

OMBUDSMAN

FOR CHILDREN / DO LEANAÍ

ANNUAL REPORT / TUARASCÁIL BHLIANTÚIL 2013



OMBUDSMAN FOR CHILDREN ANNUAL REPORT 2013



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MESSAGE FROM THE OMBUDSMAN FOR CHILDREN



I am pleased to submit to the Oireachtas my annual report for the period January 1 to December 31 2013 pursuant to Section 13(7) to the Ombudsman for Children Act, 2002.

As the tenth anniversary of the Ombudsman for Children's Office approaches in 2014, it is an opportunity to reflect on some of the progress of the past decade as well as to identify the deficits in law, policy and practice from a children's rights perspective. As Ombudsman part of my job relates to improving standards of public administration and as Ombudsman for Children I am uniquely positioned to both review *and* comment on how the State treats

children and respects their rights. I not only have a statutory obligation to do so but my Office has, ten years on, amassed a unique body of evidence through our complaints and investigation function; by advising on legislation that will affect children; and by meeting thousands of children, families and professionals working on behalf of children.

In the ten years since my Office was established there has undoubtedly been some profound changes in Irish society. I have seen real progress in how children and families are treated by the State, including the State taking significant steps to improve the situation for children detained in St Patrick's Institution and for separated children seeking asylum. The State has also held a successful referendum on children's rights and established a dedicated Child and Family Agency.

During this time my Office has also seen many of the same issues; poor administrative practice and families encountering extraordinary levels of bureaucracy. One of the reoccurring themes of the past decade is the inflexibility of systems to meet the needs of individual children. Children and families are often expected to fit into a system rather than services being tailored towards the individual needs of the child. Last year, ahead of the establishment of the Child and Family Agency, my Office prepared a meta-analysis of the repetitive root causes of difficulties faced by children in care. Ten sample cases were selected to illustrate concerns and to make recommendations to improve service provision. By combining and contrasting the findings of different investigations, the analysis highlights common trends that can inform legal and policy developments in this area. This report with its recommendations was brought to the attention of the Minister

for Children and Youth Affairs, the CEO of the Child and Family Agency and to the Houses of the Oireachtas with the intention being that the findings of this report and the recommendations it contains will contribute positively to the ongoing reform of Ireland's child and family support services, and that the root causes identified in the investigations underpinning the report cease to be the subject of examination by this Office save in exceptional circumstance.

Another theme has been the impact of the recession on services provided to children and families. The availability of resources has played a large part in the complaints examined by my Office generally. It must be acknowledged that public bodies have legitimate resource concerns; they cannot provide resources they have not been given. However, my concern is that pressure on financial and other resources can be used as a defence for poor decision-making. To my mind, in a period of contracting budgets the argument for adopting more refined and rigorous decision-making becomes more compelling, not less so. Specifically, what this means from a children's rights points of view is undertaking to examine how exactly a given scheme or programme will affect children, whether particular groups will be disproportionately affected and how the impact of the public bodies' decisions will be monitored.

There are two key human rights principles in the UN Convention on the Rights of the Child that form the bedrock of children's rights: the provision of best interests of the child in Article 3 and respect for the views of the child provided for in Article 12.

Having dealt with over 10,000 complaints from parents and heard directly from thousands of children around the country, it is these very principles 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 by public bodies; in some instances the name or reputation of an organisation appears to come first. In other investigations published by my Office we have seen how the decision making of a single individual within the system can sometimes have a profound effect on the lives of children and young people. Administrative systems should be robust enough to serve the citizen rather than being subject to individual approaches that can have negative consequences for a child and family.

It is sometimes not appreciated how far-reaching the impact of administrative decisions can be; indeed, it can in some senses be much more extensive than legislative or judicial decision making in that it affects a larger number of children. An example of this is in the area of education. Government circulars – which are not sources of law – often define the conditions under which children and young people can access their entitlements and supports. The Oireachtas does not have a role in shaping policy at this level and the Courts typically refrain from examining policy matters in light of the obligation to respect the separation of powers. This makes it especially important that decision-making at this level is fully informed by children's rights standards. Although it is more familiar to see international norms referred to in legislative debates and judicial proceedings, it is essential to recall that the State's international legal obligations are relevant to all levels of

Government, including administrative actions. The public bodies examined by my Office have some distance to travel to ensure that the State's legal obligations with regard to children permeate their work in this way.

In 2013, 180 new public bodies came within my remit for the first time. We dealt with over 1500 complaints from children and families. We concluded our first complaints about children detained in St Patrick's Institution. Given the importance of timely resolution for children of difficulties with public bodies, local resolution is ultimately the optimum outcome for families contacting my office. Generally investigations take more time, often because they relate to more complex issues.

In 2013, my Office continued to invest most of its available resources to promoting and supporting early local resolution for families and to only progress to full investigation when we are satisfied that all options have been exhausted. It is my experience that many public bodies, particularly those providing services directly to children and families are keen to improve their services and appreciate opportunities for learning. In the context of our investigations, we have worked hard at building our relationships and credibility with public bodies. This has assisted us in achieving our ultimate objective as an Ombudsman's office: to mitigate the action that originally caused the adverse effect and the speedy resolution of complaints.

I would like to use this opportunity to once again raise an ongoing issue of concern for me regarding the exclusion to my investigatory remit in the area of asylum and immigration. The Department of Justice and Equality and my Office do not have a shared understanding of the scope of this exclusion, particularly as it relates to children in direct provision.

I have raised this with the Oireachtas on numerous occasions dating back to my first annual report. In March 2012, my Office submitted a detailed report on the operation of the Ombudsman for Children Act 2002 to the Oireachtas and to the Minister for Children and Youth Affairs. This report contained a detailed recommendation for amending the 2002 Act to clarify the role of the OCO in relation to complaints relating to asylum and immigration matters.

Notwithstanding the lack of clarity regarding its jurisdiction, the OCO has dealt with complaints brought to its attention concerning children living in direct provision. The OCO has sought and obtained a resolution to complaints brought to the Office in the interests of the children in question, though the Department of Justice and Equality has not accepted that the OCO can address these as cases within the statutory complaints-handling framework of the Ombudsman for Children Act.

As Ombudsman for Children I am also responsible for promoting children's rights, consulting with children and giving advice on legislation to Ministers of government relating to children. In 2013 in accordance with Section 7 of the Ombudsman for Children Act, 2002, I provided advice to the Minister for Social Protection on the General Scheme of the Gender Recognition Bill 2013, to the Minister for Education on the General Scheme of the Education (Admissions to Schools) Bill 2013. I was pleased that both of these

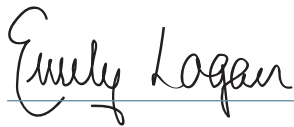
pieces of advice were given careful consideration by the respective Ministers and were also extensively referenced by the Joint Oireachtas Committee on Education and Social Protection when debating and making recommendations on each piece of legislation.

Looking towards the future, I believe that the orientation of law and policy in Ireland must be towards fuller respect for the rights enumerated in the UN Convention on the Rights of the Child.

I believe that Ireland continues to require dedicated, expert and independent oversight of civil and public administration in this area.

In addition, we need to move past a culture in which public policy can be significantly affected by knee jerk responses to crises that cause significant public condemnation rather than solid and progressive public policy development. As Ombudsman for Children I would prefer to see a more proactive approach to policy development than much of the reactive approach of the last ten years.

As the environment in which children grow up continues to change posing new challenges and raising new opportunities for them, I am constantly reminded of the importance of having an independent Office that will be available to promote their rights, investigate complaints and provide redress.

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

Emily Logan

The Ombudsman for Children

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ORGANISATIONAL DEVELOPMENT

Corporate Services

Financial Control

The 2013 financial allocation of the Ombudsman for Children's Office was €1.888m a reduction of €0.225m from 2012.

As set out in Sections 17(1) and (2) of the Ombudsman for Children Act, 2002, the Ombudsman for Children is responsible for preparing Financial Statements, and for ensuring the regularity of, the Office's transactions. The functions underpinning these responsibilities include authorising and monitoring payments for goods and services, tendering processes, the operation of payroll, and compilation of monthly returns.

The Financial Statements are subject to audit by the Office of the Comptroller and Auditor General. The audit of the 2012 accounts took place in July 2013. Financial Statements for a particular year are generally not audited at the time of the relevant annual report's publication. Once approved by the Office of the Comptroller and Auditor General, they are published on the OCO's website and annual accounts for all years up to 2012 are available at www.oco.ie.

CrowleysDFK Chartered Accountants provided accountancy services to the Office during 2013.

Human Resources

The Office has an approved complement of 15 staff. The use of this key resource to meet demands that continue to increase year-on-year, both in terms of volume and complexity, remains an ongoing challenge. For the fourth year running I wish to report an over reliance on our Investigation panel due to the volume and complexity of complaints received. The roles and functions of all staff in the Office are reviewed on a continual basis.

Millennium House – use of premises

Along with running human rights education workshops for visiting groups of children and young people the Office also continued its equivalent programme for post-graduate students.

The Office continued to make the facilities of Millennium House available as a venue for appropriate events focused on the rights and welfare of children and young people. Among the groups that held consultations with young people in Millennium House in 2013 were the Youth Advisory Council representing the three children's hospitals, BeLoNG To, EPIC, Northside Partnership, Irish Secondary Students Union, Irish Refugee Council, Headstrong and the Children's Rights Alliance.

Millennium House – Lease

Following the sale of a number of commercial properties in central Dublin including Millennium House the lease was restructured resulting in a new lease being negotiated by the Office of Public Works on behalf of the State.

Overview of Energy Usage in 2013

In December 2009, the Minister for Communications, Energy and Natural Resources, gave effect to Directive 2006/32/EC of the European Parliament and of the Council of 5 April 2006, and made the 'European Communities (Energy End-use Efficiency and Energy Services) Regulations 2009 (S.I. 542 of 2009)'. The Regulations require public sector organisations to report annually from January 2011 on their energy usage and actions taken to reduce consumption.

In 2013, the Ombudsman for Children's Office used 86.83 MWh of electricity compared to 88.197 MWh in 2012.

Actions Undertaken in 2013

A comprehensive review of energy consumption was carried out during the year by Corporate Services in association with the Office of Public Works. This resulted in the refit of a large number of older high energy light fittings with LED fittings. Energy usage is monitored on an ongoing basis. The OCO continues to operate a comprehensive internal recycling system.

Media

As with previous years, there was significant media interest in, and wide-spread coverage of, the Office's work. In particular, the Ombudsman for Children received considerable coverage for individual cases, including the case of the HSE failing to provide support for a child following allegations of sexual abuse, and concerns over social services in HSE North Lee, as well as Advice to Government Ministers on legislation - the Courts Bill, the Education (Admission to Schools) Bill 2013 and the Gender Recognition Bill 2013.

Public Affairs

The Ombudsman for Children reports directly to the Oireachtas and has a statutory mandate to give advice to Government Ministers on laws and policies that affect children. In light of this the Ombudsman for Children continued to have a productive relationship with Ministers, Oireachtas Committees and key spokespeople.

The Ombudsman for Children also appeared before the Oireachtas Committee on Health and Children to discuss young people in detention.

Website and social media

The Office's website, www.oco.ie has been consistently developed over the past number of years so that it remains a key tool for communicating the work of the Office. Following an external accessibility audit work is ongoing to ensure that it meets the highest possible standards.

One of the most frequently visited areas of the site is the Complaints section. As an Ombudsman institution it is important that information in relation to our Complaints function is in a variety of media, is clear and is accessible. On the site itself, FAQs; a short information video; information materials; regular updates on current issues; e.g. a recent spike in complaints about the State Examinations Commission; as well as an online complaint form, all endeavour to provide the public with the information needed about the Office's remit and complaints procedures.

The section of the site which the public engage with most is the Education and Human Rights Section. This details the Office's human rights workshops with young people, as well as showcasing the video clips made by the children and young people during the workshops. In addition all of the education materials are downloadable from the site.

The Office also makes use of its Twitter account @oco_ireland to engage with stakeholders and to share current work.

All of the OCO's film clips – currently totalling 23 – are now on its YouTube channel, OCOIreland, and provide information on the work of the Office, as well as sample case studies, our special projects and clips made by young people themselves discussing their rights.



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COMPLAINTS AND INVESTIGATIONS

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

Distinct Provisions

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

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

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

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

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

Overview

Specifically, the process of examination and investigation looks at the matter of adverse affect on the child, as well as whether the action was or may have been:

- taken without proper authority;
- taken on irrelevant grounds;
- the result of negligence or carelessness;
- based on erroneous or incomplete information;
- improperly discriminatory;

- based on an undesirable administrative practice; or
- otherwise contrary to fair and sound administration

The information obtained through the receipt, examination, and investigation of complaints by the Office continues to provide valuable insight into the experiences of children and families in dealing with public services. In parallel, the scrutiny of the administrative actions of public bodies can provide an opportunity for the organisation to review the service they are providing.

It serves to validate actions taken or present the case for change. Most importantly, it highlights young people’s actual experiences and gives voice to their concerns when they suffer, or are at risk of, adverse affect due to the actions of public service bodies.

Statistics

Complaints Dealt with in 2013

In keeping with previous years, 2013 saw a significant rise in the number of complaints received by the Office with 1,677 complaints dealt with over the course of the year representing 1,591 complaints received and 86 carried over from 2012. In 2013 there was an increase of 16% when compared to 2012 and, as Tables 1.1 & 1.2 below highlight, the Office has seen a jump of 28% since 2010. The figures for 2013 also show a decrease in the number of complaints carried over into 2014, highlighting the efforts to improve the throughput in the office and reduce the time taken for handling complaints.

