YAP) a earcú	32
- An Bhallóid Mhór	33
- An Cleachtas is fearr a fhorbairt agus a chothú	35

6. Beartas agus Reachtaíocht	36
- Ról Beartais na hOifige	37
- Tuarascáil Speisialta chuig an Oireachtas	37
- Iarratais bhreise ón Aire ar Chomhairle	38
- Athbhreithniú Bás Linbh	38
- Leatrom i mbeartas iontrála scoileanna	38
- Míchumas intleachtúil	39
- Leanaí faoi choinneáil	39
- Cuirteanna ar ionaid choinneála	40
- Cosaint Leanaí	40
- Feistí muiscíte	41
- An Bille um an Dlí Coiriúil (Gáinneáil ar Dhaoine agus Coireanna Gnéis) 2006	41
7. An Reifreann Bunreachtúil atá beartaithe	42
- An Cúlra	43
- Dearcadh an Ombudsman do Leanaí	43
8. Taighde	44
- Bacainní ar Chearta Leanaí a Fhíorú in Éirinn	45
9. Obair Idirnáisiúnta	46
- ENOC	47
- BINOCC	49
- Rannpháirtíocht i meicníochtaí agus in imeachtaí idirnáisiúnta cearta daonna	49

01

ról na hOifige



Déanann an tOmbudsman do Leanaí cearta agus leasa leanaí agus daoine óga faoi bhun ocht mbliana déag d'aois a chothú agus a chosaint. Tá an tOmbudsman do Leanaí neamhspleách ar an rialtas agus ar ghníomhairí eile na sochaí sibhialta agus tá an oifig freagrach don Oireachtas. Is iad seo leanas a príomhfheidhmeanna:

- seirbhís neamhspleách a sholáthar chun gearáin maille le
- comhlachtaí poiblí a láimhseáil;
- cearta leanaí a chothú, lena n-áirítear a bpáirt i ngníomhaíochtaí rannpháirtíochta agus cumarsáide;
- monatóireacht agus athbhreithniú a dhéanamh ar reachtaíocht faoi ábhair a bhaineann le cearta agus leasa leanaí;
- comhairle a chur ar aon Aire faoi aon ábhar a bhaineann le cearta agus leasa leanaí; agus
- a chinntiú go sásaíonn dlí, beartas agus cleachtas na caighdeáin agus na dualgais is airde faoi Choinbhinsiún na NA um Chearta an Linbh.

Cuireadh Oifig an Ombudsman do Leanaí (OCO) ar bun i mí Aibreáin 2004 faoi reachtaíocht phríomhúil: An tAcht um Ombudsman do Leanaí, 2002.

D'ímigh Emily Logan i mbun a poist mar chéad Ombudsman na hÉireann do Leanaí i mí Aibreáin 2004.

02

teachtaireacht ón Ombudsman do Leanaí

Is cúis áthais dom é an tríú tuarascáil bhliantúil uaim a chur faoi bhráid an Oireachtais. Ó chuir mé tús le mo phost mar Ombudsman do Leanaí i mí Aibreáin 2004, ba bhliain chorroitheach ghnóthach í bliain na tuarascála seo, 2007.

Chuir mé fáilte anuraidh roimh mholadh go n-eagrófaí reifreann bunreachtúil agus dúirt mé go raibh sé riachtanach an deis seo a ghlacadh chun prionsabal leasa an linbh a chur sa áireamh mar phríomhchúram i ngach cinneadh a théann i bhfeidhm ar leanaí.

Tar éis dom plé le 1,710 gearán ó thuismitheoirí agus clos go díreach ó na mílte leanbh ar fud na tíre, tá dhá phríomhphionsabal ann – ‘na leasa is fearr’, agus rannpháirtíocht leanaí agus daoine óga – do leanaí agus do dhaoine óga a chónaíonn in Éirinn, a dtugtar neamhaird orthu go leanúnach. Nuair a dhéantar cinntí a théann i bhfeidhm ar leanaí, ní chuirtear prionsabal leasa is fearr an linbh san áireamh i gcónaí; agus i roinnt cásanna is cosúil go dtugtar tús áite d’ainm nó do chluí eagraíochta. Ní iarrtar a dtuairimí ar leanaí go minic ná ní spreagtar iad chun a bheith rannpháirteach nuair a bhíonn cinntí á ndéanamh a mbíonn tionchar tromchúiseach acu ar a saol uaireanta.

Chun na leasa is fearr do leanbh a dheimhniú, tá sé tábhachtach go dtugtar cluas le héisteacht don leanbh. Creidim go bhfuil dhá phrionsabal bhunúsacha ann chun an saol a fheabhsú do mhórán leanaí in Éirinn.

I rith na bliana 2007 chasamar le cuid mhór gairmeoirí a bhfuil a saol caite acu ag obair do leanaí agus thar a gceann. D’iarr cuid díobh comhairle, oiliúint nó tacaíocht ar an OCO san obair seo. Tá taithí dhíreach againn ar ghairmeoirí chomh maith a fheidhmíonn mar phléadálaithe do leanaí. Rinne mórán páirtithe leasmhara san oideachas, lena n-áirítear cumainn na múinteoirí, líonraí gairmiúla agus go háirithe scoileanna, a gcion ar bhealach tábhachtach chun go mbeadh rath ar ár gcomhairliúchán, an Bhallóid Mhór, agus táimid thar a bheith buíoch díobh go léir ar son a gcuid tacaíochta agus a gcuid cúnaimh.

Buaicphointí na bliana 2007

Bhí m’Oifig páirteach go gníomhach i mbun comhairle faoi reachtaíocht a théann i gcionn ar leanaí, arbh é an leasú Bunreachtúil a bhí beartaithe ba shuntasáí díobh; choimisiúnaíomar taighde chun tuiscint a fhorbairt faoi na bacainní a bhíonn le cearta leanaí in Éirinn mar threoir dár gcuid oibre; chaith beagnach 75,000 leanbh vóta faoi na saincheisteanna ar cheart dúinn tús áite a thabhairt dóibh, dar leo; d’oibríomar le 781 teaghlach faoi ghearáin; rinneamar ár gcéad phlean straitéiseach do 2007-2010 a cheapadh; agus thugamar aire dár ndualgais airgeadais agus chuntasaíochta.

Sainordú um láimhseáil neamhspleách gearán

Mhéadaigh cúram na ngearán 43% i mbliana. Fuaireamar 741 gearán i 2007; tuismitheoirí nó baill den teaghlach ba ea 74% de na gearánaithe agus ionadaíocht á dhéanamh acu ar son a leanaí. Tá athrú tagtha ar chineál na ngearán ó thaobh castachta. Díríonn na gearáin ar sholáthar seirbhíse na hearnála poiblí do leanaí; ach bhain ábhair níos casta le gearáin na bliana seo, le bás leanaí san áireamh.

Cé gur ardaíodh agus gur réitíodh a lán de na hábhair seo ar bhonn aonair, tá impleachtaí níos leithne ag baint le réimsí suntasacha díobh. Déanfaidh mé féin agus m'fhoireann níos mó fiosraithe faoi na saincheistanna seo a leanas:

- na meicníochtaí a úsáidtear san earnáil phoiblí chun déileáil le hiompair mhíchúf i leith leanaí;
- cosaint a thabhairt do gach leanbh i gcúram an stáit;
- tacaíocht do thuismitheoirí agus do theaghlaigh leanaí le tinneas ainsealach nó atá faoi mhíchumas.

Ceartha leanaí, agus a gcúram siúd, a chothú

Ba í seo an bhliain ab fhearr a bhí againn ó thaobh teagmháil dhíreach le leanaí agus le daoine óga ar fud na tíre. Tháinig os cionn 200 leanbh agus duine óg chun bualadh linn inár n-oifigí i mBaile Átha Cliath.

Chaith mí Dheireadh Fómhair ar chamchuairt na tíre agus bhuail mé le 5,000 leanbh agus duine óg ina gcontaetha féin. Tar éis cuairt a thabhairt ar na hionaid choinneála go léir, bhuail mé freisin le daoine óga in Institiúid N. Pádraig. Agus ár bhfoireann nua comhairleoirí óga á hearcú againn, Painéal Comhairleach na nÓg (YAP) bhuaileamar le 210 leanbh agus duine óg ar fud na tíre. Tá YAP nua againn as an bpróiseas earcaíochta seo, le 25 duine óg a bhíonn ag obair linn go deonach.

I gcomhairliúchán na Ballóide Móire, chualamar tuairimí ón iliomad leanaí agus daoine óga. Chabhraigh 150 leanbh agus duine óg linn na saincheistanna a mbeadh leanaí agus daoine óga ag caitheamh vóta ina leith sa Bhallóid Mhór a dheimhniú. Bhí leanaí faoi mhíchumas, baill den lucht síúil, leanaí scartha agus leanaí i gcúram san áireamh. Chaith beagnach 75,000 leanbh vóta inár dtionscadal 'An Bhallóid Mhór' a thug deis do leanaí tuairim a thabhairt faoi obair na hOifige. Mar thoradh ar an vóta thug siad tús áite do na cúig shaincheist seo a leanas: teaghlach agus cúram; súgradh agus caitheamh aimsire; guth a bheith acu; sláinte; agus oideachas.

Is cúir áthais do a thuairisciú go bhfuil feasacht faoi chearta leanaí agus faoi obair na hOifige ag méadú i measc an phobail agus i measc leanaí.

Ár sainordú beartais agus reachtaíochta

Faighim iarratais go rialta ó Airí maidir le comhairle a thabhairt dóibh faoi reachtaíocht atá ar na bacáin a bheith ag cloí leis an Acht um Ombudsman do Leanaí, 2002. Is féidir liom freisin tuarascálacha speisialta a chur faoi bhráid an Oireachtais as mo stuaim féin. I 2007, ar iarratas ón Aire Leanaí, thug mé comhairle faoin mbille um an ochtú leasú is fiche ar an mBunrecht maidir le cearta leanaí, agus chuir mé Tuarascáil Speisialta faoi bhráid an Oireachtais le mo thuairimí faoi na hathruithe atá beartaithe.

Tugadh cuireadh dom freisin mo thuairimí a thabhairt faoin mBille um an Dlí Coiriúil (Gáinneáil ar Dhaoine agus Coireanna Gnéis) 2006. Chuir m’Oifig tús freisin leis an obair chun beartas poiblí a fhorbairt faoi bhás leanaí. Rinneadh dul chun cinn suntasach maidir le mo shainordú faoi chomhoibriú a dhéanamh le hOmbudsmen i stáit eile. Ceapadh mé i mí Mheán Fómhair le bheith i mo Chathaoirleach ar Líonra Eorpach na nOmbudsman do Leanaí, Líonraí Ombudsman do Leanaí i 31 ballstát Chomhairle na hEorpa. I mí na Samhna thug Thomas Hammarberg, an Coimisinéir Cearta Daonna, Comhairle na hEorpa, cuairt ar ár nOifig agus chuireamar ár gcuid oibre ina láthair. Thug UNICEF cuireadh dom i mí na Nollag a bheith rannpháirteach i ndara cruinniú líonra domhanda Ombudsman do Leanaí.

Dúshlán Breithiúnach

Cuireadh dúshlán breithiúnach faoi m’Oifig den chéad uair i 2007.

Go luath i mí na Samhna, tamall gearr roimh ócáid na Ballóide Móire, rinne duine iarratas chuig an Ard-Chúirt ar chead chun urghaire a lorg chun ócáid na Ballóide Móire a stopadh ó tharlú mar gur chreid an duine sin go raibh m’údarás sáraithe agam ach dul i gcomhairle le leanaí go díreach faoina gcearta. Ag éisteacht os comhair na hArd-Chúirte, bheartaigh an Chúirt nach raibh aon chúis ann go rachfaí ar aghaidh le hiarratas an duine sin. Bheartaigh an Chúirt go raibh mé ag feidhmiú laistigh de m’údarás i gcomhairliúchán na Ballóide Móire agus i gcothú Chearta an Linbh in ábhar a dáileadh ar scoileanna ar fud na tíre. Dhearbhaigh cinneadh na Cúirte an sainordú soiléir atá ag m’Oifig chun idirghabháil a dhéanamh go díreach le leanaí agus daoine óga faoina gcearta.

An Fhoireann


Rinne m'fhoireann an-chuid oibre i 2007. Bhí clár uailmhianach agam don bhliain seo agus ba mhaith liom aitheantas a thabhairt dóibh agus buíochas a ghabháil leo as a ndílseacht, a ndea-aoibh agus a dtiomantas dár gcuid oibre i 2007. Bhí an t-ádh orm obair le dream daoine chomh cumasach fuinniúil.

Tá cúigear déag ar fhoireann na hOifige, agus mé féin san áireamh. Socraíodh an leibhéal foirne seo i 2002, i bhfad sular bunaíodh an Oifig. Cé go nglacaim leis nach raibh láneolas ann faoin Oifig agus a feidhmeanna ag an am, is léir go bhfuil gá le hobair shainiúil na hOifige. Tá cás gnó curtha chuig an Roinn Sláinte agam chun breis acmhainní a fháil agus tá mé ag feitheamh le freagra ar m'aighneacht.

Cé nach bhfuil eolas soiléir agam faoin toradh faoi láthair, ba mhaith liom a chur in iúl gur ábhar imní atá ann dom maidir le mo chumas chun mo shainordú reachtúil a chomhlíonadh, go háirithe i ndáil leis an bhfeidhm Gearáin agus Imscrúduithe, sa todhchaí mura ndéantar acmhainní foirne na hOifige a mhéadú. Tá sé beartaithe agam comhairle agus tacaíocht a iarraidh ar an Oireachtas ina leith seo.