Table 1.1
Number of complaints dealt with annually since 2004

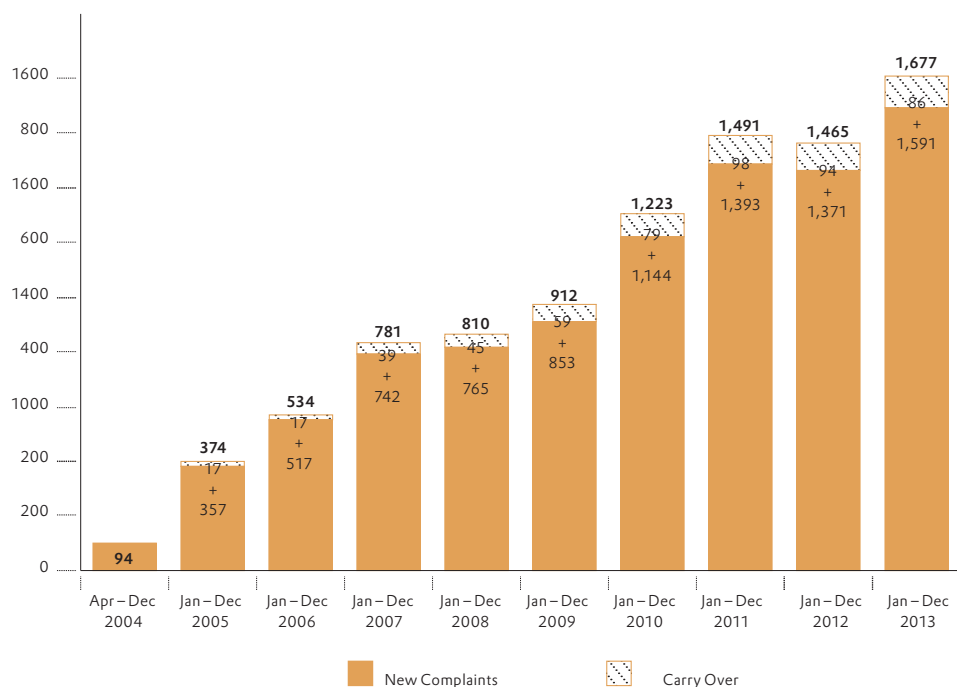


Table 1.2
Cumulative growth to December 2013

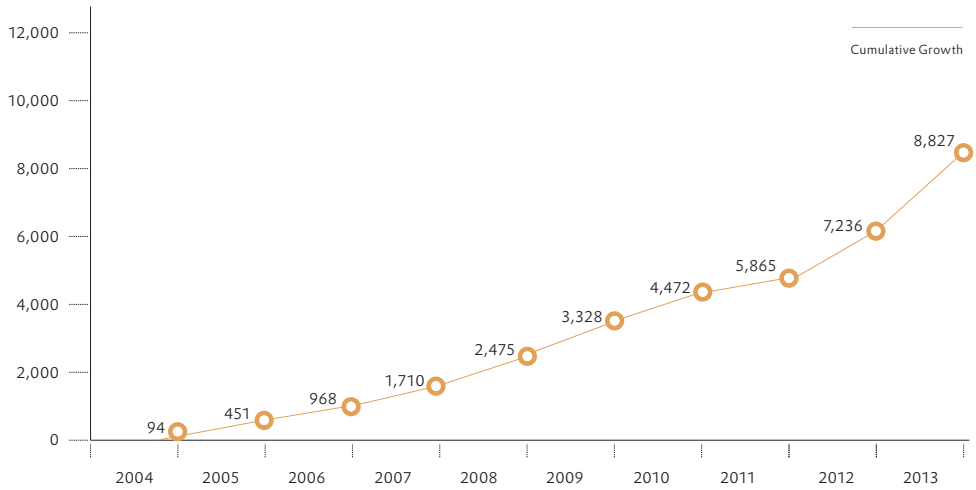
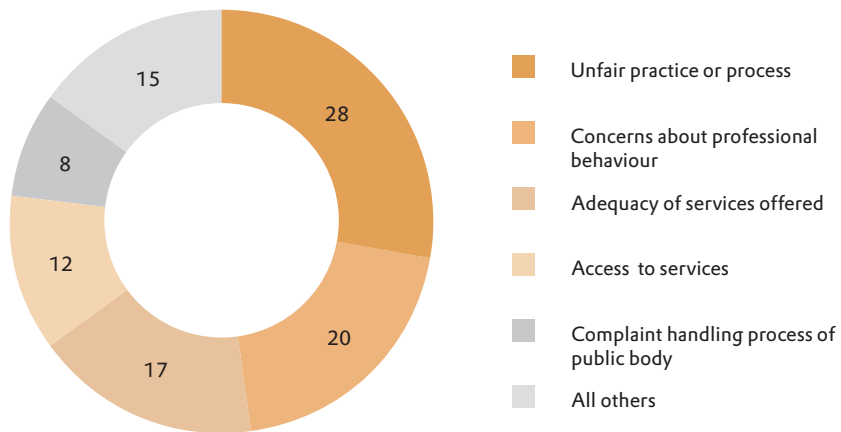


Table 1.3
Top five issues (across all sectors) complained about in 2013 (%)



The chart below shows the sectoral distribution of the total of the 1,591 new complaints received:

Table 1.4

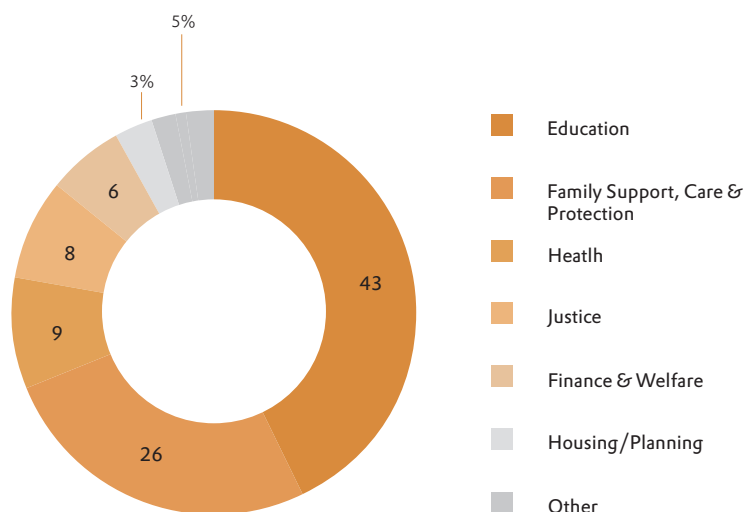


Table 1.4 shows the breakdown of the categories that the public have complained about in 2013.

Comparison, for 2012 and 2013, between categories where new complaints originate shows:

- the Education category is unchanged from 2012 and still represents the highest volume of complaints at 43%;
- the overall proportion of complaints related to the Family Support, Care and Protection category (all those areas within the remit of the Child and Family Agency) decreased from 28% to 26%;
- the overall proportion of complaints relating to Health matters (Hospitals, Community, Mental and Public Health) reduced from 11% to 9%;
- there is a 2% increase in the proportion of complaints relating to Justice since 2012 – it now stands at 8%

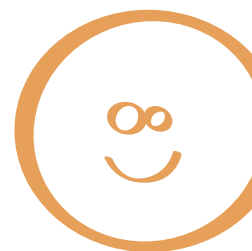
Education

Table 1.5 shows the main categories of new complaints received in respect of education matters.

Table 1.5

| Education Complaints 2013 (43% of all new complaints received) |
|--|
| Top 5 Sub-Categories |
| 1. Handling of allegations of inappropriate professional conduct |
| 2. Special needs resources |
| 3. Handling of bullying |
| 4. Complaint handling, decisions and policy |
| 5. Expulsion, suspension & enrolment |

The OCO continues to receive complaints that relate to the handling of allegations of inappropriate professional conduct of teachers and school staff. We are specifically precluded from looking at allegations of professional misconduct. However, at present there is no alternative avenue of redress for complaints as Part 5 of the Teaching Council Act (2001) has yet to be commenced. This is a serious concern for the Office and is an issue that we have highlighted with successive Ministers for Education and the Oireachtas. It is the continued position of the OCO that Section 5 must be commenced without any further delay.



Family Support, Care and Protection

Ahead of the establishment of the new Child and Family Agency, this Office developed a system that allows for the specific monitoring of the level and type of complaints received which relate to the mandate of the Child and Family Agency.

Table 1.6 shows the categories of new complaints received relating to Family Support, Care and Protection making up a total of 26% of all complaints received in 2013.

Table 1.6

| Family support, care and protection complaints in 2013 |
|--|
| (26% of All New Complaints Received) Top 5 Categories |
| 1. Child protection |
| 2. Alternative care |
| 3. Family support |
| 4. Social work services |
| 5. Child care, pre-school and early childhood care and education (ecce) scheme |

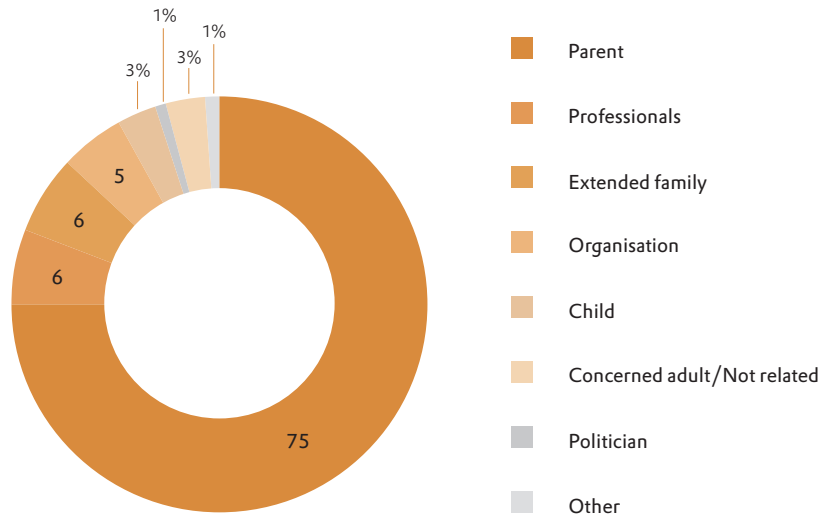
Table 1.7

| Health Complaints in 2013 (9% of all new complaints received) |
|---|
| Top Categories |
| 1. Community care services |
| 2. Hospitals |
| 3. Mental health service |
| 4. Public health services |

The table above (1.7) is an outline of the categories most often complained about with regard to Health. Some of the issues that arise in these complaints are around the provision of Disability services, Speech and Language Therapy, Occupational Therapy and the Assessment of Needs for children with a disability. The access to dentistry and the management of waiting lists are also common complaints. There has been a small increase in complaints about children with mental health issues being treated in inappropriate settings – an issue that has been raised with the Oireachtas in previous annual reports.

Persons contacting the Office

Table 1.8



As with previous years parents continue to be the principal advocates for their children. Professionals working with children are also important advocates for children, in particular when parents may not have the capacity to bring a complaint themselves.

The Office makes every effort to progress and conclude each complaint that is brought as effectively and efficiently as possible while being fair to both the complainant and the public body in question. The promotion of *local resolution* is a key facet of the work of the Office, in line with Ombudsman principles. The Ombudsman for Children's Office has committed a considerable amount of its human resources to promoting local resolution of each of the individual complaints dealt with. In 2013, where appropriate, the Office continued to make interventions with public bodies regarding steps that could be taken to address a complainant's concern directly. The majority of cases are resolved at this stage and this, typically, takes between 4-6 weeks.

The Office regularly sought to engage with public bodies more generally to improve and refine their policies, practice and procedures so as to achieve the best outcomes for all children who may be in contact with those bodies.

If the public body does not mitigate the action subject to the complaint, the Office can progress to investigate the complaint. An investigation involves seeking to determine whether or not the public body's action or inaction was administratively sound and whether it may have had a negative effect on the child. Even at this stage there is an opportunity for the public body and the complainant to agree a course of action to mitigate any adverse effect to the child. If that occurs the Office may close the case but it would always retain the discretion to follow through with an investigation if it were a systemic issue which may affect more children. A full investigation may take some time to complete,

and while every effort is made to expedite the process, the OCO is neither an advocate for the child nor an adversary to the public body and must therefore be fair and respectful by allowing all parties an opportunity to present their case before making a decision. Once the OCO concludes an investigation where it upholds a complaint, it will make findings and recommendations. The Office will then follow-up with a six-month review in order to be satisfied that public body is implementing the OCO's recommendations. If the OCO is not satisfied with the public body's progress it may bring its concerns to the Oireachtas.

St. Patricks Institution

In July 2013, the Minister for Justice and Equality announced that young people under 18 would no longer be detained at St Patrick's Institution by the end of that year. The intention was to detain all young people, whether sentenced or on remand at the Oberstown Campus. However, as the Oberstown Campus required expansion and reorganisation, young people would be detained at Wheatfield prison as an interim measure. The Ombudsman for Children visited Wheatfield shortly after the announcement was made and acknowledged that the facilities and regime were more suitable than those in St Patrick's Institution. She then met the Oireachtas Committee on Health and Children to highlight her concerns about the lack of progress on the Oberstown project. The Ombudsman reiterated her call about the importance of the move of all under 18 year olds out of St Patrick's Institution and into a more appropriate, child centred regime.

In 2013 the Office progressed a number of complaints and some of these are highlighted in the case studies below. It is important to acknowledge that the Director of Prisons and all of his staff including the Governor of St. Patricks engaged constructively with this Office at all times. In addition, the OCO liaised as appropriate with the Inspector of Prisons.

Complaint in relation to the assault of a young person in St Patrick's

The complaint

A mother contacted the Office in relation to an incident that occurred in relation to her son while in St Patrick's Institution. The incident involved an assault on her son by another inmate, in which her son received significant injuries. The young person was taken to A&E and required further treatment and monitoring by prison medical staff of his injuries. The mother also advised that her son had been either involved in, or been the victim of, violent incidents three times since his arrival in St Patrick's two months previously.

The mother advised that she was not informed of the assault and hospitalisation of her son by the prison authorities and that neither she nor her family had been made aware that an incident had occurred, or that he had received injuries, until they visited him soon after.

During the examination of this complaint, the mother advised of a separate assault on her son while in St Patrick's. In addition to the medical issues, the mother was also unhappy with the lack of family open visits afforded to her family while her son was being detained and these visits being withdrawn or unavailable, as a result of disciplinary reports, known within the prison as P19s, against her son.

OCO examination

The OCO conducted a preliminary examination of the complaint and focused on a number of issues including:

- the absence of contact with parents by prison authorities when serious injuries and assault had occurred to a person under 18 years;
- the level of medical attention received by the young person; and
- the lack of open family visits during this young person's detention and the withdrawal of this privilege as a result of disciplinary sanctions due to P19 disciplinary reports.

Having conducted a substantial preliminary examination of the complaint, including meeting with the young person and his family after his release, it was determined that the OCO had sufficient information to make a determination.

The OCO was concerned that the parent was not informed when the incident involving her son had occurred. The OCO was also concerned that families were not being provided with sufficient information about prison visits. The OCO made recommendations to the Governor of St Patrick's based on these concerns.

Recommendations

OCO recommended that the withdrawal of open family visits to young people as a disciplinary sanction be re-examined. Given the particular vulnerability of young people under 18 in a custodial environment, the OCO believes that contact with family, including extended family, should be encouraged and facilitated and the use of P19 sanction should not impinge disproportionately on these visits

The Governor of St Patrick's responded positively to the recommendations and revised instructions were issued to staff following the OCO's recommendations in relation to contact with parents, clearer communication in relation to visits and also how the Irish Prison Service use P19s.

Complaint in relation to the mental health needs of a young person in St Patrick's

The complaint

The OCO was contacted by a mother of a young person under 18 years old who was detained in St Patrick's Institution. Her initial correspondence related to her concerns for her son's psychiatric well-being – which had been commented upon by the sentencing judge. She also had concerns about her son's personal belongings at the prison and the way he was being treated by prison officers following an allegation of assault he had made against certain members of prison staff.

OCO examination

In the Office's initial intervention, the prison authorities were able to satisfy the Office that the young person's psychiatric needs were being met by the prison, and that he had been

referred to and seen by psychiatric services at St Patrick's Institution upon commencement of his sentence.

Therefore the OCO focused primarily on the complaint to the prison about the alleged assault and the prison's subsequent investigation of his complaint. The Office sought details of the prison's internal investigation of the alleged assault and subsequently wrote to St Patrick's Institution to indicate dissatisfaction with a number of elements of the internal investigation.

As the complaint related to allegations of assault by prison officers against the young person, the OCO recommended to the Governor that the matter be referred to the Inspector of Prisons and that the complaint be re-investigated through the new Category A complaints handling mechanisms of the Irish Prison Service (IPS) which had come into effect in November 2012.

This recommendation was accepted and once the complaint had been investigated through the Category A complaint under the new IPS procedures, this Office reviewed the investigation report. The OCO wrote to Director General of the IPS advising that certain issues needed further examination.

The OCO was satisfied with the findings and recommendations made in the following report regarding best practice for the future.



Investigations

Below are some of the investigations published by the Office in 2013.

HSE – aftercare planning and provision

The complaint

A complaint was submitted by a professional working with a young person with an intellectual disability, who was aged 17, in relation to HSE aftercare planning and provision. The young person was due to turn 18 in 2 months' time and the complainant expressed concern that there had been long delays and on-going uncertainty in relation to provision of both education/training and a residential placement. At the time the young person was residing in a HSE residential placement for children in care and the complainant was of the view that, arising from her disability, she required an extension to her placement in order to assist in preparing her for the transition to aftercare. However, this could not be approved until a training/education placement was secured by Disability Services.

Investigation

The Office carried out an investigation involving a review of all the relevant files as well as meetings with the complainant, the young person, her residential unit, the HSE Social Work Department, HSE Disability services, HSE Regional Children's Residential services and the HSE nominated aftercare service provider. The Office found that:

- Aftercare was not considered until the young person was almost 17 years old which is not consistent with the HSE's leaving and aftercare services national policy which states that such planning should begin when the child turns 16.
- There was a failure to involve Disability Services in the aftercare planning at an early stage. This occurred only 7 months prior to the young person's 18th birthday. There was also a failure by Disability Services to actively engage in the planning once contact had been established.
- There was a failure by Disability Services to apply for a residential placement when her needs became known to them. This application, when made, was subsequently put on hold in the context of an unapproved extension to the young person's existing residential placement.
- There was a delay in making a formal application for an extension to the young person's existing residential placement.

The Office concluded that the actions of the HSE had adversely affected this child as it resulted in an on-going lack of clarity in relation to their aftercare plan as well as delays in resolution of her case. In particular the actions and inaction of the local Disability Services in relation to securing appropriate, and timely, follow up on accommodation delayed the aftercare plan and contributed to her uncertainty.

Outcome

The young person is now in supported accommodation, has been linked into a range of services and is being assisted in developing her independent living skills.

The HSE stated its commitment to ensuring young people are referred to aftercare services close to their 16th birthday in line with the aftercare policy. This HSE area also set up formal meetings involving Children and Family Services, Disability Services and Mental Health services to ensure cooperation in the identification of the needs of children in care at an early stage and to clarify roles and responsibilities for services and the provision of these.

On foot of the recommendations made by this Office, an aftercare plan was put in place for the young person, which included provision of an identified onward accommodation/ placement for her and further education/training. She has moved into a self-contained flat attached to a house run by a local disability service provider.

HSE – child protection and welfare

The complaint

A complaint was submitted to this Office by a staff member from the North Lee Social Work Team. The complaint related to the level of referrals of a child welfare and protection nature received by the duty team and the difficulties in responding to this. It was contended that there were a significant number of children awaiting a social work service and while they responded to children at severe risk, there were high numbers of children at risk who they are unable to respond to due to unavailability of staff. At the time of making contact with this Office there were 147 cases without an allocated social worker which included Priority 1 cases of neglect and sexual abuse.

Investigation

The Office carried out an investigation which involved review of documentation as well as meeting with the complainant and representatives of HSE South region and HSE National. The investigation highlighted a number of serious concerns including:

- The number of cases on the duty system that did not have an allocated social worker – an issue which had been raised regularly by local Social Work management since 2007.
- The HSE's ability to provide the appropriate level of follow up to such referrals as well as the timelines for completion of preliminary enquiries and initial assessments. It pointed to extreme delays in the child and family being met as part of this process.
- The impact of the size of social work caseloads. Significantly, HSE local management advised in March 2010 that, as a result of caseload size, safe and good social work practice was not possible.

OCO made a number of recommendations including the need:

- for an external audit of case files as a matter of priority;
- to identify any additional measures required to ensure that the area can respond appropriately and in a timely manner;
- for duty and intake cases to be adequately represented in file audit;
- for clarification of the operation of the child protection procedures in relation to the carrying out of network checks;
- for a model/mechanism for determining caseload size;
- for improved recording of professional activity to ensure that there are up to date records of clinical activity; and
- to ensure that contemporaneous information on the child protection system is available as well as public accountability by way of the Reviews of Adequacy.

Outcome

The HSE accepted all of the recommendations and advised of the steps they intended on taking in response.

The response from the HSE includes details on, the introduction of a file audit policy which will also include duty and intake cases; the allocation of social work cases is being reviewed nationally; a national working group has been addressing the matter of what constitutes a reasonable caseload and an agreed position has gone forward for consideration and sign off at national level; work is on-going in relation to improving the recording of professional activity both at local level and also through the new national computerised system for use by Social Workers.

A “Measuring the Pressure” project was introduced during the course of the investigation which involves monthly collation of data from social work teams in order to measure the demand and supply at duty/referral stage.

Finally, a needs analysis is to be undertaken with regard to what resource, organisation re-prioritising or re-configuring is required, or any guidance that may assist in addressing the identified deficits.

Following a review of the progress in relation to the recommendations, initiated in December 2013, this Office wrote to the Child and Family Agency to highlight on-going concerns about the high referral rate in this area, the need to progress a caseload management mechanism and the need for clarification on procedures for network checks to ensure consistency with Children First.

Department of Education and Skills – provision of resource teaching

The complaint

The Office received two separate but related complaints made by two mothers on behalf of their children with Down Syndrome. The complaint related to resource teaching provided to their children and specifically the actions of the Department of Education and Skills not to include Down Syndrome as a low incidence category of special educational need in Department criteria.

Where a child is assessed as being within the low incidence disability category, schools are allocated specified resource teaching hours for the needs of that specific child. These teaching hours are received by schools, and are in addition to block hours they receive under the General Allocation Model (GAM) to cater for children with high incidence disabilities.

Under the GAM, blocks of resource hours are given to schools based on the size of the schools and factors such as gender and socio-economic disadvantage within the school. These block hours are allocated to schools who then determine how to cater for the needs of children with high incidence special needs. This may be provided through small group teaching or individual support to the child.

Both parents asserted that the current system for allocating resource teaching, which focused on their children's assessed mild learning disability, does not take account of the multiplicity of special needs that arise for children with Down Syndrome and its impact on their education. Both children were receiving teaching support through GAM. The parents noted their concerns that small group teaching did not afford sufficient time for their children given their specific needs. They also noted that the level of support provided through the GAM was not defined and was dependent on the number of children requiring such support. That is if 1 child or 15 children needed assistance it was still only the same level of support that was provided.

Investigation

The Office carried out an investigation into the actions of the Department relating to the administration of provision for the special educational needs of children with Down Syndrome attending mainstream primary schools.

The investigation found that:

- the Department of Education and Skills had failed to establish and maintain arrangements to fully inform itself about the progress of children with special educational needs including children with Down Syndrome catered for under the GAM.
- the Department had failed to set and manage time frames for the efficient completion of the review of the GAM. At the time of its establishment in 2005, the Department indicated that a review would happen after 3 years of operation. While the review itself commenced in 2008, it took nearly 3 years to complete.

- there was significant delay by the Department in initiating substantive, definitive action to follow-up the serious matters raised by Education Partners (specifically the NCSE, NEPS, IPPN and INTO) in the GAM review and also in a submission made by Down Syndrome Ireland in October 2010.
- the actions of the Department in regards to the above had adversely affected children with Down Syndrome.

The Office recommended that the Department should:

1. Immediately establish the adequacy of provision including the method of delivery for children with Down Syndrome in mainstream education. The outcome of this should be made public including any measures related to timescales for implementation.
2. Publish the report of the GAM Review and the actions planned or in progress to implement the recommendations arising, together with related timescales.
3. Set up arrangements to centrally monitor the impact of the additional support measures on the educational progress of children with special needs, including Down Syndrome.
4. Review procedures so that issues which emerge in respect of the categories of special need can be considered and dealt with in a timely manner.

Outcome

In response the Department advised that they have set up a Working Group to develop a proposal for a new model of resource allocation which will focus on allocating additional resources to children in line with their level of need rather than by disability category. The Office understands from comments by the Minister, that the Working Group is due to report by the end of spring 2014 and that it will probably take another full year to implement any proposals. It is positive to note the NCSE's view that the introduction of the new model will overcome the difficulty posed by all children with mild general learning disabilities, including children with Down Syndrome, who have additional difficulties and who require to be supported according to their level of need.

The Ombudsman for Children subsequently wrote to the Oireachtas Joint Committee on Education and Social Protection to highlight concerns about:

- how children with Down Syndrome will be affected in the interim and how this may impact on their capacity to engage to the fullest possible extent in mainstream primary schooling.
- the adequacy of the proposals by the Department in relation to monitoring the impact of additional supports. Given that a new model of resource allocation is to be introduced, the Ombudsman for Children remains of the view that central monitoring mechanisms are required in order to evaluate the effectiveness of the new model and policy approach. The question of equitable service delivery for children can only be satisfactorily addressed by such central monitoring.

Department of Education and Skills – education provision

The Complaint

OCO received a complaint from a Guardian *ad Litem* (GAL) regarding education provision for a separated child seeking asylum. The child who was then aged 13, had been permanently excluded from school. Despite applications to almost 30 schools in a wide catchment area by the National Education and Welfare Board (NEWB) and the child's social worker as well as one unsuccessful Section 29 appeal, a school place could not be secured. The Department sanctioned nine hours per week Home Tuition (according to the DES Circular M29/95 the minimum number of instruction hours per week in post-primary school is 28) for the child throughout this period. The GAL contended that the Department failed in its responsibility to provide a school place for the child and that this involuntary exclusion from school had an adverse impact on their social and academic development.

Investigation

The Department contended that it was open to the HSE to take Section 29 appeals against each of the nearly 30 schools that refused to admit the child and they have no responsibility or mechanism by which to make a school accept any child. However, the standard length of time to complete a single Section 29 Appeal is two months and you cannot run two simultaneously. Further, the Department argued that an application could have been made by the HSE to have the number of hours of Home Tuition increased in this case above the maximum of 9 hours per week, although information on the availability of such a remedy is not freely available.

Outcome

The child was given a school place after two years outside the system and is reported to be progressing well after a difficult start.

The OCO concluded that the child had been adversely affected by a two year absence from school. It recommended that a specific policy on education provision for children in care is developed by the Department in conjunction with the new Child and Family Agency. The OCO also concluded that making high numbers of Section 29 appeals would place an unacceptable administrative burden on the HSE and the Department and recommended that an alternative appeals process be considered as part of the forthcoming Education (Admission to School) Bill. These recommendations remain under consideration by the Department as part of the on-going consultation on this Bill.

Further, the rigid application of the provisions of the Home Tuition Scheme, which is intended as a short-term intervention, over a period of two years represented undesirable administrative practice and a review of the operation and administration of this Scheme was recommended. This remains under consideration by the Department.

Early Childhood Care & Education (ECCE) Scheme – provision for children with special needs

Complaint

The Office received a complaint from a parent of a child with special needs regarding ECCE provision – both the availability of a second year and also supports to assist the child’s inclusion in pre-school. The child was attending pre-school at the time but had been unable to attend full time due to lack of the required supports.

Investigation

In light of the questions raised by the complaint regarding the inclusion of the child at preschool and possible related adverse effects on her, this investigation looked at:

- the actions of the Office of the Minister for Children and Youth Affairs (subsequently the Department of Children and Youth Affairs) in relation to the failure to allow the child avail of a second pre-school year under ECCE; the manner in which the scheme was communicated; and the level of liaison, cooperation and communication between the OMCYA and the HSE in relation to the scheme.
- the actions of the HSE in relation to the availability of preschool support; the availability of alternative provision; and the level of liaison, cooperation and communication between the OMCYA and the HSE in relation to the scheme.
- the actions of the Office of Disability and Mental Health in co-ordinating pre-school inclusion of children with disabilities.

Because the complaint looked at the role of two bodies in providing what could be seen as a single “wrap around” pre-school service for the child, the investigation focussed not only on the respective actions of the public bodies, but also looked at the cross-sectoral coordination evident in the actions of the public bodies that could be seen to impact upon the inclusion of the child.

A key issue identified through the investigation was the inconsistency in the level of support available nationally; specifically pre-school assistance support to ensure the fullest possible inclusion for children with disabilities.

In April 2010 a cross sectoral Working Group was set up to develop a framework for the integration of children with disabilities in preschool settings. This Working Group found that the nature and extent of support across the country by HSE varies considerably. It concluded that current arrangements for inclusion of children with disabilities in pre-school settings are not only inconsistent, but inequitable and not adequately meeting the needs of children. A number of recommendations were made on conclusion of the report.

During the course of the OCO investigation it was established that no progress had been made on these recommendations. As of March 2013, 2 years after the final meeting of the Working Group no implementation plan had been drawn up, no timeline established for implementation and no agreement had been reached with regard to which Department should lead out on implementation.

Outcome

On foot of the investigation the child was provided with ECCE for a second year on a pro rata basis and also received a second year of pre-school assistance supports from the HSE.