Is oth liom gur éag mo chomhghleacaí BINOCC, Coimisinéir Leanaí sa Bhreatain Bheag, Peter Clarke, go luath i 2007. Sular cuireadh m'Oifig ar bun, labhair Peter le Rialtas na hÉireann faoi ról tábhachtach na hoibre a dhéanann ombudsman agus chabhraigh sé leis an Rialtas a spreagadh chun daoine óga a bheith páirteach san earcaíocht do mo phost. Nuair a ceapadh mise níos déanaí mar Ombudsman do Leanaí, bhí Peter ar fáil i gcónaí chun comhairle agus tacaíocht a thabhairt dom nuair a bhí gá agam lena leithéid. Ba chomhghleacaí den scoth é, fear cineálta agus dea-chara. Is mór an chaill a imeacht agus braithfidimid uainn é.

Tá bród orm as obair na hOifige go dtí seo agus tá mé ag súil leis an tseirbhís a chuirimid ar fáil a fheabhsú go leanúnach. De réir mar atá daoine eolach ar an oifig agus a cuid feidhmeanna, tá an t-ualach oibre ag méadú; bíonn gá le hanailís shofaisticiúil a dhéanamh ar na saincheisteanna casta a bhaineann le cearta leanaí agus bíonn freagraí cruthaitheacha ag teastáil. Creidim go bhfuil m’Oifig réidh don dúshlán seo agus tá mé ag tnúth le hathruithe móra a fheiceáil i seirbhísí agus in iompar agus a gcearta a bheith á mbaint amach go seasmhach ag leanaí dá mbarr, go háirithe iadsan is mó atá eisiata agus gan cluas le héisteacht ann dóibh.

A handwritten signature in black ink that reads "Emily Logan". The signature is written in a cursive style. Below the signature is a thin horizontal line.

Emily Logan
An tOmbudsman do Leanaí

03

forbairt na heagraíochta

Bhí an OCO ag feidhmiú don tríú bliain i 2007. Chuaigh an eagraíocht go céim nua fáis leis an gcloch mhíle seo. D'earcaíomar foireann chun ár gcomplacht iomlán de 15 a bhaint amach agus cuireadh an chéad straitéis eagrúcháin i gcrích.

Acmhainní Daonna

Tá an réimse taithí agus saineolais seo a leanas ag an OCO anois: sláinte leanaí, oideachas, rannpháirtíocht óige, dlí cearta daonna, cumarsáid, oideachas cearta daonna, obair shóisialta, sícíteiripe, beartas sóisialta, cothú sláinte, agus riarachán sinsearach poiblí.

Comhlánaíodh foireann iomlán na hOifige i mbliana, cúigear déag agus an tOmbudsman do Leanaí san áireamh. Aontaíodh an chionroinnt foirne seo i 2002 sular ceapadh an tOmbudsman do Leanaí. Ach de réir mar ar cuireadh aithne ar obair na hOifige go náisiúnta, mhéadaigh an t-éileamh ar ár seirbhísí go mór. Tá géarghá againn anois lenár n-acmhainní foirne a mhéadú le cinntiú go mbeimid in ann freagairt don éileamh méadaithe seo. Tá cás gnó ullmhaithe le sonraí na n-acmhainní atá riachtanach san Oifig chun straitéis 2007-2010 a chur i ngníomh.

Go dtí seo bhí próiseas fada casta eadrainn ar bun leis an Roinn Sláinte agus Leanaí, leis an Roinn Airgeadais agus leis an tSeirbhís um Cheapacháin Phoiblí chun foireann a earcú. Mar gheall ar a méid cuirtear brú ar leith ar an OCO ar dhá bhealach mar gheall ar an ngá atá le foireann a athsholáthar go pras agus an próiseas fada atá i gceist le foireann nua a earcú. I 2007, cuireadh trí phost amach i gcomórtas srianta ar dtús agus ansin go comórtas iomlán oscailte sular éirigh linn iad a líonadh. Chuir an mhoill seo isteach go mór ar fheidhmiú na hOifige. Cuireann sé éilimh neamhriachtanach ar chumas teoranta na nAcmhainní Daonna atá againn.

Pleanáil Straitéiseach

Mar gheall ar an éileamh méadaithe ar ár seirbhísí agus ar dhoimhneacht agus scóip na hoibre a bheith ag méadú, ní mór don Oifig a clár oibre a phleanáil agus tosaíocht a thabhairt do ghnéithe éagsúla ar bhealach éirimiúil straitéiseach éifeachtúil. Tá an-tuiscint ag an OCO ar na struchtúir atá ann cheana agus táimid ag súil le cur leis na seirbhísí seo seachas dúbláil a dhéanamh orthu.

Leis an tuiscint seo, tá a chéad phlean straitéiseach curtha i gcrích ag an OCO don tréimhse 2007-2010. Rinneadh an straitéis a fhorbairt tar éis comhairliúchán suntasach inmheánach agus anailís ó pháirtithe seachtracha leasmhara.

Rialú airgeadais

Fuair Oifig an Ombudsman do Leanaí maoiniú €2.1 m don bhliain 2007.

Tá an tOmbudsman do Leanaí freagrach as na Ráitis Airgeadais a ullmhú mar atá leagtha amach in Acht an Ombudsman do Leanaí, 2002 agus as rialtacht na mbeart a chinntiú. Ullmhaíonn an tOmbudsman do Leanaí na Ráitis Airgeadais de réir na gCleachtas Cuntasaíochta a nglactar leo go ginearálta in Éirinn. Tá na freagrachtaí cuntasaíochta leagtha amach san Acht um Ombudsman do Leanaí, 2002.

Tá an Oifig freagrach as gnéithe oibriúcháin a cuid airgeadais. Tá nósanna imeachta laethúla airgeadais, lena n-áirítear íocaíochtaí, próisis tairisceana, oibriú an phárolla agus tiomsú na n-aischur míosúil, san áireamh, i gcomhréir leis an gcleachtas iniúchta is fearr. Tá na Ráitis Airgeadais faoi réir ag iniúchadh ón Ard-Reachtair Cuntas agus Ciste. Ní bhíonn iniúchadh déanta de ghnáth ar na Ráitis Airgeadais ag an am a fhoilsítear an tuarascáil bhliantúil. Chomh luath is a bhíonn siad faofa ag Oifig an Ard-Reachtair Cuntas agus Ciste áfach foilsítear ar shuíomh gréasáin OCO iad. Tá na cuntais airgeadais do 2004-2005 agus 2005-2006 ar fáil ar www.oco.ie

Cuireann CrowleysDFK seirbhísí cuntasaíochta ar fáil d'Oifig an Ombudsman do Leanaí tar éis próiseas iomaíoch tairisceana.

04

gearáin agus imscrúduithe

Go stairiúil, tháinig an t-éileamh ar sheirbhís gearán agus imscrúduithe ó laistigh agus lasmuigh d'Éirinn. Deich mbliana ó shin, d'éiligh Coiste na NA um Chearta an Linbh go mbunófaí Ombudsman do Leanaí in Éirinn le cumhacht chun gearáin a phróiseáil agus gníomhú chun fadhbanna a réiteach. Is feidhm ghnóthach í an tseirbhís ghearán agus imscrúduithe atá i gcroílár obair na hoifige anois. Faoi Acht um Ombudsman do Leanaí, 2002, is féidir leis an OCO gearáin a dhéanann leanaí a imscrúdú – nó gearáin a dhéanann daoine fásta thar a gceann – faoi eagraíochtaí poiblí, scoileanna nó ospidéal. Seirbhís shaor neamhspleách neamhchlaonta í seo.

Forálacha ar leith

Tá trí fhoráil ar leith sa reachtaíocht maidir lenár bhfeidhm ghearán:

1. Féadfaidh leanaí teagmháil dhíreach a dhéanamh lenár nOifig.
2. Ní foláir dúinn aird a bheith againn ar leas is fearr na leanaí.
3. Tá dualgas orainn mianta an linbh a chur san áireamh de réir mar is iomchuí.

Gearáin agus imscrúduithe mar fheidhm chuiditheach

Imscrúdaíonn an OCO gearáin aonair ina bhféadfadh dochar a bheith déanta do leanaí agus déanann sí iarracht réitigh a fháil a chumasaíonn gach páirtí. Díríonn an tOmbudsman do Leanaí a cuid oibre sa réimse seo ar na réitigh is fearr a fháil don leanbh. Ag an am céanna, tá sé d'aidhm againn meas a bheith againn orthu siúd a ndéantar gearán fúthu agus tacú leo chun tuiscint a fháil ar an ábhar, chun foghlaim agus nuair is gá, a gcórais agus a bpróisis a athrú.

Déanann an OCO gach iarracht a chinntiú gur taithí chuiditheach seachas dhochrach a bheidh ann chun na torthaí is dearfaí is féidir a bhaint amach don leanbh a dhéanann an gearán, don chomhlacht poiblí féin agus ar deireadh thiar do gach leanbh a bhíonn i dteagmháil leis an gcomhlacht poiblí.

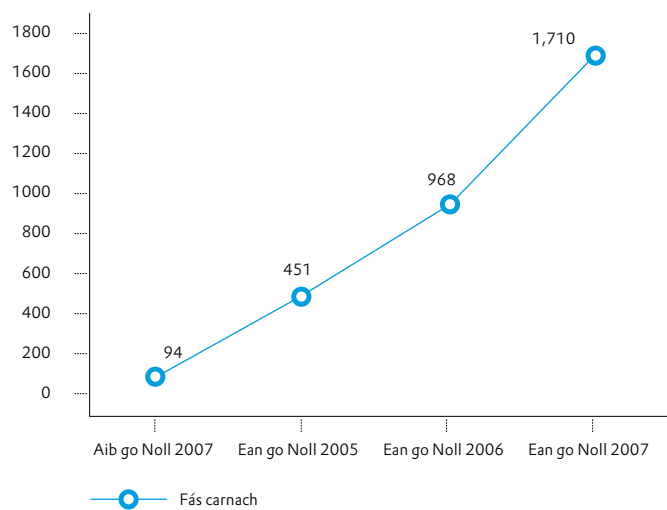
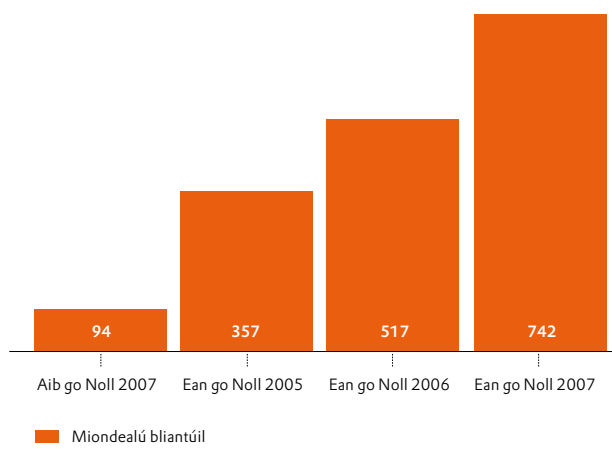
An obair sa réimse seo go dtí seo

Ó bunaíodh an OCO i 2004 rinneadh 1,710 gearán leis an Oifig. Bunaithe ar an bhfianaise agus ar an bhfoghlaim as an staidéar ar na cásanna sin, is féidir linn labhairt go muiníneach anois faoi na saincheistanna agus faoi na fíorbhacainní trámacha a bhíonn sa saol laethúil do leanaí.

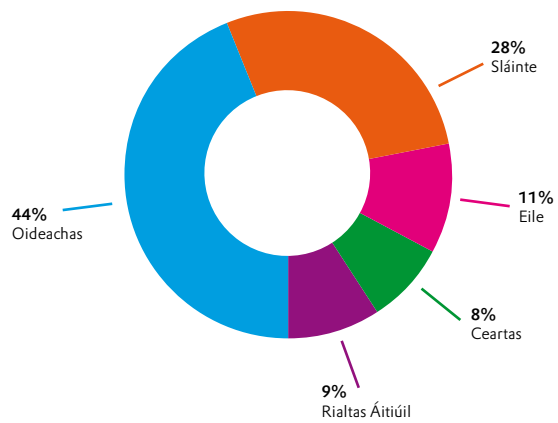
Is iad na tuismitheoirí nó baill eile den teaghlach leathan a dhéanann formhór mór na ngearán. Is fiú a lua nach raibh coinbhleacht idir leas is fearr an linbh agus ceart na dtuismitheoirí i gceist mar ábhar gearáin in aon chás díobh seo. De réir ár dtaithí is iad na tuismitheoirí na príomhaignithe ar son cearta agus leasa leanaí.

Faoi mhí na Nollag 2007, bhí 1,710 gearán faighte ag an OCO. Fuarthas 742 gearán nua idir Eanáir agus Nollaig 2007, méadú 43% ó 2006.

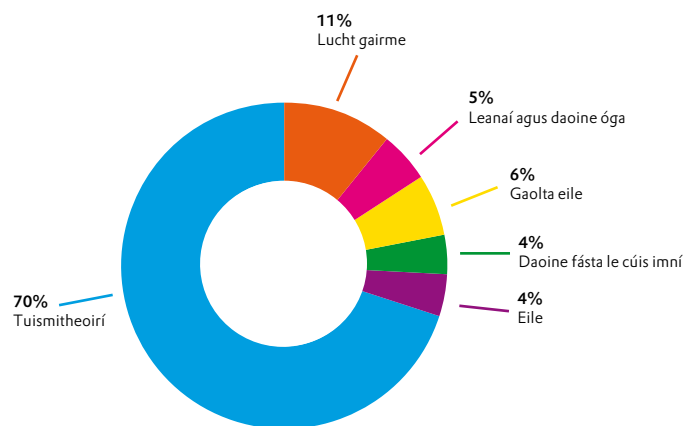
Líon na ngearán ó 2004 go 2007



Gearáin



Gearánaithe



In earnáil an Oideachais is iad na príomhábhair a ndéantar gearán ina leith ná:

- Iompar scoile
- Cionroinnt do riachtanais speisialta
- Láimhseáil tromaíochta
- Nósanna imeachta agus beartais
- Sásanna chun iompar míchuí i leith leanaí a láimhseáil.