OCO recommended that steps should be taken to progress outstanding matters from the Report of the Working Group. In response the Office was advised that a sub group involving the Departments of Health, Children and Youth Affairs, Education and Skills and the HSE was set up to examine the report and to consider the recommendations in detail. This sub group started to meet in May 2013.

Progress has been made in relation to a number of the recommendations, specifically regarding the training and up-skilling of preschool staff. In addition the National Policy Framework for Children and Young People 2014-2020 commits to developing a plan for the inclusion of children with disabilities in mainstream pre-school settings as well as introducing a second free pre-school year once the required quality standards are achieved and subject to resources becoming available.

However, the Office has expressed its dissatisfaction with the lack of progress made in relation to the Working Group report specifically the issue of pre-school assistance provision for children who require physical care and support. The Office wrote subsequently to the Secretary General of both the Department of Health and the Department of Children and Youth Affairs. The re-constituted working group is continuing to meet and this matter remains as of yet unresolved.

Case Studies

HSE – Long Term Illness scheme

The complaint

The OCO received a complaint from the mother of two young boys with ADHD. In June 2013, she had been refused a Long Term Illness (LTI) book for the two boys. She explained that both boys needed medication to concentrate at school and she could not afford these medications and interventions without the support of the LTI scheme.

The mother explained that the rationale given for the HSE's refusal was that all HSE staff were directed by a national memo on 1st May 2013 to stop issuing LTI books to new clients on the basis of a diagnosis of ADHD from that date. The reason provided being that the matter of whether ADHD should be classified as a mental health illness under the Scheme has been referred to the Department of Health and the matter will be considered in the context of the review of the LTI Scheme as part of the Programme for Government.

OCO examination

This Office brought the mother's concerns to the attention of HSE National and conducted a preliminary examination into the complaint. The HSE, in its response to the OCO, stated that the criteria for eligibility for an LTI Card were being reviewed and they planned to

develop and issue national guidelines for the uniform administration of the LTI Scheme before the end of October 2013. They committed to revisiting the mother's application at that stage.

In concluding its involvement, this Office made a number of recommendations regarding the new operational guidelines relating to ADHD and the Long Term Illness scheme.

The Office raised concerns about the impact on families as a result of the inequity between new and existing applicants created by the suspension of all new applications while a review is ongoing.

Outcome

As a result of the Ombudsman for Children's Office's intervention, the two boys' applications were fast-tracked and granted under the new operational guidelines.

The HSE outlined that the review of suspended applications has been fast-tracked since issuing the operational guidelines. The HSE also accepted our recommendation in relation to setting reasonable timeframes for completion of any future reviews and informed the OCO that an updated national application form has been produced and was currently being finalised and should provide for the required consistency.

The Ombudsman for Children's Office acknowledged the proactive and positive steps taken by the HSE in this regard.

HSE – Disability Services

The complaint

The complaint relates to a young person diagnosed with a profound intellectual disability as a result of a rare gene mutation. The parent advises that her daughter has no speech or understanding and has seizures on a daily basis. The young person attended a respite service but this service was unable to cater for their needs any longer and the parents were referred to the HSE Disability Manager for direction and funding to address the needs of the child.

The parents outlined that the lack of support and the urgency of the situation may result in the family having no option but to leave their daughter in this respite service overnight even though it is unable to cater for their daughter's needs.

OCO examination

In correspondence with the HSE this Office queried whether they had any proposals to resolve this matter at local level in light of the on-going relationship between them and this family with respect to providing support and therapies for this young person. The Office recommended that both the complainants and HSE re-engage in a collaborative manner with a focus toward resolving the difficulties for this family. OCO advised the HSE to consider the concerns raised and the need for open and trusting engagement between the parties.

Outcome

The HSE apologised to the mother for their delay in responding to her initial complaints and assured her that the case would be dealt with as a priority. A case meeting was arranged soon afterwards in order to determine this young person's needs and to agree how to meet those needs in the most appropriate way.

The HSE agreed to fund a year-long residential assessment with a private health agency with a view to shared care arrangement following a period of intervention. The parent advised that this has changed her family's life and they feel this has only occurred due to the intervention of this Office.

HSE – provision of special pre-school places

The complaint

The OCO received a complaint from a mother, on behalf of her three year old daughter who has a number of different conditions which affect her development. As a result she needs to access Speech and Language Therapy, Occupational Therapy and Physiotherapy. The complainant had hoped that her daughter would attend a special playschool in the HSE South region, where she could access the appropriate therapies. However despite meeting the criteria to attend the preschool and being on the waiting list for some time, she was not offered a place.

The mother raised particular concerns about the HSE's use of a form, 'Priority Rating for Pre Schools', to prioritise children for special playschools in the area. The complainant felt that the form discriminated against children both in terms of disability and socially. Moreover she contended that the social aspect of the scoring system discriminates against families who try to mitigate the situation for their children.

OCO examination

This Office brought the mother's concerns to the attention of the HSE area and conducted a preliminary examination into the complaint. The HSE advised that as demand for places exceeded the number available, the Pre-school Prioritisation System had been developed by representatives from all disciplines involved in HSE Early Intervention Services to manage and prioritise applications. They advised that the system would be reviewed on an annual basis, taking parental feedback into consideration.

Outcome

As a result of the OCO's intervention, the pre-school prioritisation criteria were amended – in particular both the wording and scoring of this section were amended to make them fairer to all children trying to access special pre-schools.

At the next preschool prioritisation meeting, the child was allocated a place in playschool for September 2013.

Department of Social Protection – application for Disability Allowance

The complaint

The OCO received a complaint against the Department of Social Protection (DSP) from a mother on behalf of her daughter, who was refused Disability Allowance upon appeal to the Social Welfare Appeals Office (SWAO). Her daughter is 16 years of age and has been diagnosed with a mild/moderate learning disability. While professional reports state that she attends a special school on a social, rather than an academic basis, her application was refused on the basis that she was attending school.

Following the initial refusal by the DSP to grant Disability Allowance, the mother sent medical reports to the SWAO to support her appeal. These reports confirmed that her daughter would never be in a position to sit State Examinations; school was a form of Occupational Therapy, and therefore she should be granted this allowance. According to the SWAO, the appeal was disallowed on the grounds that Disability Allowance ‘may be paid to a person who is substantially restricted in undertaking work which would otherwise be suitable with reference to their age, experience and qualifications’. In the opinion of the SWAO, the young person was attending school, which was the appropriate occupation for a person of her age, experience and qualifications.

OCO examination

The Office initiated a preliminary examination into the complaint and wrote to the DSP and the SWAO. At this time the Office attempted to establish the rationale for equating school with employment. In response to OCO’s enquiries, the SWAO advised that, upon consideration, the Disability Allowance scheme relates to employment in the open marketplace and the fact that the legislation does not prevent a recipient of Disability Allowance from accessing education meant that the initial comparison of school to employment was incorrect. Moreover there was more than adequate medical evidence to suggest that the young person is substantially restricted in undertaking work which would otherwise be suitable with reference to their age, experience and qualifications.

Outcome

On foot of OCO’s preliminary examination, the Chief Appeals Officer in the SWAO revised the original decision and allowed the mother’s appeal. Her daughter will now be granted Disability Allowance on a weekly basis and as the payment was backdated to the date of her 16th birthday (the date of qualification for the scheme), her daughter will therefore receive approximately €15,000 in back payments.

Local Authority Housing

The complaint

The complaint related to the failure of a local authority to provide alternative accommodation to a family despite on-going, serious concerns, regarding the wellbeing and safety of their daughter, 15, who has a diagnosis of moderate learning disability, in their current housing location.

The family was on a waiting list for housing transfer since April 2010 and their daughter was a young person who is vulnerable to being influenced into partaking in high risk behaviours. There were concerns that the child was being sexually exploited by individuals in the area. These concerns had been outlined and confirmed to the local authority by professionals. The mother further reported that her daughter was being bullied into partaking in anti-social behaviour; the family and property were subject to anti-social behaviour; and as long as they stayed in the area her child was at risk.

OCO examination

Following preliminary examination the OCO issued a letter indicating that an investigation would take place unless the action was dealt with. Insufficient information was provided by the local authority and there were outstanding questions regarding:

- when information about issues of safety of the child became available to the Local Authority and whether the safety and welfare of the child was considered in this process;
- steps taken by the Local Authority in implementing its anti-social behaviour policy, liaising with relevant agencies (HSE and Gardaí) and addressing the concerns raised.

Outcome

Following the proposal to investigate the complainant contacted OCO to inform the Office that the Local Authority had offered the family housing in another area which she felt was safe.

The Local Authority subsequently confirmed that this offer had been made and accepted.

Mental Health

The Complaint

The Office was contacted by a 16 year old young person who made a complaint that he was placed unnecessarily in an in-patient Child and Adolescent Mental Health Service (CAMHS) unit for 6 months. The young person was of the view that he did not require in-patient care. The CAMHS staff were also of the opinion that he did not require in-patient care. The young person had been placed there on a short term basis following a crisis; however, when that passed he was unable to return home and applications by the HSE to residential units had been unsuccessful. His complaint related to the amount of time it was taking to find him an appropriate residential placement, in particular one close enough to his family home that he could visit on occasion.

OCO examination

The OCO reviewed the initial information provided and due to the egregious nature of the complaint decided to accelerate its intervention and seek face-to-face meetings as quickly as possible with the HSE Social Work team involved with the complainant and the CAMHS team with responsibility for the complainant.

Outcome

Shortly after OCO's intervention, a placement was identified which was far more suitable to meet the young person's needs.

Focus on thematic issues

In light of the concerns being brought to it by, or on behalf of, children during any particular year, it is the practice of the Office to initiate a broader engagement on the issues with the relevant public body, school or government department.

The Office was also cognisant of a variety of new issues being brought to our attention which, while they may not reach the threshold for an investigation, were concerning and required some degree of follow up.

This was the case during 2013 and some of the matters covered are set out in this section.

1. Complaints & Investigation Forum

In addition to operational meetings accounting for the Complaints function, senior OCO staff meet on a monthly basis to ensure that the powers provided for in the Ombudsman for Children Act (2002) are used as effectively as possible in responding to thematic issues raised with the Office. The forum sought to bring the combined expertise within the Office to bear on those issues which did not obviously fall into one area or another.

The aim of the forum is to examine matters that come to the attention of the Office but that are not dealt with as individual complaints. These could include issues of concern that;

- do not fall clearly into the remit of the complaints and investigations section;
- could be addressed as individual complaints but for which a better and more timely outcome might be achieved by using the OCO powers under sections of the Act other than complaints and investigations;
- are brought directly to the attention of the Ombudsman for Children outside of a complaint format; or
- are highlighted within our legislative or communications work.

This Forum met regularly over the course of 2013 and some of the issues that have been actioned are listed below:

- *Health insurance for children who had been adopted* – A concern was raised with the Office regarding the specific issue of adopted children’s cover for pre-existing medical conditions. It would appear that when an adoptive parent has a private health insurance policy, an adopted child will not generally be covered for such conditions on that policy for a period of five years. This may be contrasted with the situation of a child born to parents with such an insurance policy, who would be covered automatically irrespective of any conditions the child might have.

The legislation governing this area does not require that adopted children be covered in the same way as children born to a family. Regulations made under the Health Insurance Act 2004 – set out in S.I. 332 of 2005 – specify the maximum waiting periods in relation to insurance cover for pre-existing conditions; health insurance providers are free not to impose a waiting period or to impose a waiting period of shorter duration.

In addition, parents with the relevant insurance policy can have any children born to them placed immediately on that policy; they do not have to renew or alter the policy immediately. It appears that this does not apply to children adopted by parents with such policies.

In light of this, the Office contacted the Minister for Health and recommended that the Regulations set out in S.I. 332 of 2005 be amended in order to allow for an exception for adopted children to the general principle that pre-existing conditions are not covered, and to provide further that adopted children can be added to their parents’ insurance policies in a manner similar to children born to the family. A positive response was received indicating that the issues raised by the OCO have been referred to the Subgroup of the Consultative Forum on Health Insurance examining regulatory issues.

- *Orthodontic services for young people* – The Office received complaints about the length of waiting lists for children in certain categories, which was essentially ruling them out of ever receiving necessary dental work. The Office contacted the Department of Health who advised that a new Chief Dental Officer has been appointed whose work will include a review of certain aspects of oral health policy.

We have since been in contact with the new Chief Dental Office seeking its reaction to the concerns we have outlined.

- *Accidental accessing of online pornography* – A number of parents were concerned about the ease with which their young children were able to accidentally access pornography. We have engaged with the Department of Communication, Energy and Natural Resources to raise the issue of filtering internet contents and to get an outline of their policy in this regard. We are continuing to monitor this situation.

- *Responsibility on those who rent from Local Authorities* – With regard to housing, the Office noted a difference in the levels of responsibility put on those who rent privately and those who rent from Local Authorities. It appeared that there was a bigger liability on Local Authority tenants, in comparison with those who have a private landlord, to replace/restore items within their house that may have been damaged by the anti-social behaviour of others. Essentially if anti-social behaviour by a neighbour leads to a window being broken and the tenant pays rent to a private landlord then that landlord, based on regulations from 2008, is obliged to fix the window for them. However, if the landlord is the Local Authority then the tenants themselves are obliged to fix it as part of their tenancy agreement. This has led to situations where Community Welfare Officers have had to offer special funding to Local Authority tenants to fix such items when their role is to support those on low income by providing for necessities such as food, heating, footwear for children or transport. Thus the Office has written to the Minister of the Environment, Community and Local Government on this issue and he has referred it to the Minister of State with responsibility for Housing and Planning who is seeking legal advice on the matter.

2. Direct provision

Section 11 (1)(e)(i) of the Ombudsman for Children Act, 2002 provides that the Ombudsman for Children shall not investigate an action taken in the administration of the law relating to asylum, immigration, naturalisation or citizenship. As a result, certain actions of the Department of Justice and Equality fall outside the investigatory remit of this Office; precisely what acts or omissions may be subject to investigation by the Ombudsman for Children will depend on the circumstances.

The Ombudsman for Children initially raised concerns in her first annual report to the Oireachtas about the exclusion of the administration of the law relating to asylum, immigration, naturalisation or citizenship including children in direct provision within the remit of her Office. This exclusion was the subject of significant debate during the passage of the Ombudsman for Children Bill through the Houses of the Oireachtas. In particular, concerns were raised that this would leave an especially vulnerable group of children and young people outside the scope of the Ombudsman for Children's investigatory remit. In response, the then Minister for Children stated that the children of asylum seekers would have access to the Ombudsman for Children in the same way as every other child in Ireland and that the only thing excluded would be the procedures for defining and determining whether a person is entitled to a particular status, not the provision of services.

In this Office's subsequent engagement with the Department of Justice, it has become clear that we do not hold a shared understanding of the scope of the exclusion contained in the Act.

It is for this reason that the Ombudsman for Children has recommended on a number of occasions that the Oireachtas amend the 2002 Act in order to put the matter beyond doubt and ensure there are no impediments to children and families in direct provision accessing an independent complaints-handling mechanism.

Notwithstanding this lack of clarity regarding its jurisdiction, the OCO has dealt with complaints brought to its attention to do with children in direct provision. The OCO has sought and obtained a resolution to complaints brought to us in the interests of the children in question, though the Department of Justice and Equality has not accepted that the OCO can address these as cases within the statutory complaints-handling framework of the Ombudsman for Children Act. Some of the issues which we have received complaints about are 1) child protection 2) complaint handling within the service 3) access to education for children 4) appropriate clothing and diet for certain religious groupings.

While this Office has highlighted this exclusion, it has always been our contention that while certain actions of the Department of Justice and Equality fall outside the investigatory remit of this Office, all other activities relating to children living in Ireland should be open to scrutiny by the Ombudsman for Children's Office. This would then afford all children in Ireland the same opportunity for redress regardless of their place of birth or legal status.

3. A Meta Analysis of the Provision of Services for Children in Care

Children in the care of the State and how they are looked after by the HSE has been a regular source of complaints to this Office (10% of all complaints since 2004). Notwithstanding the diversity of the investigations carried out by the Office in this area, it is clear that many problems identified are manifestations of recurring and systemic difficulties. Due to the establishment of the new Child and Family Agency, the Office considered it an appropriate time to submit to the Oireachtas a meta-analysis of a number of investigations in the area of children in care. By combining and contrasting the findings of different investigations, the analysis highlights common trends that can inform legal and policy developments in this area.

The report was submitted in accordance with section 13(7) of the Ombudsman for Children Act 2002, which provides that the Ombudsman for Children may lay reports before the Oireachtas on the performance of her functions as she sees fit.

The aim of the report was to highlight reoccurring and systemic issues. Where systemic problems have been identified with the operation of legislation or provision of services to children, it should not be necessary for quasi-judicial bodies such as the Ombudsman for Children's Office to investigate the same problems repeatedly. It is hoped that the findings of this report and the recommendations it contains will contribute positively to the ongoing reform of Ireland's child and family support services, and that the root causes identified in the investigations underpinning the report cease to be the subject of examination by this Office save in exceptional circumstances.

The recommendations made relate to:

- Provision of residential care for children
- Child protection of children in care
- Assessment and care planning
- Social work practice
- Inter-professional and multi-agency collaboration
- Record keeping
- Governance

This document was completed in December 2013 and now forms the basis for the Office to engage with the Child and Family Agency with the intention being that similar complaints can be dealt with in a more timely manner.

It is also the aim of the Office that this approach will allow the Child and Family Agency to adjust their systems in such a way as to improve the system and reduce the necessity for complaints to this Office in relation to children in care.



4

POLICY AND LEGISLATION

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

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

In 2013 the Ombudsman for Children's Office provided advice in relation to proposed legislation in the areas of court reform, gender recognition, school admissions and the establishment of the new Child and Family Agency.

Advice on the Courts Bill 2013

The Minister for Justice, Equality and Defence published the Courts Bill 2013 on 19 March 2013. The Bill had two main purposes: to modify the operation of the *in camera* rule and to increase the monetary jurisdiction limits of the Circuit and District Courts in civil proceedings.

In its advice on the Bill, the Ombudsman for Children's Office welcomed the intention of the legislation to enhance the transparency of proceedings in the interests of allowing the public and parties affected by those proceedings to gain a greater understanding of them. The Office expressed the view that a system of reporting on family and child care proceedings should exhibit a number of characteristics, including: human rights compliance; non-deterrence for those entering the court process; provision of a systematic overview of proceedings; sustainability; and independence.

The Ombudsman for Children's Office had concerns that the system envisaged by the Bill would not necessarily have all of those characteristics and that it could potentially have negative consequences. The Office noted in its advice that there was already legislative

provision for reporting on family law and child care cases by barristers, solicitors or other persons approved by regulations; these provisions were introduced by the Civil Liability and Courts Act 2004 and the Child Care (Amendment) Act 2007. This led to the Family Law Reporting Project, which had concluded at the time the Courts Bill 2013 was published, and the Child Care Law Reporting Project, which was underway at the time but which is time limited. The Ombudsman for Children's Office highlighted the advantages of a system of reporting that involved the presence of a single reporter in each case and that did not involve contemporaneous reporting.

The Ombudsman for Children's Office recommended that the provisions of the Courts Bill 2013 on media presence in family law and care proceedings be reconsidered so that the Office's concerns could be addressed.

Advice on the General Scheme of the Gender Recognition Bill 2013

The Minister for Social Protection published the General Scheme of the Gender Recognition Bill on 17 July 2013. The main aim of the legislation was to provide a framework for the granting of a Gender Recognition Certificate, which would allow a person's gender to be recognised for all purposes, including dealings with the State, private and public bodies.

The Minister for Social Protection sought the views of the Ombudsman for Children on the provision of the General Scheme that excluded those under the age of 18 from scope of the legislation, in accordance with section 7 of the Ombudsman for Children Act 2002.

The Ombudsman for Children's Office noted that the motivation for excluding those under the age of 18 from the legislation was to safeguard them from the potentially negative consequences of having their preferred gender recognised when they had not formed a stable view in relation to their gender identity. However, this Office formed the view that the proposed legislation would not act in the interests of children.

The advice to the Minister highlighted the fact that transgender and intersex children can face extraordinary adversity and barriers to living with dignity, and that they remain invisible in many ways. It also highlighted that a failure to provide in law for the possibility that those under the age of 18 might be able to obtain a Gender Recognition Certificate could render the legislation vulnerable to challenge under the European Convention on Human Rights.

The Ombudsman for Children's Office advised the Minister for Social Protection that it regarded the absolute exclusion on young people or their parents seeking a Gender Recognition Certificate as a disproportionate interference with young people's right to gender recognition and recommended that:

- the Gender Recognition Bill make provision for children and young people by removing the criterion relating to minimum age for obtaining a Gender Recognition Certificate;
- parents or guardians be enabled to make an application for a Gender Recognition Certificate on behalf of their children; and

- young people who have reached the age of 16 be enabled to apply for legal recognition of their preferred gender on their own initiative, in the interests of consistency between the Gender Recognition Bill and the Non-Fatal Offences Against the Person Act 1997.

The Oireachtas Joint Committee on Education and Social Protection considered the OCO's advice on the General Scheme during the course of its own deliberations on the proposed legislation. The Oireachtas Committee recommended that the age at which a person is entitled to apply for a Gender Recognition Certificate should be reduced from 18 years to 16 years, in line with the recommendation made by the Ombudsman for Children. Although the Oireachtas Committee did not go so far as to recommend that those under the age of 16 be able to obtain a Gender Recognition Certificate, the Committee did recommend that measures should be put in place to address the day-to-day concerns of transgender people under the age of 16 years.

Advice on the General Scheme of the Education (Admission to Schools) Bill 2013

The Minister for Education and Skills published the General Scheme of the Education (Admission to Schools) Bill 2013 on 2 September 2013. The aim of the proposed legislation and associated regulations was to provide a new framework to govern school admissions policies for all primary and post-primary schools.

The Ombudsman for Children's Office welcomed many of the elements of the General Scheme, as they addressed problems identified by the Office through the course of its investigatory work, including: consistency between admission policies; transparency in admission procedures; communication of reasons for refusal to parents; soft barriers to enrolment; and central oversight of cases in which children cannot access a school place.

However, the Ombudsman for Children's Office was of the view that there were a number of areas in which the legislation could be enhanced to serve the interests of children in relation to: admission and oversubscription criteria; appeals mechanisms; and oversight and monitoring.

Specifically, the Ombudsman for Children's Office made the following recommendations:

- The possibility of obtaining a derogation with respect to the past pupil criterion should be removed;
- Section 7 of the Equal Status Act 2000 should be amended to provide that no child should in general be given preferential access to publicly-funded education on the basis of their religion, subject to a derogation that may be granted to a denominational school where the operation of this principle gives rise to a situation in which a school's student body may no longer reflect the school's denominational character;
- The power of schools to refuse admission on the basis of the opinion of the HSE or An Garda Síochána in relation to the effect of admitting particular children on the safety of other students or staff should be removed;

- The competence of section 29 appeals committees to consider appeals relating to enrolment should be retained.
- Both the National Council for Special Education (NCSE) and the National Education Welfare Board (NEWB) should be required to consider the best interests of children in considering a designation under Head 9, as well the views of young people affected by decisions, with due weight given to those views in accordance with the age and maturity of the children.
- The legislation should clarify the capacity of the NEWB and NCSE to make designations where a school has ceased to admit pupils to a particular class - this flexibility would avoid the situation where an overly-rigid approach to class size could leave young people at a serious disadvantage and having to rely on home tuition.
- The legislation should specify a timeframe within which the Patron must comply with the direction of the Minister, failing which an independent person will be appointed in accordance with the legislation.
- The Department of Education and Skills should systematically gather data on the operation of schools' enrolment policies in order to allow it to evaluate fully the impact of the proposed legislation.

During the course of its deliberations on the General Scheme, the Oireachtas Joint Committee on Education and Social Protection made extensive reference to the recommendations made by the Ombudsman for Children's Office.

Child and Family Agency Bill 2013

The Minister for Children and Youth Affairs published the Child and Family Agency Bill 2013 on 12 July 2013. The Bill provided for the establishment of the Child and Family Agency and for the transfer of functions from the Health Service Executive, the Family Support Agency and the National Education Welfare Board to the Agency.

Nearly a tenth of all complaints received by the Ombudsman for Children's Office, by the end of 2013, relate to child protection. As a result, matters of direct relevance to the establishment and operation of the Child and Family Agency have formed part of the significant engagement between the Office and the HSE since the Ombudsman for Children's Office was established.

In light of this, and the fact that its investigatory work is likely to involve a substantial, ongoing engagement with the Child and Family Agency in future, the Ombudsman for Children's Office determined that formal advice to the Minister for Children and Youth Affairs on the Bill was not necessary. However, the Ombudsman for Children's Office nonetheless drew attention to the need for the Agency's internal complaints mechanism to be congruent with that of the Ombudsman for Children's Office in order to ensure the most robust framework for children and families wishing to complain about the Agency.

The Office also engaged with the Minister with regard to the new Agency via a meta-analysis which is described in more detail within the Complaints and Investigations Section of this report.

Review of the Ombudsman for Children Act 2002

As noted in the Ombudsman for Children's last Annual Report, the Office submitted a report on the operation of the Ombudsman for Children Act 2002 to the Oireachtas setting out a range of recommendations for enhancing the operation of the 2002 Act. The Annual Report noted further that the passage of the Ombudsman (Amendment) Act 2012 through the Houses of the Oireachtas provided an opportunity to bring about many of the changes sought by this Office.

A number of outstanding issues remained; however, some of these were addressed through the course of 2013, including the clarification of the Ombudsman for Children's remit with respect to examining complaints from children in detention.

The Ombudsman for Children's Office continued its positive engagement with the Department of Children and Youth Affairs regarding the possibility of advancing the other amendments to the 2002 Act.

All legislation advice is available to view at www.oco/publications.ie

Extension of Remit for the Ombudsman for Children

Further to the Ombudsman Amendment Act (2012) which was signed into law on 31 October 2012 this Office had our remit to investigate public bodies extended to cover approximately 180 additional entities. These entities, known as reviewable agencies, included universities, the National Council for Special Education (NCSE), National Educational Welfare Board (NEWB), Adoption Authority of Ireland and the Health Information and Quality Authority. The list also included such diverse agencies as the Irish Sports Council, Irish Medicines Board, the National Roads Authority and the National Consumer Agency. We are empowered to look at any administrative actions within those bodies which may have adversely affected a child AND was the result of maladministration on the part of the public body. All bodies new to our remit legally became our responsibility on 31 April 2013 and we invited each reviewable agency to a meeting to outline our role and what is expected of them in that regard. We outlined the steps we take to encourage local resolution, our powers of investigation and the recommendations we can make following such an investigation. It is now the responsibility of those agencies to inform the public who avail of their services that the OCO can assist them if they are unhappy with the administrative actions of that reviewable agency. We are delighted to be able to offer this service to children and their families, who previously had no such redress available to them with respect to many of these agencies. There has been a 16% increase in complaints to our office in 2013 and we can attribute at least some of that to this remit extension.

Evaluation of the Ombudsman for Children's Office

In order to complement the Ombudsman for Children's report to the Oireachtas of March 2012 on the operation of the Ombudsman for Children Act 2002, the Ombudsman for Children's Office commissioned an operational evaluation of the Office's work since its establishment in 2004.

The evaluation was undertaken by Mr Brent Parfitt, a former member of the United Nations Committee on the Rights of the Child and a leading international expert on the work of Ombuds institutions, including those with a focus on children's rights.

The first phase of the evaluation took the form of a desk-based review of the published investigation statements and legislative advice of the Ombudsman for Children's Office, as well as its internal policies and procedures. The second phase of the review involved interviews with key stakeholders from Government, the civil service, other public bodies, civil society and the media.

The Ombudsman for Children's Office is committed to considering and implementing the recommendations arising from the evaluation once the final report is submitted to the Office in early 2014.



5

EDUCATION AND PARTICIPATION

Section 7 of Ombudsman for Children Act, 2002 invests the Ombudsman for Children with a set of unique statutory powers that complement the Office's work to investigate complaints and place a positive obligation on it to promote and monitor the rights and welfare of children up to 18 years of age. The Office's education and participation programme aims to give effect to the following statutory functions under Section 7 of the 2002 Act:

- to encourage policies, procedures and practices that promote children's rights and welfare;
- to promote awareness among members of the public (including children) of matters relating to children's rights and welfare (including the UN Convention on the Rights of the Child) and how those rights can be enforced;
- to establish structures to consult with children and highlight issues relating to children's rights and welfare that are of concern to children themselves; *and*
- to collect and disseminate information on, as well as to undertake, promote or publish research into, matters relating to the rights and welfare of children and how those rights can be enforced.