In earnáil na Sláinte is iad na príomhábhair a ndéantar gearán ina leith ná:

- Cosaint Leanaí
- Rochtain ar sheirbhísí FSS agus a leorgacht
- Cinntí maidir le leanaí faoi chúram.

In earnáil na nÚdarás Áitiúil, baineann formhór mór na ngearán le rochtain agus le hoiriúnacht tithíocht na n-údarás áitiúil/tithíocht shóisialta do leanaí faoi mhíchumas.

In earnáil an Cheartais, baineann gearáin le leanaí faoi choinneáil.

San chatagóir Eile, baineann formhór na ngearán le réimse seirbhísí príobháideacha.

Cás-Staidéir

1. Gearán

Fuair K gortú inchinne mar thoradh ar thimpiste. Cuireadh iarratas faoi bhráid na Roinne Oideachais agus Eolaíochta go bhfaigheadh K díolúine ó staidéar ábhair ar leith. Tá na critéir díolúine leagtha amach i gCiorcalán M10/94.

Chinn Cigireacht na Roinne Oideachais agus Eolaíochta nár chomhlíon K na critéir díolúine arna leagan amach i gCiorcalán M10/94 agus diúltaíodh don iarratas. Seasadh leis an gcinneadh tar éis achomharc a dhéanamh ar an gcinneadh le Cigireacht na Roinne Oideachais agus Eolaíochta.

Imscrúdú

Nuair a bhí an gearán seo á imscrúdú ag an Ombudsman do Leanaí bhí ceangal uirthi aird a thabhairt ar leasa is fearr an linbh i gceist. Tá sé de cheangal uirthi a bhreithniú cibé acu an raibh tionchar neamhfhabhrach ag an ngníomh ar an leanbh nó nach raibh agus cibé acu an raibh an gníomh contrártha le riarachán stuama cothrom.

Le linn imscrúdú an cháis ba léir go raibh an Roinn Oideachais agus Eolaíochta tar éis cloí go docht leis an treoir i gCiorcalán M10/94.

Tá fianaise shoiléir ann, ámh, tacaithe ag tuismitheoirí an linbh agus ag gairmithe leighis agus eile go raibh staidéar an ábhair seo ag cur isteach go mór ar an leanbh.

Torthaí

Sheas an tOmbudsman do Leanaí leis an dearcadh go raibh tionchar neamhfhabhrach ar an leanbh ag an gcinneadh gan díolúine ón ábhar a thabhairt don leanbh.

Chinn sí, ámh, go raibh an Roinn Oideachais agus Eolaíochta tar éis cloí go docht leis an gcritéar díolúine agus ní bhfuair sí aon fhianaise go raibh mí-riarachán inchurtha i leith na Roinne Oideachais agus Eolaíochta.

D'fhág seo an cheist cibé acu an raibh an ciorclán féin lochtach nó nach raibh nó an raibh gá é a athbhreithniú sa mhéid nach raibh aon mhí-riarachán dealraitheach agus fós féin bhí tionchar neamhfhabhrach ag an ngníomh ar leanbh.

Moltaí

- Go ndéanfadh an Roinn Oideachais agus Eolaíochta athbhreithniú ar chás K
- Go ndéanfadh an Roinn Oideachais agus Eolaíochta iniúchadh, agus b'fhéidir i gcomhar leis na saineolaithe, ar cibé acu an raibh gá na critéir sa chiorclán a leathnú amach le go n-aireoidís leanaí cosúil leis an leanbh seo a raibh gortú inchinne faighte acu.

Freagra

- Rinne an Roinn Oideachais agus Eolaíochta athbhreithniú ar chás K agus bronnadh díolúine ar K.
- Dúirt an Roinn Oideachais agus Eolaíochta go ndéanfaí athbhreithniú ar leathnú amach an chiorcláin seo in athbhreithniú a bhreathnódh ar na critéir díolúine atá idir lámha faoi láthair.

2. Gearán

Is leanbh 17 mbliana d'aois J atá faoi chúram Fheidhmeannacht na Seirbhíse Sláinte le roinnt mhaith blianta anuas. Theip ar a socraíocht agus anois tá sí gan dídean. Baineann sí fónamh as saoráidí cúraim iar-ama agus fuair sí amach le déanaí go raibh sí torrach. Chuir J trí chúis imní in iúl: nach bhfuil aon oibrí sóisialta sannta di; nach bhfuil aon phlean cúraim aici le fada an lá anois agus nach bhfuil aon phlean iarchúraim aici d'ainneoin go bhfuil sí beagnach 18. Rinne J gearán le Feidhmeannacht na Seirbhíse Sláinte ach ní bhfuair sí aon fhreagra.

Imscrúdú

Nuair a bhí an gearán seo á imscrúdú ag an Ombudsman do Leanaí bhí ceangal uirthi aird a thabhairt ar leasa is fearr an linbh i gceist. Tá sé de cheangal uirthi a bhreithniú cibé acu an raibh tionchar neamhfhabhrach ag an ngníomh ar an leanbh nó nach raibh agus cibé acu an raibh an gníomh contrártha le riarachán stuama cothrom.

Torthaí

Bhí tionchar neamhfhabhrach ag gníomh de chuid FSS ar an leanbh agus bhí an chuma ar an scéal gur tharla mí-riarachán.

Dhearbhaigh FSS nach raibh oibrí sóisialta sannta don leanbh, nach raibh plean cúraim aici agus nach raibh plean iarchúraim aici. Cé go bhfuarthas an gearán ón leanbh, níor atreoraíodh é tríd na modhanna cearta.

Moltaí

Mhol an tOmbudsman do Leanaí go réiteodh FSS an scéal mar ábhar práinne.

Freagra

Shann FSS oibrí sóisialta don leanbh láithreach bonn agus tionscnaíodh plé leis an leanbh 17 mbliana d'aois faoi phlean cúraim agus faoi phlean iarchúraim.

3. Gearán

Le déanaí fuair m' oifig roinnt gearán ó dhaoine nach náisiúnaigh Éireannacha iad, ar daoine iad a bhí den tuairim go raibh an ceart chun oideachais á dhiúltú dá leanaí. Chuir an Roinn Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí in iúl do na tuismitheoirí nach bhféadfadh a leanaí fónamh a bhaint as oideachas poiblí, de bharr na gcoinníollacha arna leagan amach ina víosa.

Gníomh

Seo saincheist as a n-eascaíonn ceisteanna tábhachtacha cearta daonna agus beartais. Chuaigh an Oifig seo i dteagmháil leis an údarás iomchuí agus chuir sí in iúl go bhfuil an ceart céanna chun oideachais ag gach leanbh agus nach cóir an ceart sin a dhiúltú dóibh bunaithe ar stádas inimirceach a dtuismitheoirí.

Freagra

D'aontaigh an Roinn Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí breathnú a dhéanamh ar na scéal, leis an mbliain scoile acadúil reatha as an áireamh. D'fhan gach leanbh i gceist i scoil phoiblí.

Iarscríbhinn

Tá an reachtaíocht maidir le hinimirce ag athrú i láthair na huaire agus is dócha go mbunófar an cinneadh i leith na cúrsaí seo ar na reachtaíocht nua amach anseo.

Sa chás seo lean Oifig an Ombudsman do Leanaí ag obair ar an gceist de réir Alt 7 den Acht a fhorálann gur féidir leis an Ombudsman do Leanaí comhairle a sholáthar maidir le haoncheist a bhaineann le cearta agus leasa leanaí.

Tugadh cuireadh don Ombudsman do Leanaí tuairimí a nochtadh i leith an Bhille nua atá beartaithe – An Bille um Inimirce, Cónaí agus Cosaint, 2008, a bhí faoi bhráid an Oireachais nuair a bhí sé seo á scríobh. Ina comhairle, léirigh an tOmbudsman do Leanaí a himní faoi fhairsinge rogha an Aire a bhforáiltear di sa Bille, maidir le leagan síos

coinníollacha do chead cónaí sa Stát. Leag sí béim ar nach bhfuil cearta Bunreachtúla leanaí agus a gcearta faoi Choinbhinsiún na NA um Chearta an Linbh ag brath ar a náisiúntacht – lena n-áirítear an cead bunoidreachas saor in aisce a fháil.

Mhol sí go mbeadh aird ag ceanglas sainráite ón Aire ar na caighdeáin sin – go háirithe prionsabal na leas is fearr atá i gCoinbhinsiún na NA um Chearta an Linbh – nuair atá rialacháin dá leithéid á gcur san áireamh sa Bhille.

Ábhair a thóg tuismitheoirí, gairmeoirí agus aighnithe eile

Tá an-éagsúlacht téamaí sna gearáin a fuair an Oifig ach baineann formhór na n-earnálacha le gníomh nó easpa gnímh an Stáit agus é ag freagairt nó ag tabhairt tacaíochta do riachtanais an linbh.

Cé go bhfuil réimse leathan saincheisteanna ann, is iad na príomhthéamaí a eascraíonn astu:

- easpa ómóis do ghuth an linbh;
- gan aird a bheith á tabhairt ar leas is fearr an linbh; agus/nó
- gan cúnamh go leor a bheith á thabhairt ag an Stát do theaghlaigh.

Guth an linbh:

Cloiseann an OCO go rialta faoi chásanna nár bacadh le dearcadh ná tuairimí leanaí a lorg, nó nár tugadh aird orthu nó nár glacadh go dáiríre leo nuair a bhí cinntí tábhachtacha á ndéanamh faoina saol. Díríodh aird ar na samplaí seo a leanas:

- leanaí faoi chúram nach raibh rannpháirteach i bhforbairt, i bhforfheidhmiú, ná in athbhreithniú a bpleananna cúraim;
- deacrachtaí agus tacaíocht do leanaí faoi chúram maidir le teagmháil le baill eile clainne;
- pleanáil agus foráil iarchúraim; agus
- imní a léirigh leanaí nach rabhthas ag glacadh lena dtuairimí ná lena n-ábhair imní go dáiríre.

Na Leasa is fearr:

Níl aon dualgas soiléir ar chomhlachtaí poiblí faoi láthair leasa is fearr na leanaí a chur san áireamh ina gcinnteoireacht. Eascraíonn deacrachtaí dá thoradh sin:

- leanaí a chuirtear go míchuí i gcúinsí éigeandála mar nach mbíonn seirbhís ar fáil lasmuigh d'uaireanta oifige;

- socrúchán oiriúnach do leanaí atá ag imeacht as cúram slán a bheith in easnamh, nó moill a bheith ar a sholáthar;
- rochtain agus maoirseacht ar leanaí agus iompar scoile á úsáid acu;
- sásanna a úsáidtear chun iompar míchuí i leith leanaí a láimhseáil
- láimhseáil tromaíochta i scoileanna
- gan dualgas a bheith ar údaráis áitiúla aird a thabhairt ar riachtanais fhoriomlána an linbh agus comhoibriú le comhlachtaí ábhartha eile chun freastal ar na riachtanais sin; agus
- gan dualgas a bheith ann aird a thabhairt ar leanaí i gcomhthéacs phleanáil na n-údaráis áitiúil.

Tacaíocht Teaghlaigh

Insíonn teaghlaigh dúinn go mbíonn sé deacair dóibh rochtain a fháil ar sheirbhísí dá leanaí agus iad a thuiscint. Cuid de na fadhbanna a bhíonn acu:



- moill mhór i soláthar tithíocht údaráis áitiúla atá oiriúnaithe do leanaí faoi mhíchumas;
- tithíocht agus áiseanna ar dhroch-chaighdeán do leanaí Lucht Siúil;
- seirbhísí deighilte óna chéile, agus an t-ualach a chuirtear dá thoradh ar theaghlaigh le leanaí faoi mhíchumas rochtain a fháil ar na seirbhísí riachtanacha go léir.
- deacrachtaí/moill rochtana ar sheirbhísí sláinte ar nós cóireáil ortadóntacha, teiripe caint agus urlabhra, teiripe shaothair;
- rochtain ar thacaí d'acmhainní riachtanais speisialta i scoileanna, agus a leorgacht;
- deacrachtaí i rochtain ar an gcóras cosanta leanaí agus tacaíocht neamhleor do leanaí agus dá dteaghlaigh a dhéanann nochtadh faoi chosaint leanaí.
- neamhghníomh ainsealach ó ghníomhaireachtaí Stáit agus freagairt dhíríreach uaireanta dá thoradh.

De ghnáth bíonn drochthoradh ann don leanbh a ndéantar an gearán ina (h)ainm dá bharr seo uile. Tá moilleanna i soláthar seirbhísí riachtanacha agus i gcur gearán ar aghaidh go mear an-tábhachtach go háirithe do leanaí mar go bhfuil clocha míle tábhachtacha ina saol á gcur díobh acu.

Leanaí le Riachtanais Bhreise

Bhain 35% de na gearáin a rinneadh i 2007 le leanaí le riachtanais bhreise. Fuarthas líon mór gearán maidir le leanaí faoi mhíchumas i ngach catagóir de na gearáin.

Bhain na gearáin seo san oideachas le hacmhainní sásúla a bheith ar fáil do riachtanais speisialta. Ba le rochtain ar sheirbhísí amhail teiripe cainte agus urlabhra agus teiripe shaothair ba mhó a bhain na saincheisteanna sláinte. Ba faoi oiriúnacht na tithíochta sóisialta agus an próiseas fada a bhaineann lena fháil a bhí na gearáin faoi údaráis áitiúla go hiondúil.

Tiomsóidh an OCO Tuarascáil Speisialta faoi fhoráil agus faoi fhreagra na nÚdarás Áitiúil do leanaí faoi mhíchumas.

Gearáin a fuarthas ó leanaí

Cé nach aon ábhar iontais é gur tuismitheoirí agus baill den teaghlach a dhéanann gearán thar ceann leanaí i bhformhór na gcásanna, is féidir leis an Oifig glacadh le gearáin a thagann go díreach ó leanaí agus daoine óga, agus déantar é sin. Cé gur beag an líon gearán a thagann go díreach ó leanaí agus ó dhaoine óga, is fiú cineál agus tromchúis na ngearán a dhéantar a lua. Tá sainordú ar leith ag an Ombudsman do Leanaí chun béim a chur ar shaincheisteanna a bhaineann le cearta agus leasa leanaí agus ar cás leis na leanaí féin iad. Is achoimre é seo ar chuid de na nithe a thóg siad linn inár gcuid oibre le gearáin.

Is leanaí atá i gcúram Stáit is mó a dhéanann teagmháil go díreach leis an Oifig. Áirítear i measc na saincheisteanna is cás leo:

- easpa rannpháirtíochta i gcinneadh chun a socrúchán a fháil nó a athrú;
- gan a bheith rannpháirteach i bpleanáil cúraim, go háirithe maidir le rochtain ar thuismitheoirí nó baill eile clainne;
- gan oibríthe sóisialta a bheith cionroinnte;
- easpa tacaíochta nó rochtana ar theiripí amhail comhairleoireacht agus iad faoi chúram;
- gan plean iarchúraim a bheith ann nó leanaí a bheith míshásta lena bpleananna iarchúraim; agus
- conas a dhéantar cinntí agus a chuirtear in iúl iad do leanaí agus do dhaoine óga.

Rinne roinnt leanaí i gcúram slán, ar athchur nó faoi choinneáil teagmháil leis an OCO chomh maith i 2007. Cé go bhfuil a gcuid saincheisteanna cosúil le leanaí faoi chúram go ginearálta, is cás leo go háirithe socrúcháin a bheith ar fáil dóibh nuair a fhágann siad cúram slán agus oiriúnacht an tsocrúcháin sin. Is eol dúinn go bhfulaingíonn roinnt leanaí an-chuid moille ó thaobh socrúcháin oiriúnach a fháil.

Rinne leanaí eile teagmháil leis an Oifig maidir lena n-imní nach gcloistear a nguth in imeachtaí caomhnóireachta atá ar siúl.

Rinne leanaí teagmháil linn freisin faoi easpa saoráidí súgradh agus siamsaíochta ina gceantar agus faoi shaincheisteanna ina scoileanna ar nós tromaocht, beartas éide scoile, meáchain mhálaí scoile agus coinníoll na saoráidí ina scoileanna.

An Cleachtas is Fearr a Fhorbairt

Nuair atáthar ag déileáil le gearáin, tá sé nádúrtha a bheith ag súil go mbeidh baill den phobal atá ag gearán trína chéile. Tá sé tábhachtach sa chineál seo oibre a chinntiú go bhforbróimis stuamacht mar eagraíocht agus go mbíonn an fhoireann in ann plé le hiompar dúshlánach ó bhail den phobal agus tacaíocht a bheith ar fáil dóibh chuige sin. Glacaimid leis go bhfuil baint nádúrtha ag iompar áirithe le frustrachas thar ceann linbh agus sin é an fáth a bhfuil an fhoireann oilte againn chun an t-iompar a scaradh ón duine agus freagairt ar bhealach ómósach tuisceanach dóibh. Tá beartas forbartha againn a chabhraíonn leis an bhfoireann frustrachas intuigthe daoine a idirdhealú ó iompar a bheadh doghlactha dar le duine stuama ar bith agus atá míchothrom don fhoireann. Tá clár ‘Cúram Foirne’ ceaptha againn freisin mar thacaíocht dár bhfoireann.

Comhoibriú le comhlachtaí eile a láimhseálann gearáin

An OCO agus Oifig an Ombudsman

Tá athbhreithniú á dhéanamh faoi láthair ar an Meabhrán Tuisceana idir an OCO agus Oifig an Ombudsman. Is é cuspóir an mheabhráin tuisceana na bealaí ina ndéileálfaidh Oifig an Ombudsman do Leanaí agus Oifig an Ombudsman le hábhar a d’fhéadfadh a bheith ina gcuid de shainordú cheachtar de na heagraíochtaí. Gan dochar do neamhspleáchas na n-oifigí, tá an meabhrán tuisceana seo ullmhaithe chun éifeachtúlacht ár n-eagraíochtaí a fheabhsú agus cabhrú leis an ngnáthphobal ár gcuid freagrachtaí faoi seach a thuiscint.

An OCO agus GSOC

Tá socruithe idirghabhála forbartha ag an OCO le Coimisiún Ombudsman na nGardaí Síochána. Mar nach féidir leis an OCO gníomhartha na nGardaí Síochána a fhiosrú, atreoraímid gearáin chuig an GSOC mar is cuí. Táthar ag dréim leis go mbeidh na socruithe idirghabhála in ann tacaíocht agus comhairle a chur ar fáil maidir le leanaí chomh maith.

Obair le lucht gairme

Buailimid go rialta le gairmeoirí a bhfuil a saol caite acu ag obair do leanaí agus thar a gceann. D'íarr cuid díobh comhairle, oiliúint nó tacaíocht ar an OCO san obair seo.

D'fhoilsigh an OCO treoir do lucht gairme i 2007 faoi ghearáin a láimhseáil. Cuireadh an leabhrán seo ar fáil chun tuiscint a thabhairt do chomhlachtaí poiblí maidir lenár sainordú imscrúdúcháin faoin gcaoi a ndéanann an Oifig a feidhm Gearán agus Imscrúduithe a stiúradh. Sheol an OCO an treoir seo amach chuig na comhlachtaí poiblí sin go léir. Is féidir cóipeanna breise a fháil ón OCO agus tá siad ar fáil le híoschóipeáil ag www.oco.ie

Tá taithí dhíreach againn ar ghairmeoirí chomh maith a fheidhmíonn mar aighnithe do leanaí. Le dhá mhí dhéag anuas, rinne líon mór síciatraithe, múinteoirí, príomhoidí, oibrithe pobail nó óige, oibrithe cúraim, oibrithe sóisialta agus aturnaetha teagmháil leis an OCO thar ceann leanaí agus daoine óga a raibh gearáin acu. I bhformhór mór na gcásanna bhí na leanaí a ndearna siad ionadaíocht ar a son an-soghonta agus ba mhínic nach raibh pléadálaithe ar bith eile ina saol acu. I roinnt cásanna, thug na pléadálaithe tacaíocht do thuismitheoirí a raibh deacrachtaí litearthachta acu lenár bpróiseas gearán.

Taighde ar láimhseáil ghearán leanaí agus daoine óga

Faoin Acht um Ombudsman do Leanaí, 2002, is féidir leis an OCO glacadh le gearáin ó leanaí agus ó dhaoine óga. Ciallaíonn srianta ról láimhseáil ghearáin an OCO go mbíonn ar dhaoine óga a ngearáin a thabhairt chuig comhlachtaí láimhseála gearán áitiúla ar dtús, agus i gcásanna áirithe, chuig comhlachtaí náisiúnta eile seachas OCO a láimhseáilann gearáin. Chuir an OCO tús le taighde rannpháirtíoch go luath i 2007 mar iarracht chun rochtain ar feidhm ghearáin in OCO a dhéanamh níos fusa to leanaí agus do dhaoine óga.

Rinne na leanaí agus na daoine óga a ghlac páirt sa taighde na moltaí seo a leanas:

- ábhair a chruthú d'aoisghrúpaí éagsúla;
- a chinntiú go mbíonn na hábhair tarraingteach;
- formáidí éagsúla ar nós DVD agus póstaer a úsáid;
- na hábhair a aistriú go teangacha éagsúla;
- samplaí a úsáid chun an próiseas a mhíniú céim ar chéim;
- gan an focal gearán a úsáid mar nach dtaitníonn sé leo;
- uimhir shaor theileafóin a chruthú nach mbeadh liostaithe ar bhíllí teileafóin nó teileafóin póca; agus
- an frása 'Ombudsman do Leanaí agus Daoine Óga' a úsáid seachas 'Ombudsman for Children: do Leanaí'

05

cumarsáid agus rannpháirtíocht

Tá freagracht reachtúil ar Oifig an Ombudsman do Leanaí cearta agus leasa leanaí agus daoine óga a chothú in Éirinn. Ní mór di freisin feasacht faoi chearta leanaí a chothú, lena n-áirítear Coinbhinsiún na NA um Chearta an Linbh a dhaingnigh Éire i 1992.

Deir Airteagal 12 de Choinbhinsiún na NA go cruindíreach go gcaithfidh cead cainte a bheith ag leanaí agus daoine óga faoi na cinntí a théann i bhfeidhm orthu. Baineann sé le hardáin agus le huirlisí suntasacha a sholáthar dóibh chun go mbeadh deis chainte acu ar an gcéad dul síos. Baineann sé le tacaíocht a thabhairt dóibh agus a gcumas chun a bpointe a dhéanamh a thógáil. Baineann sé le cinntiú go dtugtar áit shábháilte fháilteach do gach leanbh, lena n-áirítear iad siúd is ciúine agus is imeallaithe, chun a nguth a úsáid. Ní mór dúinn ansin a smaointe, a dtuiscintí, a samhlaíocht agus a gcuid réiteach a chlos agus a mheas.

Creideann Oifig an Ombudsman nach mór deiseanna rannpháirtíochta a chur ar fáil do leanaí agus do dhaoine óga chun tionchar a imirt ar ár gcuid oibre agus cruth a chur uirthi.

Dar le hailt thábhachtacha den Acht um Ombudsman do Leanaí, 2002, ní mór don Ombudsman do Leanaí feasacht a chothú i measc an phobail – agus leanaí san áireamh – faoi chearta agus leasa leanaí agus ní mór dúinn struchtúir a bhunú chun éisteacht le dearcadh leanaí agus daoine óga le cinntiú go ndéanaimid ionadaíocht éifeachtúil thar a gceann. Ní mór dúinn freisin béim a chur ar shaincheisteanna a bhaineann le cearta agus leasa ar cás leis na leanaí féin iad.

Ghníomhaíomar ar bhealaí suntasacha i 2007 le cinntiú go dtarlódh sé seo go héifeachtúil, ar bhealach a bheadh sásúil do leanaí agus do dhaoine óga.

Chabhraigh dhá ócáid mhóra – bunú fhoireann nua comhairleoirí óga, agus an Bhallóid Mhór – leis an OCO éisteacht le guthanna 75,000 leanbh agus duine óg agus aird a thabhairt orthu. Chabhraigh siad freisin chun feasacht a ghiniúint faoi ról an Ombudsman do Leanaí agus Choinbhinsiún na NA um Chearta an Linbh. Rinne mórán páirtithe leasmhara san oideachas, lena n-áirítear cumainn na múinteoirí, líonraí gairmiúla agus go háirithe scoileanna, a gcion ar bhealach tábhachtach chun go mbeadh rath ar an dá ócáid, agus táimid thar a bheith buíoch díobh go léir.

Freagracht as ár gcuid oibre a roinnt Painéal Comhairleach na nÓg nua (YAP) a earcú

Bhí rannpháirtíocht chúigear déag daoine óga sa phróiseas agallaimh ar cheann de na gnéithe ba spéisiúla agus ba shuntasáí de cheapachán Emily Logan mar chéad Ombudsman na hÉireann do Leanaí. Lean cuid mhór de na daoine óga seo leana rannpháirtíocht nuair a bunaíodh an OCO agus ba iad sin an chéad ghrúpa comhairleoirí óga a bhí ag Emily agus a foireann. Thugadar Painéal Comhairle na nÓg nó YAP orthu féin. Ach ba dhaoine fásta iad a lán de na daoine óga seo faoin mbliain 2007 agus bheartaigh an grúpa go raibh sé in am áit a dhéanamh do dhaoine eile.

Ag deireadh mhí Eanáir 2007, seoladh feachtas chun glaoch ar dhaoine óga idir 12-17 mbliana d'aois a bheith ina gcomhaltaí de ghrúpa comhairleach nua. Bhí baint thábhachtach ag an YAP a bhí ann cheana le gach leibhéal den fheachtas. Smaoinigh siad ar phóstaeir a úsáid chun an feachtas a fhógairt. Bhí a ngrianghraf féin ar an bpóstaer ag cuid acu, rinne roinnt eile fógraí Béarla agus Gaeilge don raidió áitiúil, agus chabhraigh siad go léir chun an feachtas earcaíochta a chothú trí agallaimh sna meáin nó an focal a scaipeadh ina bpobal áitiúil. Cuireadh na póstaer chuig gach iarbhunscóil, chuig Youthreach agus chuig suímh agus ionaid eile a mbíonn daoine óga ag freastal orthu.

Chuir 200 duine óg as gach cearn den tír isteach ar an 25 áit ar an bPainéal Comhairleach nua. D'iarr an OCO ar na daoine óga féin a shocrú cé a gheobhadh áit trí chuireadh a thabhairt dóibh ainmniúchán piara a dhéanamh as na hiarrthóirí. Eagraíodh cúig cheardlann réigiúnacha in ionaid ar fud na hÉireann agus tugadh cuireadh do na daoine óga freastal orthu. Ag deireadh gach ceardlainne, bhí tuiscint níos fearr faighte ag na daoine óga faoina raibh i gceist le a bheith mar chomhairleoir don OCO agus faoin leibhéal tiomantais a bhí i gceist. Thogh siad comhaltaí nua YAP trí bhallóid ansin.