Rights Education

Rights education workshops

During 2013 almost 1,500 children and young people from schools in 17 counties visited the OCO. Our education workshops on children's rights continued to be delivered on a twice-weekly basis to groups of children and young people visiting the Office. A mainstay of the OCO's rights education programme, these workshops provide a valuable and versatile opportunity for the Office to engage directly with children and young people of different ages, living in different parts of the country and in diverse circumstances.

The workshops are designed to support a dialogue between the OCO and children. While the nature and emphasis of this dialogue changes, it is always focused on fulfilling two main aims: to develop children's awareness and understanding of children's rights and to hear children's views on matters relating to children's rights that are of interest and concern to them.

“People are afraid of anything different. They are afraid of change... No law is going to change us if we don't change ourselves. Discrimination: we need to solve this situation.”

“Food gives us energy and helps us to grow big and strong... We are annoyed that children in the world go hungry.”

“The right to clean water is very important. Water is essential for survival.”

“We think every child has the right to be protected from harm. No child should suffer any sort of abuse, physically or mentally. Governments and organisations have a responsibility to protect children in their countries from harm as best they can. Nobody has the right to hurt a child.”

“Family is very important because they love us. Family is also important because you need someone to support you.”

“I think the right to privacy is important because nobody should know about you unless you want them to.”

“The right to an adequate standard of living is important because everyone needs a place they can feel safe and that they can call home.”

“We feel that everyone should be able to express their personality without being judged.”

“Being protected from child labour is very important ... Children die from child labour and injuries caused by it. It also affects their development ... Children should be able to play and learn. They should not have to work long hours.”

“I think the right to a name is very important because it gives someone an identity.”

“I think the right to education is important because education shapes the rest of your life. It helps you to make friends, stay out of trouble and just live your life better.”

“Getting information is important because... it gives you knowledge and knowledge is power.”

“Children that are loved and cared for grow up to be confident adults.”

“Everybody should have a right to healthcare. Everybody has the right to... get the same treatment no matter who you are. They shouldn't have to die from an illness that's easily curable. It's not just about curing diseases, it's also about preventing them.”

They explored how children's rights surface in the context of their daily lives in school and in their communities and considered what roles different people, including children and young people themselves, can play in helping to ensure that children's rights are respected and protected.

During the year, the OCO also facilitated children and young people to reflect on different rights that children have under the UN Convention on the Rights of the Child and, through facilitated video workshops, to record messages about children's rights which they regarded as being important. These video messages are being edited to create a number of short films, which will be available to view on the OCO's website and YouTube channel, occoireland.com. Over 500 children and young people between 7 and 16 years of age participated in this project and a selection of the viewpoints they shared is presented here to illustrate why they consider a wide range of children's rights under the UNCRC to be vital rights for children both in Ireland and around the world.

Rights education seminars for postgraduate students

In line with its statutory obligations under Section 7 of the 2002 Act, the Office designed and delivered a series of rights education seminars for postgraduate students on a pilot basis in 2012. Taking into account participants' interest in and positive evaluations of the pilot seminars, the Office decided to deliver the programme again in 2013 and to extend the opportunity to participate in it to a larger cohort of postgraduate students.

Having regard to the Office's engagement through its different statutory functions with a wide range of issues that are relevant to the areas of social work, social care and education, the seminars delivered during 2013 were targeted at students undertaking postgraduate studies in social work or social care as well as students pursuing graduate and postgraduate programmes in education. 150 students from eight third level institutions (NUI Galway, University College Cork, University College Dublin, Trinity College Dublin, Dublin City University, Athlone IT, St Patrick's College and Marino Institute of Education) participated in the programme.

Delivered by OCO staff between October and December 2013, the seminars focused on raising awareness of the Office's statutory mandate, functions and corresponding areas of work; developing participants' understanding of fundamental children's rights principles and their application in the context of professional practice; and encouraging child-centred practice and decision-making, including through a facilitated examination of case studies arising from the Office's investigative work.

As with the 2012 pilot programme, the seminars delivered in 2013 were positively evaluated by participants and the Office plans to implement a similar programme during 2014. Among the benefits of the programme identified by participants in 2013 were:

- *"Gaining an understanding of what the Ombudsman for Children does and how problems are approached and resolved"*

"It made me aware of the different ways one can work on behalf of children, whether it's directly or indirectly ... It was wonderful to learn about the various support systems available"

- *"relating children's rights to our role as teachers and to think about how we are responsible for children's best interests"*

Information campaign for separating parents and their children

"You are not alone. You shouldn't blame yourself. Don't ignore the fact that it's happening. You shouldn't have to take sides. It's not your fault and your parents' love for you hasn't changed. Talk to someone, it helps."

Young person who shared their views with the OCO

During 2013, the Office engaged in a unique collaboration with the Courts Service on a joint information campaign targeted at separating parents and their children. The overall aim of the campaign was to raise awareness among separating parents and their children of family law proceedings in the District Courts and possible alternatives to Court, in particular family mediation.

Since its establishment in 2004, one area of concern that is regularly brought to the Office's attention, including through complaints from parents and occasionally from children themselves, is court proceedings affecting children, including family law proceedings and matters relating to guardianship, custody, access and maintenance. While decisions arising from such proceedings are outside the OCO's investigative remit, the Office wished to engage constructively with this area. The Office was delighted to embark on this important joint initiative with the Courts Service in accordance with its positive obligations under Section 7 of the 2002 Act to promote awareness among members of the public, including children, of matters relating to children's rights and welfare and to encourage the development of policies, practices and procedures that promote children's rights and welfare.

Work by the Office and the Courts Service to develop two information films for separating parents and their children was informed by consultations with a wide range of professionals with extensive experience of working with parents and children in these circumstances. Although direct engagement with parents and young people with previous experience of parental separation proved challenging, the Office did consult with and learn from the perspectives of several parents with the assistance of several support services and via face-to-face meetings as well as a self-completion questionnaire. Through an online questionnaire, with assistance from SpunOut.ie, the Office also heard from young people, and the views they shared were particularly helpful as regards identifying key information and messages to include in the film for young people.

The purpose of the two films produced by the Office and the Courts Service is to inform people with no prior knowledge or experience of family law proceedings or alternatives to court of the options available to them. As such, it is hoped that the films will offer parents and young people respectively some initial orientation at what can be a stressful and uncertain time in their lives. In addition to informing parents and young people directly about these processes and about advice and support services available to them, the films are also envisaged as a resource for professionals – including solicitors, mediators and counsellors – working with separating parents and their children.

Entitled *Separating the Options*, a DVD containing both films was launched by the Ombudsman for Children and the President of the District Court, Her Honour Judge Rosemary Horgan in February 2014. Following the launch, the DVD was disseminated to District Courts throughout the country, where it has been viewed and is being used by Courts Service staff to raise awareness among new litigants of options available to them as regards reaching agreement on matters including custody, guardianship, access and maintenance. The DVD has also been disseminated to professionals providing support services to separating parents and their children. In addition, the films are available to view online, including on the Office's and Courts Service's websites (www.oco.ie and www.courts.ie), where supplementary information about a range of advice and support services available to parents and children is also provided. Activities to raise awareness of the films among parents and young people have included the dissemination of information posters to Citizen Information Centres and public libraries nationwide. Through these and other routes, it is hoped that as many parents and young people as possible in these circumstances will be made aware of and have the opportunity to view the films.

Research on Matters relating to Children's Rights and Welfare

Education for Children in Care

In May 2013, the Ombudsman for Children published the findings of research commissioned by the Office and undertaken by the ESRI and the Children's Research Centre, Trinity College on education provision for children in care.

The Office commissioned this research in order to strengthen our understanding of the educational experiences of children in care and identify ways in which the Irish education system, in conjunction with health and social services, can best support attendance, participation and attainment in education by children in care.

While noting that children in care can have positive experiences of and outcomes in education when they receive the requisite supports, the ESRI/TCD study underscores that children in care can face significant challenges to pursuing their education, including attitudinal barriers, placement breakdowns, inadequate care planning and review, and shortfalls and delays in assessment. When encountered, these challenges place children in care at higher risk of suspension, exclusion, absenteeism and early school leaving. The adverse consequences for children can be immediate and long-term.

A key finding to emerge from the research, which comprised a literature review, interviews with policy-makers and practitioners and direct engagement with children in care and young care leavers, is the scarcity of data regarding the educational experiences of children in care in Ireland. The deficit is such that it is not possible to generate an adequate profile of attendance, participation and attainment rates in education among children in care or to compare them to the general population of children. This deficit presents a serious impediment to evidence-informed policy-making and needs to be addressed if effective policies, procedures and practices are to be put in place to mitigate the barriers to, and in, education that the literature indicates children in care can face. In addition to putting in place a mechanism to support systematic data collection in this area, the Office is of the view that it would also be worthwhile to conduct longitudinal research focused on enriching understanding of the educational experiences and pathways of children in care. Given the small number of children in care (6,462 as of December 2013) relative to the overall population of children living in Ireland, a study of this kind should be feasible and could benefit future policy-making and practice.

In addition to highlighting the need for data collection and research, the study identifies several areas for action to improve the educational experiences of children in care. They include:

- the development and implementation on an inter-agency basis of a joint action plan focused on strengthening educational opportunities for children in care;
- the preparation of information and training materials that build capacity among carers and professionals to assist children in care with their education;
- the implementation of specific approaches and measures by both education and care professionals that can directly and indirectly support attendance, participation and attainment in education by children in care; and
- the mainstreaming of opportunities for children in care, and their carers, to have their views taken into account in the context of decision-making processes affecting them, including care planning and review processes and on issues concerning children's education.

The Office hopes that the findings and recommendations emerging from this research will assist the Department of Education and Skills and the Child and Family Agency to devise and implement targeted actions on a collaborative basis that are focused on mitigating the barriers to, and in, education encountered by children in care.

Child-Friendly Healthcare

On 20 November 2013 – Universal Children’s Day – the Ombudsman for Children published a report on child-friendly healthcare arising from research commissioned by the Office and undertaken by University College Cork.

The main purpose of this research was to identify how a culture of child-friendly healthcare can be fostered in and across healthcare settings attended by children and young people under 18 years living in Ireland.

With reference to international standards, and in particular the UN Convention on the Rights of the Child and the Council of Europe’s Guidelines on Child-friendly Healthcare, the research underscores that a child-friendly approach to healthcare policy and service provision requires measures not only to progress the realisation of children’s right to healthcare, but also to respect and protect children’s rights in healthcare. Among these rights are core children’s rights principles, namely: the rights of all children not to be discriminated against, to have their best interests treated as a primary consideration in all actions concerning them, and to have their views taken into account in all decisions affecting them. Many other children’s rights under the UNCRC also come into play in the context of children’s healthcare, including their right to enjoy regular contact with their parents unless it is contrary to their best interests, their right to privacy, their right to be protected from all forms of harm, their right to information, their right to education, and their right to rest, play and leisure.

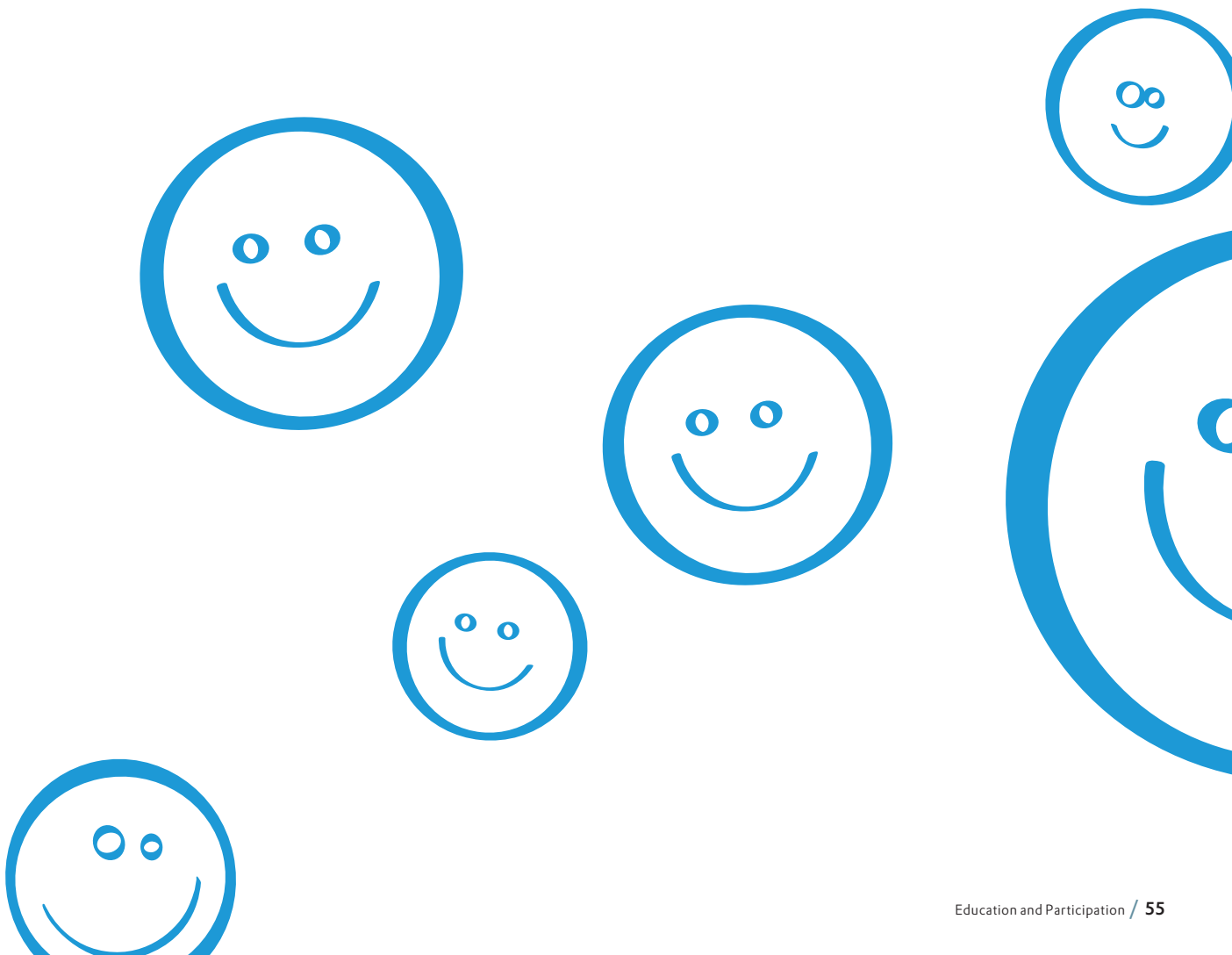
The question of how children’s rights can not only be promoted and protected, but enforced in healthcare settings used by children was also addressed by the research, with reference to initiatives being implemented in other jurisdictions, recent developments in legislation and public policy in Ireland, children’s documented experiences of healthcare services and practices among healthcare professionals.