D'fhreastail an fhoireann nua ar a céad chruinniú i mí Bealtaine 2007. Fuair ceathrar déag cailíní agus naonúr buachaillí, idir dhá bhliain déag agus seacht mbliana déag d'aois, áit ar an bpainéal. Tháinig siad ó cheantair tuaithe agus uirbeacha agus ba léiriú iad ar an éagsúlacht atá i sochaí na hÉireann anois. Thug siad go leor cúiseanna le hiarratas a dhéanamh ar a bheith ina gcomhairleoirí óige. Ina measc sin bhí rannpháirtíocht i gcearta leanaí, a chinntiú go dtabharfar cluas le héisteacht do ghuthanna daoine óga, taithí nua a fháil agus scileanna nua a fhorbairt. Theastaigh uathu freisin tuiscint a fháil faoi leanaí le cúlraí éagsúla, cabhrú le saol daoine óga a fheabhsú, a bheith rannpháirteach agus rud éigin cinnte a bhaint amach.

Tugadh cuireadh do thuismitheoirí, chaomhnóirí agus bhaill eile teaghlaigh freastal ar an gcéad chruinniú seo mar bhealach chun aithne a chur ar an OCO. Rinne an tOmbudsman do Leanaí agus baill shinsir d'fhoireann OCO cur i láthair faoi ghnéithe éagsúla d'obair

Oifig an Ombudsman do Leanaí agus thug iarchomhalta de YAP míniú ar an obair a bhí déanta acu. Bronnadh teastais ar iarchomhaltaí YAP mar aitheantas ar an gcion tábhachtach a bhí déanta acu chun an OCO a bhunú agus an obair a bhí déanta acu sna blianta luatha. Bhí lúcháir orainn go raibh an oiread sin tuismitheoirí, caomhnóirí agus baill eile teaghlaigh i láthair don chéad chruinniú. Creideann an OCO go bhfuil sé an-tábhachtach idirghabháil a dhéanamh le tuismitheoirí agus caomhnóirí chomhaltaí nua YAP ón tús le cinntiú go mbeidh tuiscint acu ar obair agus ar shainmheon an OCO; an chaoi a n-oibrímid le daoine óga; agus an cion a dhéanann comhaltaí YAP dár gcuid oibre. Thug an cruinniú deis do na comhaltaí nua YAP bualadh le chéile den chéad uair chomh maith.

Bhí cruinnithe eile ag an YAP nua i rith na coda eile den bhliain.

I rith na gcruinnithe díródh ar gach duine a shocrú isteach ina ról nua agus ar conas a d'fhéadfaidís a gcion a dhéanamh d'obair an OCO. Aithníodh scileanna agus réimsí éagsúla na gcomhaltaí, agus cuireadh oiliúint agus tacaíocht ar fáil do chomhaltaí YAP chun cabhrú leo ina gcuid oibre.

Ba é a rannpháirtíocht sa Bhallóid Mhór an chéad mhór-ócáid do na comhaltaí nua. Bhí siad rannpháirteach i léiriú an DVD do na hábhair acmhainne agus ghlac siad páirt i ngnéithe éagsúla d'fheachtas na meán a thug tacaíocht don Bhallóid. D'fheidhmigh siad freisin mar ambasadóirí don OCO ag ócáid chomhairimh i mí na Samhna nuair a ghlac siad freagracht as grúpaí leanaí agus daoine óga as a gcontaetha féin a d'fhreastail ar an ócáid. Chuir YAP go mór le rath na hócáide lena rannpháirtíocht.

San athbhreithniú ag deireadh a gcéad tréimhse, bhraith an fhoireann go raibh an-eispéireas acu. Bhí cairde nua déanta acu agus scileanna nua forbartha acu. Bhain siad taitneamh as na tionscadail éagsúla a raibh siad ag obair orthu agus thaitin sé leo nithe nithiúla praiticiúla a dhéanamh agus ról gníomhach a bheith acu i gcruithú smaointe agus gníomhaíochtaí. Bhraith siad go raibh go leor bainte amach acu san obair ina raibh siad rannpháirteach agus bhí an-fhonn orthu ról níos láidre a fháil i gcruithú tionscadal; agus ba mhaith leo ról níos gníomhaí ó thaobh dearcadh daoine óga a fheabhsú.

An Bhallóid Mhór

Tionscadal trí chéim ba ea an Bhallóid Mhór ag Oifig an Ombudsman do Leanaí. Bhí taighde acadúil, taighde cáilíoch agus próiseas comhairliúcháin náisiúnta le leanaí agus daoine óga i gceist.

Ba í an Dr Ursula Kilkelly as Coláiste na hOllscoile Corcaigh a rinne an taighde acadúil chun na saincheisteanna is mó a théann i bhfeidhm ar leanaí a aithint chomh maith leis na bacainní atá le cearta leanaí in Éirinn. Foilsíodh an tuarascáil iomlán i mí Lúnasa 2007.

Ar bhonn tuarascáil eatramhach ón Dr Kilkelly, ghlac 150 leanbh agus duine óg as gach cearn d'Éirinn, agus as cúlraí an-éagsúla, páirt i ngrúpaí fócais faoi stiúir ag comhairleoir neamhspleách don OCO. Scrúdaigh an grúpa na bacainní a bhí aitheanta i dtaighde COC agus rinne siad liosta de chúig shaincheist astu a bhí ábhartha dá saol féin dar leo.

Is iad seo a leanas na saincheistean, a bhaineann i ngach cás le ceart atá ar liosta Choinbhinsiún na NA um Chearta an Linbh:

1. Oideachas;
2. Súgradh agus Siamsaíocht;
3. Guth a bheith acu;
4. Teaghlach agus Cúram;
5. Sláinte, saibhreach agus folláine ábhartha.

Tar éis comhairliúchán leitheadach a dhéanamh le páirtithe leasmhara san oideachas, ceardchumann, líonraí gairmiúla, eagraíochtaí tuismitheoirí agus bainistíochta ina measc, d'oibrigh an OCO le dhá fhoireann scríbhneoirí acmhainne le taithí chun ábhair acmhainne a bheadh áisiúil do mhúinteoirí agus cuí don aois a tháirgeadh a phléigh gach ceann den chúig shaincheist a aithníodh sa taighde. Ba chomhlánú ar churaclam OSPS na mbunscoileanna agus OSSP an dara leibhéal iad na hábhair seo.

Tugadh cuireadh do gach scoil, Ionad Youthreach agus Ionad Sinsir Oiliúna don Lucht Siúil, a bheith rannpháirteach sa Bhallóid Mhór. Chláraigh níos mó ná 1000 scoil le bheith páirteach. Chíor na hionaid oideachais seo na saincheistean thar tréimhse roinnt seachtainí i mí Mheán Fómhair agus Mí Dheireadh Fómhair agus nuair a bhí na ceachtanna thart chaith na daltaí agus na mic léinn vóta ar ócáid mar reifreann do saincheist ba thábhachtaí dóibh.

I mí Dheireadh Fómhair, chuaigh Emily, roinnt d'fhoireann an OCO agus comhaltaí as YAP ar bhus le branda speisialta 'An Bhallóid Mhór' ar cuairt chuig níos mó ná 30 scoil agus ionad oideachais ar fud na hÉireann chun An Bhallóid Mhór a chur chun cinn agus tacaíocht a thabhairt don tsárobair a bhí ar siúl sna scoileanna a bhí rannpháirteach. Casadh timpeall 5,000 leanbh agus duine óg ar Emily agus a foireann le linn an turais, chomh maith leis na dosaenacha de mhúinteoirí, phríomhoide agus d'oibrithé díograiseacha óige a bhíonn ag obair go dian chun cearta leanaí a chothú gach lá dá saol gairmiúil. B'ónóir d'Emily an fháilte a cuireadh roimpi san oiread sin scoileanna agus ionaid oideachais agus bhí lúcháir uirthi dearcadh agus taithí ghrúpa leanaí agus daoine óga chomh mór sin a chlos.

Vótáil 74,000 leanbh agus duine óg sa Bhallóid Mhór, an comhairliúchán is mó a rinneadh le leanaí agus daoine óga riamh in Éirinn. Fógraíodh na torthaí ag ócáid speisialta chomhairimh, le Miriam O'Callaghan as RTÉ mar bhean an tí, i Halla na Cathrach, Baile

Átha Cliath ar an 20 Samhain, Lá Domhanda na Leanaí. Bhí 500 leanbh agus duine óg in éineacht leis an Ombudsman do Leanaí ar an ócáid chun na torthaí a chlos. Teaghlach agus Cúram an tsaincheist ba thábhachtaí ar fad do leanaí agus daoine óga dar le céatadán mór de na vótaí, 31%.

Scaipeadh torthaí na Ballóide Móire ar gach scoil a bhí rannpháirteach agus ar na páirtithe leasmhara éagsúla a bhí chomh fial lena gcuid ama agus a gcomhairle nuair a bhí an mBallóid á pleanáil. Bhí lúcháir orainn an-chuid aiseolais a fháil ó na scoileanna éagsúla a bhí páirteach. Fuair Emily Logan 76 litir ó leanaí agus dhaoine óga agus 27 ó phobail scoileanna faoina dtaithí ar an mBallóid. Bhí tromlach mór na litreacha an-dearfach agus múinteoirí agus daoine óga ag cur in iúl dúinn an méid a thaitin a rannpháirtíocht leo. Bhí moltaí acu freisin dúinn maidir le tionscadail sa todhchaí a fheabhsú – ar nós an fráma ama a shíneadh amach – agus bhí áthas orainn iad a chur san áireamh.

Tá an OCO an-bhuíoch as an tacaíocht go léir atá faighte againn ó réimse leathan páirtithe leasmhara oideachais agus ó scoileanna a d'oibrigh go dian le cinntiú go dtabharfaí cluas le héisteacht do dhaltaí agus do mhic léinn, agus a chinntigh go n-éireodh chomh maith sin leis an mBallóid Mhór.

Tá an OCO tiomanta dá dhícheall a dhéanamh ar na saincheisteanna go léir sna blianta atá romhainn. Tá sí ag obair go dian cheana féin chun leasú bunreachtúil a fháil a thabharfadh tacaíocht do theaghlaigh agus leanaí, agus tá sé beartaithe nasc a chruthú le hÚdarás Áitiúla ar thionscadal cathrach a bheadh báúil do leanaí.

An Cleachtas is fearr a fhorbairt agus a chur chun cinn

Mar chuid den tiomantas atá aici don chleachtas is fearr a chur i bhfeidhm ina cuid oibre le leanaí agus daoine óga, d'fhorbair an OCO a treoirlínte féin um chosaint leanaí i 2007. Tá na treoirlínte seo ar fáil ar www.oco.ie

Rinneadh treoirlínte eiticiúla do rannpháirtíocht leanaí in obair thaighde, bheartais, chumarsáide agus rannpháirtíochta an OCO a fhorbairt chomh maith.

Tagann eagraíochtaí chuig an OCO go rialta chun comhairle agus ionchur a fháil uainn faoin gcaoi a d'fhéadfadh leanaí agus daoine óga a bheith rannpháirteach ina gcuid oibre. Bíonn áthas orainn ár dtaithí, agus a bhfuil foghlamtha againn ó rannpháirtíocht leanaí agus daoine óga, a roinnt leo.

Ghlac foireann an OCO páirt i mórán comhdhálacha agus seimineár i 2007, agus thapaíomar an deis chun cearta leanaí a chothú, líonrú a dhéanamh le lucht gairme a oibríonn le leanaí, a dtaithí a chlos agus feacht faoi ról na hOifige a chur chun cinn.

06

beartas agus reachtaíocht

Má tá cearta agus leasa leanaí agus daoine óga le cosaint agus le cothú, tá sé ríthábhachtach go mbeann obair an OCO bunaithe ar fhorbairt beartais atá cúramach agus léirsteanach. Bíonn a lán leanaí leochaileach in Éirinn an lae inniu ar chúiseanna casta éagsúla. Ní mór é seo a athrú. Táimid ag obair go dian le cinntiú go sásaíonn an reachtaíocht, beartais náisiúnta agus seirbhísí an Stáit do leanaí agus dhaoine óga na caighdeáin is airde agus ár ndualgais faoi Choinbhinsiún na NA um Chearta an Linbh agus faoi chaighdeáin idirnáisiúnta cearta daonna eile..

Ról Beartais na hOifige

Tá ról beartais agus taighde an OCO leagtha mach san Acht um Ombudsman do Leanaí, 2002. Áirítear sa ról seo:

- comhairle a chur ar Airí faoi fhorbairt agus chomhordú beartais a bhaineann le leanaí;
- monatóireacht agus athbhreithniú a dhéanamh ar oibriú na reachtaíochta a bhaineann le cearta agus leasa leanaí;
- monatóireacht agus athbhreithniú a dhéanamh ar fheidhmiú an Achta um Ombudsman na Leanaí, agus, nuair is gá, moltaí a dhéanamh chun é a leasú;
- taighde a dhéanamh, a chothú agus a fhoilsiú faoi aon ábhar a bhaineann le cearta agus leasa leanaí; agus
- faisnéis a mhalartú le hOmbudsmen Leanaí i Stáit eile.

Tá sé soiléir in Acht 2002 freisin gur féidir leis an Ombudsman, Emily Logan, comhairle a chur ar Airí faoi aon ábhar a bhaineann le cearta agus leasa leanaí. Tá feidhm thábhachtach maidir le comhairle a chur ar Airí faoi na torthaí a bheadh ar mholtaí reachtúla ábhartha a chur i ngníomh agus impleachtaí na moltaí sin do leanaí agus dá leas san áireamh.

Tuarascáil Speisialta chuig an Oireachtas

Ar bhonn iarratas ón Rialtas – nó as stuaim an Ombudsman féin – chuireamar comhairle ar fáil faoi réimse saincheistanna le linn na bliana 2007. Mar chuid den obair thábhachtach seo, de réir Alt 13 (7) den Acht um Ombudsman do Leanaí, 2002, a dhéanann foráil do thuarascála ócáidíúla a chur faoi bhráid an Oireachtais, thiomsaíomar Tuarascáil Speisialta don Oireachtas maidir leis an mBille um an Ochtú Leasú is Fiche ar an mBunreacht agus chuireamar i láthair í. Ba í seo an chéad uair don Ombudsman do Leanaí tuarascáil dá leithéid a chur isteach agus ba as ár stuaim féin a rinneamar é.

Tá aighneachtaí déanta ag an Oifig chuig Coistí Oireachtais freisin agus chuig comhlachtaí tábhachtacha idirnáisiúnta chun an t-urram do chearta leanaí sa Stát a neartú.

Iarratais bhreise ón Aire ar Chomhairle

D'iarr an tAire Leanaí Comhairle ón Ombudsman do Leanaí faoi dhá Cháipéis Mhionteagaisc a leagann amach moltaí d'Athruithe Bunreachtúla. Thug an tOmbudsman do Leanaí comhairle maidir leis an dá cháipéis mar fhreagra. Nuair a foilsíodh an Bille um an Ochtú Leasú is Fiche ar an mBunreacht níos déanaí i mí an Mhárta, chuir an tOmbudsman do Leanaí tuarascáil faoi bhráid an Oireachtais lena dearcadh ar an mBille.

Athbhreithniú Bás Linbh

Le linn 2007 cuireadh cásanna ar ábhar buartha iad faoi bhráid an OCO. Ba chásanna iad seo inar bhfuair leanaí bás gan aon athbhreithniú neamhspleách déanta orthu nó aon athbhreithniú a rinneadh a bheith míshásúil. I mí Aibreáin, mhol an tOmbudsman do leanaí don Aire Sláinte agus Leanaí sás athbhreithniúcháin bás linbh' seasta a bhunú in Éirinn. Is é an cuspóir a bheadh ag sás athbhreithniúcháin bás linbh cur chuige comhsheasmhach a ráthú a bheadh ina threoir dúinn agus a chuirfeadh le doimhneacht ár dtuisceana ar mhórchéistean a bhaineann le bás linbh agus a chabhródh chun líon na mbás inseachanta a laghdú.

Tar éis freagra dearfach tosaigh a fháil ón Aire, rinne an OCO iniúchadh ar an gcleachtas idirnáisiúnta is fearr sa réimse seo. Lean tréimhse chomhairliúcháin é sin inar thug an OCO faisnéis do na príomhpháirtithe leasmhara faoina cuid oibre ar athbhreithniú bás linbh agus inar iarradh a dtuairimí faoi shás dá leithéid a bhunú sa dlínse seo. Is í an chéad chéim eile a bheidh sa phróiseas seo tábla cruinn ardleibhéil a thionól le réimse daoine agus eagraíochtaí níos leithne fós, ar mhaith le réimse samhlacha sonracha d'athbhreithniú bás linbh a bheadh oiriúnach d'Éirinn a phlé.

Leatrom i mbeartas iontrála scoileanna

Thug an tOmbudsman do Leanaí faoi deara nach raibh cead á thabhairt do dhuine óg san idirbhliain dul isteach i scoil áirithe ar bhonn a céannacht inscne amháin. Mar gur caitheadh mar sin léi, níor mhian leis an duine óg ansin freastal ar an scoil bheartaigh sí gan achomharc a dhéanamh i gcoinne an diúltaithe. Ach bhí imní uirthi go mbeadh deacrachtaí dá leithéid ag daoine óga eile agus d'iarr sí ar an Oifig seo soiléiriú a lorg ón Roinn Oideachais agus Eolaíochta an raibh an reachtaíocht ábhartha á sárú ag an scoil sa chás seo.

Rinne an tOmbudsman do Leanaí teagmháil ansin leis an Aire Oideachais agus Leanaí chun na dualgais atá ar scoileanna maidir le ceistean leatrom i rochtain ar oideachas a shoiléiriú agus le cinntiú an raibh gach scoil eolach ar na dualgais seo. Scríobh an tAire ar ais ag deimhniú go sáraíonn an diúltú mac léinn a ligean isteach ar bhonn inscne (lena n-áirítear céannacht inscne) reachtaíocht chomhionannais na hÉireann agus go raibh an reachtaíocht a bhaineann le scoileanna dáilte ar gach scoil sa tír.

Tá toradh sásúil faighte ag an duine óg a dhírigh aird an Ombudsman do Leanaí ar an ábhar seo ar cheist a cuid scolaíochta.

Míchumas Intleachtúil

Sa Tuarascáil Bhliantúil dheireanach, léirigh an tOmbudsman do Leanaí imní faoin easpa monatóireachta a dhéantar ar sheirbhísí cónaitheacha do leanaí atá faoi míchumais intleachtúla.

Tá roinnt gearán faighte ag an OCO maidir le leanaí faoi mhíchumais intleachtúla. Ní raibh na gearánaithe sásta coinneáil le gearán tríd an OCO mar gheall ar eagla go mbeadh drochthoradh ann dóibh. Ba chosúil gur léirigh na gearáin easpa cigireachta, monatóireachta agus sásanna gearáin cuí do leanaí atá faoi mhíchumais intleachtúla atá i gcúram cónaitheach.

Tá sraith cruinnithe tionólta ag an Ombudsman do Leanaí leo siúd atá freagrach sa réimse seo ó shin le fáil amach cad iad na pleananna a bhí ar bun chun seirbhísí cigireachta a bhunú d'ionaid chónaitheacha do leanaí le míchumais intleachtúla. I measc na gcomhlachtaí ar bhuail an tOmbudsman do Leanaí leo tá SSI (HIQA anois), an Roinn Sláinte agus Leanaí agus an tAire Leanaí.

I rith na gcruinnithe seo, tugadh faoi deara gur ghá caighdeáin do chigireacht ionaid chónaitheacha do leanaí faoi míchumais a fhorbairt sula dtosódh na cigireachtaí, agus nach dócha go dtosófaí cigireachtaí roimh dheireadh 2008/thús 2009. Léirigh an tOmbudsman do Leanaí imní mar nach raibh réimeas cigireachta ann d'ionaid chónaitheacha do leanaí faoi mhíchumais san idirlinn agus cuireadh in iúl di go bhfuil grúpa oibre FSS bunaithe chun breathnú ar an ábhar seo.

Thiomsaigh an tOmbudsman do Leanaí roinnt cruinnithe leantacha i rith 2007 le comhlachtaí ábhartha chun monatóireacht a dhéanamh ar dhul chun cinn sa réimse seo. Beidh monatóireacht dhlúth á dhéanamh ar an ábhar aici agus spreagfaidh sí gach dream atá rannpháirteach chun cigireacht na n-ionad a thosú chomh luath agus is féidir.

Leanaí faoi choinneáil

Ar an drochuair, séantar a saoirse ar na céadta leanbh agus duine óg agus caitheann siad cuid mhór dá n-óige faoi choinneáil. Mar dhlúthchuid dá sainordú, déanann an tOmbudsman do Leanaí monatóireacht, agus nuair is gá, gníomhaíonn sí mar is cuí ar ábhair a bhaineann le leanaí agus daoine óga in ionaid choinneála.

Mar gheall ar an tiomantas suntasach atá ann d'infheistiú caipitil i réimse Ceartas na hÓige, tá an-fhonn ar ár nOifig a rannpháirtíocht san iarracht chun tuairimí daoine óga faoi choinneáil a lorg, agus tá sé beartaithe againn tús a chur leis an obair seo go luath.

Cuairteanna ar ionaid choinneála

I mí na Samhna thug an tOmbudsman do Leanaí cuairt ar Institiúid Naomh Pádraig. Is príosún í Institiúid N. Pádraig – ionad coinneála dúnta meánslándála atá ann d’fhir idir 16 agus 21 bliain d’aois a bhfuil pianbhreith suas go seirbhís saoil á chaitheamh acu. Is léir ó chonarthaí idirnáisiúnta cearta daonna – conarthaí atá sínithe ag Éirinn – agus ón mBile leasaithe um Cheartas Coiriúil nár chóir leanaí a choinneáil le daoine fásta. Tá sé éilithe cheana ag an Ombudsman do leanaí go gcuirfí deireadh leis an gcleachtas buachaillí idir 16 agus 17 mbliana d’aois a choinneáil in Institiúid N. Pádraig. Cé go bhfuil deighilt áirithe idir iad siúd atá faoi 18 mbliana agus os a chionn i N. Pádraig, tá sé éilithe ag an Ombudsman do Leanaí go gcuirfí deireadh chomh luath agus is féidir le húsáid N. Pádraig mar ionad coinneála do leanaí.

Ar an lá ar thug an tOmbudsman do Leanaí cuairt ar Institiúid N. Pádraig, bhí 50 leanbh faoi choinneáil ann. Bhí 16 díobh 16 bliana d’aois agus 34 díobh 17 mbliana d’aois. Bhí na leanaí faoi ghlas ina gcealla ón 7i.n. go dtí 8r.n. Cuireadh faoi ghlas ina gcealla arís iad don bhriceasta agus don suipéar. Ba é an lón an t-aon bhéile coiteann a bhí acu. Níor ceadaíodh aon chuairt oscailte, bhí ar na leanaí suí ar thaobh amháin de phainéal peirspéacs agus a gcuariteoirí ar an taobh eile. Bhí an caighdeán fuaime go dona sa seomra cuairte. Is seanfhoirgneamh é N. Pádraig agus bhí drochchoinníollacha coinneála ann. Tá an-taifead déanta faoi dhroch-chaoi an fhoirgnimh agus an chóireáil chealla ag Cigire na bPríosún agus ag an gCoiste Eorpach um Chéasadh a Chosc.

Thug an chuairt deis chun bualadh leis an nGobharnóir agus a fhoireann atá an-tiomanta dá ndícheall a dhéanamh do na leanaí atá faoina gcúram. Chuir sé deis ar fáil chomh maith chun bualadh ar feadh tamall gearr le cuid de na leanaí agus smaoinéamh ar an mbealach is fearr chun ullmhú do chuairt eile ar N. Pádraig chun cluas le héisteacht a thabhairt do na leanaí seo.

Thug an Gobharnóir cuireadh oscailte freisin don Ombudsman do Leanaí cuairt a thabhairt ar N. Pádraig agus tá cuairteanna breise beartaithe don bhliain 2008.

Cosaint Leanaí

Chomh maith le déileáil le saincheisteanna i ndáil le cosaint leanaí ar bhonn aonair trínár bhfeidhm ghearán, chuir an tOmbudsman do Leanaí a himní in iúl arís do Choiste na NA um Chearta an Linbh i mí Dheireadh Fómhair 2007 faoi sheirbhísí cosanta leanaí agus an easpa seirbhíse oibre sóisialta 24 uair sa Stát.

Feistí muiscíte

Scríobh an tOmbudsman do Leanaí chuig an Aire Comhshaoil, Oidhreachta agus Rialtais Áitiúil agus chuig an Aire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí lena himní a chur in iúl faoin úsáid a d'fhéadfaí a bhaint as feistí chun torann a chur amach atá dírithe go príomha ar ghrúpaí daoine óga a scaipeadh. Scríobh sí freisin chuig Coimisinéir na nGardaí le fáil amach conas a láimhseálann na Gardaí gearáin faoi úsáid na bhfeistí seo. Mar fhreagra, shoiléirigh an Coimisiún gur treoraíodh do bhaill an Gharda Síochána fiosrúchán iomlán a dhéanamh faoi gach gearán a fhaightear faoi úsáid na bhfeistí seo le súil le treoir Stiúrthóir na nIonchúiseamh Poiblí a lorg.

An Bille um an Dlí Coiriúil (Gáinneáil ar Dhaoine agus Coireanna Gnéis) 2006

D'atreoraigh an tAire Dlí agus Cirt, Comhionannais agus Athchóirithe dlí Scéim Ghinearálta an Bhille um an Dlí Coiriúil (Gáinneáil ar Dhaoine agus Coireanna Gnéis) chuig an Oifig faoi réir Alt 7 den Acht um Ombudsman do Leanaí, 2002.

Chuir an tOmbudsman do Leanaí a tuairimí faoin mbille faoi bhráid an Aire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí i mí Bealtaine 2007. Ceapadh an Bille an-suntasach seo chun géilliúntas do roinnt ionstraimí tábhachtacha idirnáisiúnta a bhaineann le gáinneáil agus coireanna gnéis i gcoinne leanaí (lena n-áirítear an Prótacal Roghnach do Choinbhinsiún na NA um Chearta an Linbh ar Dhíol Leanaí, Striapachas Leanaí agus Pornagrafaíocht, Prótacal Palermo na NA um Gháinneáil agus an Coinbhinsiún Eorpach um Ghníomhú i gCoinne Gáinneáil i Neacha Daonna).

Cé go sásaíonn an Bille dualgais idirnáisiúnta na hÉireann den chuid is mó maidir leis na húdaráis a chumasú chun gáinneálaithe a ionchúiseamh, luaigh an OCO nach dtugann sé go leor airde ar leochaileacht ar leith na leanaí atá ina n-íobartaigh agus nach ndéanann sé foráil shásúil dá gcuid riachtanas. Tá cóip iomlán den tuarascáil ar fáil ag www.oco.ie

07

an reifreann bunreachtúil atá beartaithe

Cloch mhíle i bhforbairt na reachtaíochta in Éirinn is ea an reifreann atá beartaithe. Beidh an fhocláíocht agus a rún ina thagarmharc ar chomh dáiríre is atáimid faoi leanaí agus chomh toilteanach is atáimid luach ó dhúchas a aithint sa leanbh. Mar a luadh sa Tuarascáil Bhliantúil dheireanach, i mí na Samhna 2006 d'fhógair an Taoiseach go raibh sé ar intinn aige reifreann faoi chearta leanaí a ghairm. Lean díospóireachtaí agus plé faoi ábhar agus formáid an reifrinn ar ghaidh i rith 2007.