The research identifies several core ‘building blocks’ for progressing child-friendly healthcare in Ireland:

- the development of a dedicated national policy on child-friendly healthcare;
- setting standards on the rights of children in healthcare settings;
- raising awareness among parents and children and providing training to healthcare professionals on children’s rights in healthcare;
- conducting situational analyses of current practices in Ireland with a view to highlighting and sharing good practices;
- taking a collaborative, coordinated and integrated approach involving leadership at different levels of the healthcare system and within different healthcare settings as well as constructive dialogue involving policy-makers, healthcare professionals, children and their parents/carers; and

- mainstreaming engagement with and respect for children's views as a core value of the Irish healthcare system.

For its part, the Office plans to devise and implement a pilot initiative during 2014 that will build on the findings of this research and focus on identifying, highlighting and promoting good practices in child-friendly healthcare within specific healthcare settings.



TUARASCÁIL BHLIANTÚIL AN OMBUDSMAN DO LEANAÍ 2013



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TEACHTAIREACHT ÓN OMBUDSMAN DO LEANAÍ



Is cúis áthais dom é mo thuarascáil bhliantúil don tréimhse an 1 Eanáir go dtí an 31 Nollaig 2013 a chur faoi bhráid an Oireachtais de bhun Alt 13(7) den Acht um Ombudsman do Leanaí, 2002.

Agus Oifig an Ombudsman do Leanaí deich mbliana ar an bhfód in 2014, tá sé tráthúil súil siar a chaitheamh ar roinnt den dul chun cinn atá déanta sna deich mbliana sin. Ní miste súil a chaitheamh freisin ar na heasnaimh atá fós ann sa dlí, sa bheartas agus sa chleachtas mar a bhaineann le cearta leanaí. Mar Ombudsman, bíim ag plé le feabhas a chur ar chaighdeán an riaracháin phoiblí agus mar Ombudsman

do Leanaí tá ról ar leith agam ní hé amháin athbhreithniú a dhéanamh ach tuairimí a chur in iúl freisin ar an gcaoi a gcaitheann an Stát le leanaí agus ar an tslí a n-urramaíonn an Stát na cearta sin. Tá dualgas reachtúil orm é sin a dhéanamh, agus anuas air sin tá m’Oifig, le deich mbliana anuas, tar éis a lán fianaise a bhailiú trínár bhfeidhm gearán agus imscrúduithe; trí chomhairle a sholáthar maidir le reachtaíocht a théann i bhfeidhm ar leanaí; agus trí chasadh leis na mílte leanbh, teaghlach agus gairmí a oibríonn le leanaí.

Sna deich mbliana ó bunaíodh m’Oifig tharla athruithe suntasacha ar shochaí na hÉireann. Tá dul chun cinn fóna feicthe agama ar an gcaoi a gcaitheann an Stát le leanaí agus le teaghlach. Mar shampla, tá céimeanna suntasacha glactha ag an Stát chun feabhas a chur ar na coinníollacha do leanaí atá faoi choinneáil i bhForas Naomh Pádraig agus ar chúinsí na leanaí dealaithe atá ag lorg tearmainn. Chomh maith leis sin, reáchtáil an Stát reifreann maidir le cearta leanaí agus bunaíodh an Ghníomhaireacht um Leanaí agus an Teaghlach.

Le linn mo thréimhse in Oifig tá mé tar éis roinnt mhaith de na fadhbanna céanna a fheiceáil ag teacht chun cinn; droch-chleachtas riaracháin agus teaghlach ag streachailt le leibhéil dhochreidte maorlathais. Ar cheann de na téamaí a thagann chun cinn arís is arís eile tá dolúbthacht an chórais chun freastal ar riachtanais an linbh aonair. Is minic a bhítear ag súil go gcuirfidh leanaí agus teaghlach iad féin in oiriúint don chóras seachas a mhalairt. Anuraidh sular bunaíodh an Ghníomhaireacht um Leanaí agus an Teaghlach, d’ullmhaigh m’Oifig meitea-anailís ar na bunchúiseanna le deacrachtaí na leanaí faoi chúram, ar cúiseanna iad a thagann chun cinn arís is arís eile. Roghnaíodh deich gcás shamplacha a bhí ina léiriú maith ar na cúiseanna imní agus rinneadh moltaí maidir leis an gcaoi a bhféadfaí

feabhas a chur ar an soláthar seirbhíse. Cuireadh i gcomparáid agus i gcodarsnach na torthaí ó imscrúduithe éagsúla agus ar an gcaoi sin bhíothas in ann béim a leagan ar threochtaí a bheidh ina mbonn maith eolais d'fhorbairtí dlí agus beartais sa réimse seo. Cuireadh an tuarascáil seo agus na moltaí ann faoi bhráid an Aire Leanaí agus Gnóthaí Óige, faoi bhráid Phríomhfheidhmeannach na Gníomhaireachta um Leanaí agus an Teaghlach agus faoi bhráid Thithe an Oireachtais, ag súil go mbeidh tionchar dearfach ag torthaí na tuarascála ar an athchóiriú leanúnach ar sheirbhísí tacaíochta do leanaí agus teaghlaigh in Éirinn, agus ag súil freisin nach mbeidh ar an Oifig seo a bheith ag dul i ngleic a thuilleadh leis na bunchúiseanna athfhillteacha a sainaitníodh sa tuarascáil ach amháin i gcásanna eisceachtúla.

Téama eile a tháinig chun cinn ná an tionchar a bhí ag an gcúlú eacnamaíochta ar na seirbhísí arna soláthar do leanaí agus teaghlaigh. Bhí páirt nach beag ag infhaighteacht acmhainní sna gearáin a rinneadh le m'Oifig i gcoitinne. Ní miste a mheabhrú go bhfuil cúiseanna dlisteanacha imní faoi acmhainní ag comhlachtaí poiblí; ní féidir leo acmhainní a sholáthar nár bronnadh orthu ar an gcéad dul síos. Cibé scéal é, an chúis imní agam ná nach féidir an brú sin ar acmhainní a úsáid mar leithscéal do dhroch-chinnteoireacht. I mo thuairim, tá sé den riachtanas go mbeadh cinnteoireacht níos déine ag tarlú i bhfianaise go bhfuil buiséid ag laghdú. Ciallaíonn sé sin, go háirithe, ó thaobh cearta leanaí de, go gcaithfear iniúchadh a dhéanamh ar conas go díreach a rachaidh scéim nó clár ar leith i bhfeidhm ar leanaí, cibé acu an mbeidh tionchar míréireach aige ar ghrúpaí áirithe nó conas a dhéanfar monatóireacht ar chinntí comhlachtaí poiblí.

Tá dhá phríomhphrionsabal ceart daonna i gCoinbhinsiún na NA um Chearta an Linbh atá in mbunchlocha do chearta leanaí: foráil do leas is fearr an linbh in Airteagal 3 agus meas ar thuairimí an linbh a bhforáiltear dó in Airteagal 12.

Tar éis déileáil le breis is 10,000 gearán ó thuismitheoirí agus tuairimí a chloisteáil ó na mílte leanbh ar fud na tíre, is iad na prionsabail sin i gcónaí maidir le leanaí agus daoine óga atá ina gcónaí in Éirinn a ligtear i ndearmad. Sa chinnteoireacht a théann i bhfeidhm ar leanaí, ní i gcónaí a chuireann comhlachtaí poiblí leas is fearr an linbh san áireamh; i roinnt cásanna bíonn an chuma air go gcaitear níos mó dua dea-cháil na heagraíochta a choinneáil slán. In imscrúduithe eile a d'fhoilsigh m'Oifig feictear an chaoi a ndeachaigh cinnteoireacht duine amháin i bhfeidhm ar an gcóras agus an chaoi a raibh tionchar mór aige sin ar shaol leanaí agus daoine óga. Is gá do chórais riaracháin a bheith láidir go leor chun freastal ar an saoránach seachas iad a bheith faoi réir cur chuige indibhidiúil a bhféadfadh toradh neamhfhabhrach a bheith aige ar leanbh agus teaghlach.

Ó am go chéile ní mheastar de réir a thábhachta an tionchar fadiarmhartach is féidir le cinntí riaracháin a bheith acu; go deimhin, is féidir leis sin a bheith i bhfad níos forleithne ná cinneadh reachtúil nó breithiúnach sa mhéid go dtéann sé i bhfeidhm ar líon mór leanaí. Cuirim i gcás i réimse an oideachais. Is minic a shainítear i gciocláin rialtas – nach foinsí dlí iad – na coinníollacha faoinar féidir le leanaí agus daoine óga teacht ar na teidlíochtaí agus na tacaí a bhfuil siad ina dteideal. Níl ról ag an Oireachtas i múnlu beartas ar an leibhéal seo agus de ghnáth seachnaíonn na Cúirteanna bheith ag plé le cúrsaí beartais

i bhfianaise na hoibleagáide a bhaineann leis an scaradh cumhachtaí. Mar thoradh air seo, tá sé tábhachtach go mbeadh cinnteoireacht ar an leibhéal seo bunaithe go hiomlán ar chaighdeán na gceart do leanaí. Cé gur minice a dtagraítear do noirm idirnáisiúnta i ndíospóireachtaí reachtúla agus in imeachtaí breithiúnacha, tá sé ríthábhachtach a mheabhú go bhfuil oibleagáidí idirnáisiúnta dlí an Stáit ina n-oibligeáidí ábhartha ar gach leibhéal den Rialtas, lena n-áirítear bearta riaracháin. Tá a lán fós le déanamh ag comhlachtaí poiblí a ndearna m'Oifig imscrúdú orthu chun a chinntiú go mbeidh oibleagáidí dlí an Stáit fite fuaite lena gcuid oibre.

In 2013, tháinig 180 comhlacht poiblí nua faoi mo shainchúram den chéad uair. Dhéileálar le breis is 1500 gearán ó leanaí agus teaghlaigh. Chuireamar i gcrích na chéad ghearáin a fuaireamar faoi leanaí atá faoi choinneáil in bhForas Naomh Pádraig. I bhfianaise go bhfuil gá réiteach tráthúil a fháil ar dheacrachtaí a bhíonn ag leanaí le comhlachtaí poiblí, go hídéalach an toradh is fearr ná go bhfaighfí réiteach ar an gceist ar bhonn áitiúil. Tríd is tríd, tógann imscrúduithe níos mó ama, mar gur minic a bhíonn saincheisteanna casta i gceist.

In 2013, lean m'Oifig ag infheistiú formhór na n-acmhainní atá ar fáil di chun iarracht teacht ar réiteach áitiúil do theaghlaigh agus gan dul ar aghaidh chuig séim an imscrúdaithe iomláin ach i gcás go raibh an Oifig deimhin de go raibh triail bainte as gach rogha eile. Ó mo thaithí féin bíonn a lán comhlachtaí poiblí, go háirithe iadsan a chuireann seirbhísí ar fáil go díreach do leanaí agus teaghlaigh, ag iarraidh feabhas a chur ar a seirbhísí agus fáiltíonn siad roimh dheiseanna foghlama. I gcomhthéacs ár n-imscrúduithe, d'oibríomar go dian chun ár gcaidrimh agus ár gcreidiúnacht le comhlachtaí poiblí a neartú. Chuidigh sé sin linn ár gcuaspóir deiridh a bhaint amach mar oifig Ombudsman: maolú ar an mbeart bunaidh a raibh tionchar neamhfhabhrach aige ar leanbh agus teacht ar réiteach go gasta ar ghearáin.

Ba mhaith liom an deis seo a thapú athuair chun an chúis leanúnach imní domsa a ardú arís i ndáil le m'eisiamh, i mo shainchúram imscrúdaitheach, ó réimse an tearmainn agus na hinimirce. Níl comhthuiscint bainte amach idir an Roinn Dlí agus Cirt agus Comhionannais agus m'Oifig ó thaobh raon an eisiamh sin, go háirithe ó thaobh leanaí sa soláthar díreach.

Tá an cheist seo ardaithe agam leis an Oireachtas arís is arís eile ag dul chomh fada siar le mo chéad tuarascáil bhliantúil. I mí Márta 2012, chuir m'Oifig tuarascáil shonrach maidir le feidhmiú an Acha um Ombudsman do Leanaí 2002 faoi bhráid an Oireachtais agus an Aire Leanaí agus Gnóthaí Óige. Sa tuarascáil sin bhí moladh sonrach maidir le leasú a dhéanamh ar Acht 2002 ionas go ndéanfaí soiléiriú ar ról OCO i ndáil le gearáin faoi chúrsaí tearmainn agus inimirce.

D'ainneoin go bhfuil easpa soiléireachta ann faoi réimse údaráis OCO, tá an oifig tar éis déileáil le gearáin a cuireadh faoina bráid i ndáil le leanaí atá ina gcónaí i soláthar díreach. D'fhéach OCO le réiteach a fháil ar na gearáin a cuireadh faoi bhráid na hOifige maidir le leas is fearr na leanaí i gceist, agus fuarthas réiteach air, cé nár ghlac an Roinn Dlí agus Cirt agus Comhionannais leis go bhféadfadh OCO dul i ngleic leis na cásanna sin laistigh den cheart reachtúil láimhseála gearán atá san Acht um Ombudsman do Leanaí.

Mar Ombudsman do Leanaí tá mé freagrach as cearta leanaí a chur chun cinn, dul i gcomhairle le leanaí agus comhairle a chur ar fáil d'Airí rialtais faoi reachtaíocht a bhaineann le leanaí. In 2013 de réir Alt 7 den Acht um Ombudsman do Leanaí, 2002, chuir mé comhairle ar fáil don Aire Coimirce Sóisialaí maidir le Scéim Ghinearálta an Bhille um Inscne a Aithint, 2013, don Aire Oideachais maidir le Scéim Ghinearálta an Bhille Oideachais (Ligean Isteach ar scoil) 2013. Is cúis áthais dom é a thuairisciú go ndearna na hAirí cuí breithniú cúramach ar an dá phíosa comhairle sin agus go ndearna an Comhchoiste Oireachtais um Oideachas agus Coimirce Shóisialach tagairt go forleathan don chomhairle le linn díospóireachta agus tráth a raibh moltaí á ndéanamh faoi gach píosa reachtaíochta.