An Cúlra

Tá athrú bunreachtúil a bheadh dírithe ar chearta leanaí a chosaint á éileamh ag mórán daoine ó na 1990dí luatha agus chuir an tOmbudsman do leanaí an-fháilte roimh fhógra an reifrinn atá beartaithe. I rith 2007, leag an tOmbudsman do Leanaí a dearcadh amach faoi na nithe ba chóir a chur sa reifreann i gcáipéisí éagsúla, lena n-áirítear an chomhairle tosaigh a chuir sí ar an Aire Leanaí a foilsíodh i mí Eanáir 2007. Thug sí freagra i scríbhinn freisin ar dhá cháipéis mhionteagisc faoin reifreann bunreachtúil a d'fhoilsigh an tAire Leanaí.

Foilsíodh an Bille um an Ochtú Leasú is Fiche ar an mBunreacht, 2007 i mí Feabhra. Leag sé seo amach moladh an Rialtais i leith athrú Bunreachtúil le cur faoi bhráid an phobail i reifreann. Chuir an tOmbudsman do Leanaí Tuarascáil Speisialta faoin mBille seo faoi bhráid an Oireachtais i mí Márta.

Chuir olltoghchán an tsamhraidh 2007 isteach ar an bpróiseas seo. Cuireadh tús arís nuair a bhunaigh an Dáil nua Comhchoiste don Reifreann Bunreachtúil le sainordú Bhille an Ochtú Leasú is Fiche a scrúdú agus na moltaí a mheas an Coiste a bheith cuí a dhéanamh. Thug Cathaoirleach an Choiste seo cuireadh don Ombudsman do Leanaí aighneacht scríofa a chur faoi bhráid an Choiste go luath i 2008, agus aighneacht ó bhéal ina dhiaidh sin. Tá na díospóireachtaí faoin reifreann atá beartaithe ag leanúint ar aghaidh agus an Tuarascáil Bhliantúil seo ag dul i gcló.

Dearcadh Oifig an Ombudsman do Leanaí

Is iad seo go hachomair moltaí an Ombudsman do Leanaí do leasú an Bhunreacht, mar atá leagtha amach sna cáipéisí a foilsíodh faoin ábhar seo:

- ráiteas sainráite a chur sa Bhunreacht faoi chearta an linbh;
- prionsabal na 'leas is fearr' a chur sa Bhunreacht;
- dualgas Stáit a chur sa Bhunreacht tacú le teaghlaigh agus dualgas i leith gníomhaithe go cuí; agusforáil a chur sa Bhunreacht chun gur faisnéis bhog a chomhroinnt.

08

taighde

Tá an taighde ríthábhachtach dár gcuid oibre. Is é cuspóir Oifig an Ombudsman do Leanaí dul i bhfeidhm ar athrú.

Choimisiúnaigh an OCO taighde tábhachtach i 2007 ar chineál agus leitheadúlacht na ndeacrachtaí agus na mbacainní a bhíonn ar leanaí agus dhaoine óga. Treoróidh an taighde cainníochtúil seo forbairt ar réiteach éifeachtúil agus cuirfidh sé bonn iontaoifa faoinár gcomhairle don rialtas, do dhéantóirí beartais agus do sholáthraithe seirbhísí.

Bacainní le Cearta Leanaí a Fhíorú in Éirinn

Foilsíodh an tuarascáil *Barriers to the Realisation of Children's Rights in Ireland*, a choimisiúnaigh Oifig an Ombudsman do Leanaí agus a thionsaigh an Dr Ursula Kilkelly as Coláiste na hOllscoile Corcaigh, i mí Lúnasa 2007 (tá achoimre fheidhmeannach sna hAguisíní). Aithníonn an tuarascáil na príomhbhacainní a bhíonn ar leanaí agus ar dhaoine óga rochtain a fháil ar a gcearta mar atá leagtha amach i gCoinbhinsiú na NA um Chearta an Linbh.

Agus taighde acadúil den chineál ba ghá dúinn a choimisiúnú á phleanáil againn, bheartaíomar muid gur chóir dúinn dul níos faide ná athbhreithniú a dhéanamh ar cad iad na 'cearta, fadhbanna agus saincheistanna' atá ann do leanaí agus do dhaoine óga in Éirinn agus a fháil amach cad iad na bacainní atá orthu ó thaobh a gcearta a fhíorú. Trí na bacainní seo a aithint agus taighde a dhéanamh ar an gcaoi lena sárú, tá bonn maith acadúil againn anois chun tograí sainiúla a thionscnamh a scriosfaidh na bacainní sin.

Áiríodh sna bacainní a d'aithin an Dr Ursula Kilkelly sa taighde: dofheictheacht leanaí agus cinnteoireacht á dhéanamh in Éirinn; bearnaí dlí, beartais agus forfheidhmiúcháin; easpa sásanna chun cabhrú le leanaí a gcearta a dhearbhu; seirbhísí, tacaí agus infheistíocht uireasacha; agus oiliúint agus faisnéis uireasach faoi leanaí agus a gcearta. Bíonn na bacainní seo méadaithe do mhórán leanaí a bhaineann le grúpaí leochaileacha áirithe a aithníodh sa taighde mar gheall ar a gcúinsí agus is mó an seans go bhfulaingeoíd siad sin sárú iomadúil ar a gcearta.

Tá úsáid bainte as an taighde cheana féin chun dúshraith acadúil a chur faoin taighde cáilíoch a rinneadh le leanaí agus daoine óga as grúpaí imeallaithe agus chun an 'Bhallóid Mhór' a ullmhú (féach roinn 5, Cumarsáid agus Rannpháirtíocht ar leathanach 31).

09

obair idirnáisiúnta

De réir Alt 7(4) den Acht um Ombudsman do Leanaí, 2002, go bhfuil sé de dhualgas ar an Ombudsman do Leanaí faisnéis a mhalartú agus comhoibriú le Ombudsmen do Leanaí i Stáit eile.

Tá a sainordú reachtúil i leith obair le Ombudsman do Leanaí i ndlínsí eile á chur chun cinn go gníomhach ag an OCO. Mhéadaigh ról idirnáisiúnta na hOifige i 2007.

ENOC (Líonra Eorpach Na nOmbudsman do Leanaí)

Cuireadh Líonra Eorpach na nOmbudsman do Leanaí (ENOC) ar bun i 1997 chun an 10 nOmbudsman a bhí san Eoraip ag an am a thabhairt le chéile. Tá an bhallraíocht méadaithe ó shin go 34 comhalta as 24 stát. Tugann UNICEF agus Comhairle na hEorpa tacaíocht d'obair ENOC. Ag leibhéal an AE, sheol Leas-Uachtarán an Choimisiúin, Franco Frattini, forbairt straitéise nua an AE um chearta leanaí. Tá ENOC ina chomhalta d'Fhóram an AE um Chearta an Linbh a bhfuil sé de chúram air an straitéis seo a chur chun cinn.

Ról ENOC

Is é ról an Líonra cothú agus cosaint ceart leanaí a áisiú, mar atá ceaptha i gCoinbhinsiún na NA um Chearta an Linbh. Áirítear i measc a chuid cuspóirí malartú faisnéise a áisiú idir comhaltaí agus grúpaí réigiúnacha eile agus tacú le hinstitiúidí nua cearta leanaí a fhorbairt san Eoraip agus ar fud an domhain.

Ballraíocht

Tá baill as 24 Ballstát Chomhairle na hEorpa ag ENOC faoi láthair, lena n-áirítear: An Ostair, An Bheilg, an Chróit, An Danmhairg, An Fhionlainn, An Fhrainc, An tSeoirsia, An Ghréig, An Ungáir, An Íoslainn, Éire, An Laitvia, An Liotuáin, Lucsamburg, iar-Phoblacht Iúgslavach na Macadóine, Málta, An Ríocht Aontaithe, An Iorua, An Pholainn, An Phortaingéil, Cónaidhm na Rúise, An tSlóivéin, An Spáinn, An tSualainn.

Tá níos mó ná oifig amháin ag cuid de na stáit seo ina mbaill. Maidir leis an Ríocht Aontaithe mar shampla, is comhaltaí de ENOC iad Coimisinéirí Leanaí Thuaisceart Éireann, na hAlban agus na Breataine Bige.

Ba mhór an onóir don Ombudsman do Leanaí gur toghadh í mar chathaoirleach nua ar Líonra Eorpach na nOmbudsman do Leanaí (ENOC) ag an gcruinniú bliantúil in mBarcelona i mí Mheán Fómhair 2007. Beidh bród ar an OCO glacadh leis an gCathaoirleacht i mí Mheán Fómhair 2008 agus beidh sí ina suí ar an mBiúró ar feadh tréimhse trí bliana a thosaigh i mí Mheán Fómhair 2007.

Tarlaíonn an ról lárnach seo i mbainistíocht ENOC ag am spéisiúil tábhachtach. Tá clár dílsithe do Chearta Leanaí á rith ag Comhairle na hEorpa agus cuirtear béim ann ar chearta leanaí a chothú agus a chosaint mar cheann de na tosaíochtaí is tábhachtaí atá aige. Ghlac an AE le Straitéis Aontas na hEorpa um Chearta i mí Iúil 2006 agus seoladh an Fóram Eorpach um Chearta an Linbh, a ceapadh chun cion an Ombudsman do leanaí, eagraíochtaí neamhrialtasacha, leanaí, daoine óga agus daoine eile a áisiú, i mí an Mheithimh 2007. Tá institiúidí eile den AE, lena n-áirítear Gníomhaireacht Chearta Bunúsacha an AE, agus an Pharlaimint Eorpach, tiomanta d'obair i réimse chearta na leanaí.

I rith na bliana 2007, ghlac ENOC le ráiteas ar chearta leanaí faoi mhíchumais a seoladh ar an Lá Idirnáisiúnta Míchumais. Is í aidhm an ráitis Coinbhinsiún nua na NA um Chearta Daoine faoi Mhíchumais a chur dá fhorfheidhmiú go hiomlán agus go mear ag gach ballstát. Ghlac ENOC freisin le ráiteas um Fhoréigean i gCoinne Leanaí agus d'aontaigh na baill go spreagfaí údarais náisiúnta chun tacú le hIonadaí Speisialta an Rúnaí Ginearálta um Fhoréigean i gCoinne Leanaí a bhunú sna Náisiúin Aontaithe.

I mí na Nollag 2007, d'eagraigh na NA ócáid i Nua-Eabhrac chun Seisiún Speisialta na NA um Leanaí i 2002 a chomórath. Glacadh le plean gníomhaíochta deich mbliana dar teideal *A World Fit for Children* ag Seisiún Speisialta na bliana 2002 agus chruthaigh an ócáid chomórtha deis chun an dul chun cinn maidir leis an bplean a fhorfheidhmiú a mheas. Bhí ionadaithe as gach cearn den domhan i láthair i bhfoirm ionadaithe ó Stáit, eagraíochtaí neamhrialtasacha agus eagraíochtaí idirnáisiúnta. Bhí an tOmbudsman do Leanaí i láthair ag an ócáid mar ionadaí Líonra Eorpach na nOmbudsman do Leanaí agus ghlac sí páirt i roinnt cruinnithe a bhí comhordaithe ag UNICEF agus dírithe ar iarrachtaí chun *A World Fit for Children* a fhorfheidhmiú.

Le linn ócáid chomórtha Seisiún Speisialta na NA, rinne UNICEF óstaíocht ar an dara cruinniú de Líonra Domhanda na nInstitiúidí Neamhspleácha Cearta Daonna do Leanaí. D'fhreastail Airí as roinnt Stát ar an gcruinniú, ina measc an Phortaingéil a raibh Uachtaránacht an AE aici ag an am, agus Cathaoirleach Choiste na NA um Chearta an Linbh. Ag feidhmiú mar Chathaoirleach nuathofa ENOC (Líonra Eorpach na nOmbudsman do Leanaí) labhair an tOmbudsman do Leanaí ag an ócáid, thug sí forléargas ar obair an Líonra agus d'iarr sí go ndéanfaí gach tiomantas a rinne ag Seisiún Speisialta 2002 a fhorfheidhmiú.

BINOCC

Lean an OCO ag cruthú nasc le hOifigí den chineál céanna i Sasana, sa Bhreatain Bheag, in Albain agus i dTuaisceart Éireann. I gcomhar le Coimisinéirí Leanaí Thuaisceart Éireann, Shasana, na hAlban agus na Breataine Bige, bíonn an OCO ag comhroinnt na foghlama agus na gcleachtas is fearr trí BINOCC (Líonra Ombudsman agus Coimisinéirí Leanaí na Breataine agus na hÉireann). Buaileann an Líonra le chéile ag leibhéal Ombudsman/Coimisinéara agus i ngrúpaí a mbíonn sainorduithe sainiúla acu. Mar shampla roinneann an grúpa beartais agus taighde faisnéise agus forbraíonn sé comhthograí, agus roinneann na foirne cumarsáide agus rannpháirtíochta taithí agus eolas na n-oifigí éagsúla.

Tionóladh an dara comhdháil foirne de BINOCC i Londain i mí na Samhna 2007 agus tá comhthacaíocht curtha ar fáil ag an Líonra chun tuarascálacha a ullmhú do Choiste na NA um Chearta an Linbh agus do chomhlachtaí idirnáisiúnta eile.

Rannpháirtíocht i meicníochtaí agus in imeachtaí idirnáisiúnta cearta daonna

Thug Coimisinéir Chearta Daonna Chomhairle na hEorpa, Thomas Hammarberg, cuairt ar Éirinn i mí na Samhna 2007. Ba é seo a chéad chuairt. Dhírigh an Coimisinéir ar staid leanaí agus daoine óga in Éirinn le linn a chuairte. Thug an Coimisinéir cuairt ar an OCO chun bualadh leis an Ombudsman na leanaí. Le linn an chruinnithe seo léirigh sí a cúraimí agus na moltaí a bhí aici don athrú. Táthar ag súil le tuarascáil na cuairte seo go luath i 2008.

Rinne Coiste na NA um Chearta an Linbh athbhreithniú ar thaifead na hÉireann i mí Dheireadh Fómhair 2007 faoin bPrótacal Roghnach um rannpháirtíocht Leanaí i gCoinbhleacht Armtha. Is 'breiseán' ar Choinbhinsiún na NA um Chearta an Linbh é an Prótacal Roghnach agus cuireann sé de dhualgas ar Bhallstáit leanaí a chosc ó bheith rannpháirteach i gcoinbhleacht agus cabhrú le hiarsaighdiúirí linbh teacht slán óna dtaithí. Chuir an OCO tuarascáil neamhspleách faoi bhráid an Choiste agus d'fhreastail sí ar chruinniú ullmhúcháin nó 'réamhseisiún' chun na hábhair is cúram di a léiriú don Choiste.

Chuir an OCO béim ar na nithe seo a leanas ina tuarascáil agus a láithriúchán don Choiste: gan cosc reachtúil a bheith in Éirinn ar leanaí a bheith rannpháirteach i gcoinbhleacht armtha; gan tacaíocht shásúil a bheith ann do leanaí in Éirinn a d'fhéadfadh a bheith rannpháirteach i gcoinbhleacht armtha thar lear agus saincheisteanna a bhaineann le trádáil mionarm agus dlínse sheach-chríochach do choireanna a bhaineann le saighdiúirí linbh. Ghlac an Coiste go han-mhaith le tuarascáil an OCO agus foilseofar a thuarascáil faoi Éirinn go luath sa bhliain 2008.

aguisíní

aguisín 1

Barriers to the Realisation of Children's Rights In Ireland

BY

DR URSULA KILKELLY, SENIOR LECTURER,
FACULTY OF LAW, UNIVERSITY COLLEGE CORK

COMMISSIONED BY THE OMBUDSMAN FOR CHILDREN

EXECUTIVE SUMMARY

29 AUGUST 2007

Introduction

The United Nations Convention on the Rights of the Child sets out the rights of children and young people in all areas of their lives, and Ireland agreed to implement these rights when it signed the Convention fifteen years ago. In 2006, the Ombudsman for Children commissioned research to examine the barriers to the protection of children's rights in Ireland. Its aims were to identify the areas in which children's rights are being ignored or underplayed and more particularly, to identify the barriers to the full realisation of children's rights in Ireland.

The research was a desk-based study, designed to collate available data and literature on children's rights in Ireland. It used the Convention on the Rights of the Child and associated literature to develop a set of benchmarks against which progress implementing the Convention could be measured. In line with the advice of the Committee on the Rights of the Child, particular focus was placed on the structural barriers that impede effective protection of children's rights. These are detailed below. The research also identified children who face multiple barriers to their rights and particular difficulties seeking to have those rights vindicated as follows:

- Children in the care system;
- Children in the criminal justice system;
- Traveller children;
- Immigrant and asylum seeking children;
- Homeless children;
- Children in poverty;
- Children at risk of abuse and neglect.

These children endure barriers to their rights that cut across many areas of their lives, including family, education, health and material deprivation. They have not to date benefited from coherent policy or targeted intervention, supports or services and they suffer marginalisation and, in some cases, discrimination. Many of these children also face the additional obstacle of being isolated from their families and friends, without advocacy or support or anyone to lobby on their behalf.

Notwithstanding existing policy, the situations of these children require an overhaul of how existing services and supports are delivered and to this end, it is recommended that targeted, high level task forces be convened with a view to ensuring that the necessary co-ordinated, intensive, strategic action is taken to mainstream targeted, child focused and rights-based services in these areas. Awareness also needs to be heightened among the public, service providers and Government generally about the problems these children face in the realisation of their rights. The Ombudsman for Children is particularly well placed to advocate on behalf of these children, and to present their concerns from a children's rights perspective.

The main purpose of the research was to identify the barriers to the realisation of children's rights in Irish law, policy and practice. In all, six general barriers under the following headings:

- 1. Invisibility of Children:** Children are largely invisible in law and policy and in 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 co-ordinate the implementation of children's rights which cut across areas of government responsibility. To address this barrier, children's voices must be integrated into mainstream political and administrative decision-making structures at local and central levels, and consideration given to introducing a legal duty to incorporate children's views into decisions that affect them. Inter-departmental structures must be established to bring about more effective delivery of services and mechanisms put in place to regularly review law, policy and budgets from a children's rights perspective.
- 2. Law and Policy:** Children's rights are not explicitly protected in the Constitution, in law or in policy with the effect that they are often ignored in decision-making processes that affect them. Fundamental children's rights principles (non-discrimination, the requirement to take best interests into account and to ensure the voices of children are heard) should be given explicit protection in the Constitution and in law and policy particularly in areas of education, health care, youth justice and family law. Law and policy already in place should be fully implemented without further delay.
- 3. Advocacy, Complaints and Monitoring:** The absence of effective advocacy mechanisms to represent children and their rights, and to monitor services designed to meet their needs frustrates the implementation of children's rights. The establishment of effective, independent complaints mechanisms, and systems to compel the highest children's rights standards are secured in children's services are vital, especially to ensure that the rights of children who are very young, sick, in residential care or at risk, are fully protected.
- 4. Provision of Services and Supports:** There is an absence of dedicated supports and services for children especially in the areas of mental health, family breakdown and adolescent health including drug treatment and sexual health. The fragmented co-ordination of available services and the failure to mainstream positive initiatives means that children's rights are ignored in areas of

education, health care and family support. Particular problems are experienced with respect to measures designed to target disadvantage, and in areas where children have complex needs that require services to cut across different state agencies or government departments. Awareness needs to be raised about the existence of available services, especially locally-based services, and these need to be mainstreamed.

5. Lack of Investment: Lack of sustained and substantial investment in children's lives has acted as an obstacle to their rights being implemented in areas of education (including early childhood care and education, psychological support and class size), children's health services, play and leisure services, and housing and family support. These are basic needs in a child's life and inability to access adequately resourced services in these areas can lead to fundamental rights like survival and development being ignored or underplayed.

6. Information and Training: Awareness about children's rights among children and adults is vital to the implementation of those rights and is a legal duty under the Convention on the Rights of the Child. Greater training is also required for all those working with children including health professionals, teachers, An Garda Síochána, lawyers, judges, service providers and all those working in the delivery of services. Awareness among children and their parents/carers is also integral to the effective protection of children's rights.

This research makes clear that while some children are particularly vulnerable, the obstacles that frustrate the effective protection of their rights affect all children. In particular, despite many positive initiatives, Ireland lacks the children's rights infrastructure necessary to underpin effective protection of children's rights for this and future generations, and to ensure that their childhood is happy and safe.

Successful realisation of children's rights depends on getting the framework right and establishing a child-focused, rights-based legal platform on which policy, practice and all decision-making can be based. The absence of independent express rights for children in the Constitution, particularly their right to a say in their lives, means that currently, this basis is weak. Overall, it is apparent that the necessary shift away from the paternalistic approach, whereby adults know best, to the recognition that children are rights-holders, with a right to have a say in their lives, has yet to take place fully both in Government and in society.

The research is not intended to be comprehensive, rather it identifies key obstacles to the full implementation of the Convention on the Rights of the Child and makes wide-ranging recommendations for both minor and major change to law, policy and practice in a number of areas. It provides a useful snapshot of the progress still to be made to ensure children's rights are protected and promoted fully in Ireland.

This research is intended to inform the work of the Ombudsman for Children in protecting and promoting children's rights. The use of a rights and evidence-based approach is key to maximising the potential of the Office to affect change by acting as a champion for the rights of all children in all areas of their lives and influencing Government to progress change.

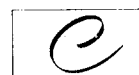
aguisín 2

Letter of Support for the work of the OCO from Thomas Hammarberg, Council of/Europe Commissioner for Human Rights



COMMISSIONER FOR HUMAN RIGHTS

COUNCIL OF EUROPE



Ref: CommHR/JAK/sf 023-2008

Mrs. Emily LOGAN
Ombudsman for Children
Millennium House
52-56 Great Strand Street
Dublin 1
Ireland

Strasbourg, 12 February 2008

Dear Emily,

It was a pleasure to meet you again in Strasbourg and thank you for sharing with me your submission to the Joint Committee on the Constitutional Referendum on Children.

Enhancing the protection of the rights of children is a major priority for the Council of Europe and I greatly welcome efforts at national level to further the implementation of international standards. As you know, the Council of Europe has a long history of promoting and protecting children's rights. Over the recent year, the Council of Europe launched a programme "Building a Europe for and with children" aiming at further reinforcing children protection. I have personally taken concrete actions on supporting this programme and promoting children's rights through my constant dialogue with national authorities.

During my week long visit to Ireland last November, I gained a deeper understanding of the need to provide further protection for the rights of children in the Constitution. At the close of my visit, I welcomed the plan to hold a referendum and said it was essential that this opportunity be taken to establish the principle of the best interest of the child as a primary consideration in all decisions affecting children. This idea will be reflected in my assessment report on Ireland which I plan to publish in late spring this year.

I see from your submission that you are calling for the insertion of express rights for children and the best interests principle into the Constitution. I support your recommendations and, in particular, your view that the best interests principle should apply to all children and not be confined to the discrete situations envisaged under the current proposals.

Many Council of Europe member states have undertaken legal change, including at Constitutional level to guarantee children's rights and I hope that Ireland will use this opportunity to become a leader in the promotion and protection of children's rights.

I wish you well in your work and allow me to assure you that you enjoy my continued support in your endeavours.

Yours sincerely,

Thomas Hammarberg

aguisín 3

I measc na ngrúpaí agus na n-eagraíochtaí ar bhuaileamar leo le linn 2007 tá:

- Amnesty
- An tArd-Easpag Diarmuid Martin
- ASTI
- Ballyfinane National School
- Barnardos
- BeLonG2
- BINOCC
- BIOA
- Brunswick Street School
- CAAB
- Chilax Café, Durlas
- Children in Hospital Ireland
- Children's Commissioner Wales
- Club 4 U
- Coláiste de hÍde, Tamhlacht
- Community Development Evaluation of Public Library Provision for Teenagers – An tOllamh Robbie Gilligan
- Seirbhís Tacaíochta CSPE
- An Roinn Sláinte agus Leanaí
- Digital Hub
- ISP & An Príomh-Atur na Ionchúiseamh
- Drumcondra NS, Croim Conrach
- Dublin North West Citizen's Advice
- East Cork Area Development (ECAD)
- Enable Ireland
- ENOC
- An Fóram Eorpach um Chearta an Linbh
- Finglas Child and Adolescent
- Oifig Défenseur des Enfants's
- Gaelscoil Bhaile Munna, Baile Munna
- Bord Gearán an Gharda Síochána
- Coimisiún Ombudsman an Gharda Síochána
- Griffeen Valley, EducateTogether, Leamhcán
- Good Shepherd NS, Churchtown
- IAYPIC
- Cumann Cathaoireacha Rothaí na hÉireann
- School Completion Programme Beaufort College Navan
- The Crib in Sligo
- HIQA
- Hospital Youth Reach, Co Luimnigh
- Gnóthaí tomhaltóirí FSS
- International Youth Mental Health Conference
- INTO
- Irish Association of Teachers in Special Education
- Irish Film Censor
- Irish Film Institute (IFI)
- Irish Play Therapy Association
- Irish Primary Principals Network (IPPN)
- ISPCC
- Killarney Community College
- Bord Forbartha Contae Laoise
- Lucan Youth Reach
- Malahide CC, Co. Átha Cliath
- Middlequarter – Building Social Impact
- Minority Languages in Education
- National Association Youthreach Coordinators (NAYC)
- Comhairle Náisiúnta Tuismitheoirí
- Navan Traveller Training Centre
- NCCA
- NCSE
- NEWB
- Oifig an Ombudsman
- Our Lady's Traveller Training, Mala
- Presentation SS, Gaillimh
- Presentation Loughboy, Cill Chainnigh
- Presentation SS, Warrenmount, Baile Átha Cliath
- PCSP
- Rutland Street School

- Sandy Road Training Centre, Gaillimh
- Scoil Mháthair Dé, Luimneach
- Scoil Bhríde, Léim an Bhradáin
- Sn Ard Mhuire, Droichead Átha
- Senior Travellers' Training Centre National
Co-ordinator
- Sparks
- SSI
- St Aidan's NS, Maigh Eo
- St Aloysius College, Corcaigh
- St. Columba's Facility for Deaf Children,
Corcaigh
- St. Catherine's Vocational, Na Cealla Beaga
- St. Conleth's Vocational, An Droichead Nua
- St Josephs NS, Ardenview, An Tulach Mhór
- St Nessans CC, Luimneach
- St Ultan's Special School, An Uaimh
- St Patrick's Boys NS
- St Patrick's Grammar School
- St. Roses NS, Balrothery, Tamhlacht
- St. Oliver's Education Centre, Cluain Dolcáin
- Swim Ireland
- TASC
- The Irish Family Lawyers Association
- The Training and Education Support Project
(TESO) Fionnghlas
- Thomas Hammarberg, Coimisinéir an AE um
Chearta Daonna
- TUI
- UN Special Session on Children
- UNICEF
- Youth Reach Knocknaheeny
- Youth Reach, Gaillimh