Maidir leis an todhchaí, tá mé den tuairim go mbeidh gá meas níos iomláine a léiriú, tráth a bhfuil dlíthe agus beartais á gcruthú in Éirinn, ar na cearta atá sonraithe i gCoinbhinsiún na Náisiún Aontaithe um Chearta an Linbh.

Dar liom, tá gá i gcónaí ag Éirinn le maoirseacht thiomnaithe, shaineolach, neamhspleách ar riarachán sibhialta agus poiblí sa réimse seo.

Anuas air sin, is gá deireadh a chur leis an gcultúr ina mbíonn beartas poiblí á chruthú go minic mar fhreagra ar ghéarchéim – rud a cháineann an pobal – seachas ina fhorbairt fhorásach beartais phoiblí. Mar Ombudsman do Leanaí b'fhéarr liom go mbeadh cur chuige níos réamhghníomhaí ann i leith forbairt polasaí ná an cur chuige frithghníomhach a bhí le sonrú le deich mbliana anuas.

Tiocfaidh dúshlán agus deiseanna nua chun cinn sa timpeallacht ina mbeidh leanaí ag fás aníos sa tír seo. Cuirtear i gcuimhne dom i gcónaí an tábhacht a bhaineann le hOifig neamhspleách a bheith ann chun a gcearta a chur chun cinn, gearáin a imscrúdú agus córas réitigh a sholáthar.



Emily Logan

Ombudsman for Children

2

FORBAIRT EAGRAÍOCHTÚIL

Seirbhísí Corparáideacha

Rialú Airgeadais

B'ionann an leithroinnt airgeadais in 2013 le haghaidh Oifig an Ombudsman do Leanaí agus €1.888m agus bhí sé sin ina laghdú de €0.225m má chuirtear é i gcomparáid le leithroinnt na bliana 2012.

Mar atá sonraithe in Alt 17(1) agus Alt (2) den Acht um Ombudsman do Leanaí, 2002, tá an tOmbudsman do Leanaí freagrach as Ráitis Airgeadais a ullmhú, agus as rialtacht idirbhearta na Oifige a chinntiú. I measc na bhfeidhmeanna is bun leis na freagrachtaí sin tá údarú agus monatóireacht a dhéanamh ar íocaíochtaí le haghaidh earraí agus seirbhísí, próisis tairisceana, feidhmiú an phárolla, agus tuairisceáin mhíosúla a thiomsú.

Déanann Oifig an Ard-Reachtair Cuntas agus Ciste iniúchadh ar na Ráitis Airgeadais. Rinneadh iniúchadh ar chuntais 2012 i mí Iúil 2013. De ghnáth ní dhéantar iniúchadh ar Ráitis Airgeadais do bhliain áirithe in am trátha d'fhoilsiú na tuarascála bliantúla cuí. Chomh luath agus atá siad faofa ag Oifig an Ard-Reachtair Cuntas agus Ciste, déantar iad a fhoilsiú ar shuíomh gréasáin an OCO agus tá cuntais bhliantúla gach bliana go dtí 2012 le fáil ar www.oco.ie.

Chuir na cuntasóirí Cairte CrowleysDFK seirbhísí cuntasáiochta ar fáil don Oifig le linn 2013.

Acmhainní Daonna

Tá cead ag an Oifig suas le 15 bhall foirne a bheith fostaithe aici. Is dúshlán i gcónaí é úsáid a bhaint as na hacmhainní foirne chun freastal ar na héilimh a bhíonn ag síormhéadú gach bliain, ó thaobh líon agus chastacht na n-éileamh sin de. Don cheathrú bliain as a chéile ba mhaith liom a chur in iúl go rabhtas ag brath rómhór ar ár bpainéal d'imscrúdaitheoirí sa mhéid go raibh an líon gearán a fuarthas chomh hard agus go raibh ábhar na ngearán sin chomh casta. Déantar athbhreithniú rialta ar róil agus ar fheidhmeanna gach baill foirne san Oifig.

Millennium House – Úsáid áitribh

Chomh maith leis na ceardlanna maidir le cearta daonna a reáchtáil an Oifig do ghrúpaí de leanaí agus de dhaoine óga, lean an Oifig freisin ag reáchtáil a leithéidí céanna de chlár do mhic léinn iarchéime.

Chuir an Oifig na háiseanna in Millennium House ar fáil mar ionad d’imeachtaí cuí a reáchtáladh maidir le cearta agus leas leanaí agus daoine óga, mar a rinne i mblianta roimhe seo. I measc na ngrúpaí a reáchtáil comhairliúchán le daoine óga in Millennium House sa bhliain 2013 bhí Comhairle Chomhairleach na nÓg le hionadaíocht ó na trí ospidéal do leanaí, BeLoNG To, EPIC, Comhpháirtíocht Thuaisceart Bhaile Átha Cliath, Cumann Mhic Léinn Meánscoile na hÉireann, Comhairle Dídeanaithe na hÉireann, Headstrong agus an Chomhghuaillíocht um Chearta Leanaí.

Millennium House – Léas

Díoladh roinnt réadmhaoine tráchtála i lár Bhaile Átha Cliath, Millennium House ina measc, rinneadh athstruchtúrú ar an léas agus mar thoradh air sin bhí Oifig na nOibreacha Poiblí i mbun léas nua a idirbheartú thar ceann an Stáit.

Forléargas ar Úsáid Fuinnimh in 2013

I mí na Nollag 2009, thug an tAire Cumarsáide, Fuinnimh agus Acmhainní Nádúrtha éifeacht do Threoir 2006/32/EC ó Pharlaimint na hEorpa agus ón gComhairle an 5 Aibreán 2006, mar ar cruthaíodh Rialachán na gComhphobal Eorpach (Éifeachtacht Úsáide Deiridh Fuinnimh agus Seirbhísí Fuinnimh) 2009 (I.R. 542 de 2009). De réir na rialachán tá ceangal ar eagraíochtaí san earnáil phoiblí tuairisciú gach bliain, le héifeacht ó mhí Eanáir 2011, maidir lena n-úsáid fuinnimh agus na gníomhartha atá idir lámha acu chun a dtomhaltas fuinnimh a laghdú.

In 2013, bhain Oifig an Ombudsman do Leanaí úsáid as 86.83 MWh de leictreachas, i gcomparáid le 88.197 MWh in 2012.

Gníomhartha a bhí idir lámha in 2013

Rinne Seirbhísí Corparáideacha, i gcomhar le hOifig an nOibreacha Poiblí, athbhreithniú cuimsitheach ar thomhaltas fuinnimh le linn na bliana. Ag eascairt ón athbhreithniú sin beartaíodh ath-fheistiú a dhéanamh ar roinnt mhaith de na feistithe solais a bhí sean, mar ar cuireadh feistithe LED ina n-áit. Déantar monatóireacht leanúnach ar úsáid fuinnimh. Tá córas cuimsitheach inmheánach athchúrsála i bhfeidhm i gcónaí ag OCO.

Meáin

Mar ab amhlaidh le roinnt blianta anuas, léirigh na meáin an-suim in obair na hOifige agus clúdaíodh é sin sna meáin. Go háirithe, clúdaíodh roinnt cásanna indibhidiúla a bhí idir lámha ag an Ombudsman do Leanaí, lena n-áirítear cás a bhain le Feidhmeannacht na Seirbhís Sláinte mar gur theip orthu tacaíocht a sholáthar do leanbh tar éis líomhaintí de mhí-úsáid ghnéasach, agus cúiseanna imní maidir le seirbhísí sóisialta FSS na Laoi Thuaidh.

Clúdaíodh freisin an Chomhairle a cuireadh ar fáil d’Airí Rialtais maidir le reachtaíocht – Bille na gCúirteanna, an Bille Oideachais (Ligean Isteach ar Scoil) 2013 agus an Bille um Inscne a Aithint 2013.

Gnóthaí Poiblí

Tuairiscíonn an tOmbudsman do Leanaí go díreach don Oireachtas agus tá sainchúram reachtúil uirthi comhairle a sholáthar d’Airí Rialtais maidir le dlíthe agus beartais a théann i bhfeidhm ar leanaí. Ina fhianaise sin, lean an dea-chaidreamh cuidiúil idir an tOmbudsman do Leanaí agus Airí, Coistí Oireachtais agus urlabhraithe tábhachtacha.

Chomh maith leis sin, tháinig an tOmbudsman do Leanaí os comhair an Choiste Oireachtais um Shláinte agus Leanaí chun plé a bheith ann faoi dhaoine óga atá faoi choinneáí.

Suíomh Gréasáin agus meáin shóisialta

Le roinnt blianta anuas, forbraíodh suíomh gréasáin na hOifige, www.oco.ie, agus tá sé ina uirlis lárnach i gcónaí chun cuidiú leis an Oifig an obair atá idir lámha a chur faoi bhráid an phobail. Rinneadh iniúchadh seachtrach ar inrochtaineacht chun a chinntiú go mbeifí ag cloí leis na caihdeáin is airde agus is féidir.

Ceann de na rannóga is mó éileamh ar an suíomh gréasáin ná rannóg na nGearán. Sa mhéid gur institiúid Ombudsman atá ann tá sé tábhachtach go mbeadh an fhaisnéis atá ar fáil faoinár bhfeidhm Gearáin ar fáil i meáin éagsúla, go mbeadh an fhaisnéis sin soiléir agus go mbeadh an fhaisnéis inrochtana. Ar an suíomh féin, cuirtear faisnéis faoi shainchúram na hOifige agus faoi na nósanna imeachtaí gearáin i láthair ar bhealaí éagsúla: mar cheisteanna coitianta; i bhfíseán gearr faisnéise; in ábhair faisnéise; i dtuairiscí rialta faoi chúrsaí reatha; e.g. buaic a sroicheadh le déanaí i líon na ngearán faoi Choimisiún na Scrúduithe Stáit; chomh maith leis an bhfoirm gearáin ar líne.

An rannóg ar an suíomh is mó a mbíonn an pobal ag breathnú uirthi ná an Rannóg faoi Oideachas agus Cearta Daonna. Cuirtear eolas ar fáil ann faoi cheardlanna maidir le cearta daonna a réachtáil an Oifig le daoine óga, agus gearrtháin scannáin a rinne leanaí agus daoine óga le linn na gceardlann sin. Chomh maith leis sin, is féidir na hábhair oideachais go léir a íoslódáil ón suíomh.

Baineann an Oifig leas as an gcuntas Twitter [@oco_ireland](https://twitter.com/oco_ireland) chomh maith chun bheith ag plé le páirtithe leasmhara agus chun eolas a roinnt faoin obair atá idir lámha faoi láthair.

Tá gach ceann de ghearrtháin scannáin an OCO – 23 san iomlán faoi láthair – ar fáil anois ar chaineál YouTube, [ocoireland](https://www.youtube.com/ocoireland), agus cuireann siad i láthair obair na hOifige, chomh maith le cás-staidéir shamplacha, ár dtionscadail speisialta agus na gearrtháin a rinne na daoine óga iad féin agus iad ag plé a gceart.



3

GEARÁIN AGUS IMSCRÚDUITHE

Tá an fheidhm gearáin agus imscrúduithe ina croífheidhm ag an Oifig. Faoi Acht um Ombudsman do Leanaí 2002, féadfaidh an OCO imscrúdú a dhéanamh ar ghearáin a dhéanann leanaí agus daoine óga, nó daoine fásta thar ceann leanaí agus daoine óga, faoi eagraíochtaí poiblí, scoileanna nó ospidéal. Is seirbhís saor in aisce, neamhspleách agus neamhchlaonta an tseirbhís sin.

Forálacha Sainiúla

Forálann Acht 2002 d'fheidhmiú fheidhmeanna gearáin agus imscrúduithe an Ombudsman do Leanaí. Leagtar amach sna forálacha reachtúla sin na forais mhíriaracháin as a n-eascródh athbhreithniú ar ghearáin agus ar reachtáil na n-imscrúduithe. Sa mhéid go bhféadfadh an tOmbudsman do Leanaí imscrúdú a dhéanamh ar ghníomh a raibh tionchar aige ar leanbh agus gur féidir le leanaí gearáin a dhéanamh iad féin leis an Oifig, leagtar amach san Acht é féin raon forálacha sonracha reachtúla a chuireann leochaileacht leanaí san áireamh.

1. Oibleagáid i ndáil le leasa is fearr an linbh

Foráiltear san Acht go mbeadh aird ag an Ombudsman do Leanaí agus í ag comhlíonadh a feidhmeanna gearáin agus imscrúduithe, ar leas is fearr an linbh.

2. Oibleagáid maidir le féachaint go cuí do mhianta an linbh

Forálann an tAcht go bhféadfadh an tOmbudsman do Leanaí go cuí, a mhéid is féidir é go praiticiúil, do mhianta an linbh, le haird ar aois agus ar thuiscint an linbh.

Forléargas

Féachtar go háirithe, sa phróiseas scrúdaithe agus imscrúdaithe, ar an éifeacht dhíobhálach a bhí ag gníomh ar leanbh, agus ar cibé acu an ndearnadh an gníomh sin:

- gan údarás ceart;
- ar fhorais neamhábhartha;
- mar thoradh ar fhaillí nó míchúram;
- bunaithe ar fhaisnéis earráideach nó neamhiomlán;
- ar bhonn a bhí idirdhealaitheach go míchuí;

- bunaithe ar chleachtas neamh-inmhianaithe riaracháin; nó
- ar bhealach eile a bhí contrártha do riaracháin cóir, fónta.

A bhuíochas leis an bhfaisnéis a fhaightear trí scrúduithe agus imscrúduithe a dhéanann an Oifig ar ghearáin bíonn an Oifig in ann léargas luachmhar a fháil ar an taithí ag leanaí agus a dteaghlaih ar bheith ag déileáil le seirbhísí poiblí. I gcomhthráth, cuireann grinnscrúdú ghníomhartha riaracháin na gcomhlachtaí poiblí an deis ar fáil don eagraíocht athbheithniú a dhéanamh ar an tseirbhís atá á cur ar fáil aici siúd dá réir.

Mar thoradh ar an aiseolas sin bíonn na seirbhísí poiblí in ann seasamh leis an ngníomh a cuireadh i gcrích nó cás a dhéanamh chun athruithe a chur i bhfeidhm. Ach níos tábhachtaí fós, leagan sé béim ar fhíorthaithí daoine óga agus tugtar guth dóibh maidir lena gcúiseanna imní, nó faoin mbaol atá ann go mbeadh éifeacht dhíobhálach ag gníomhartha comhlachtaí seirbhíse poiblí orthu.

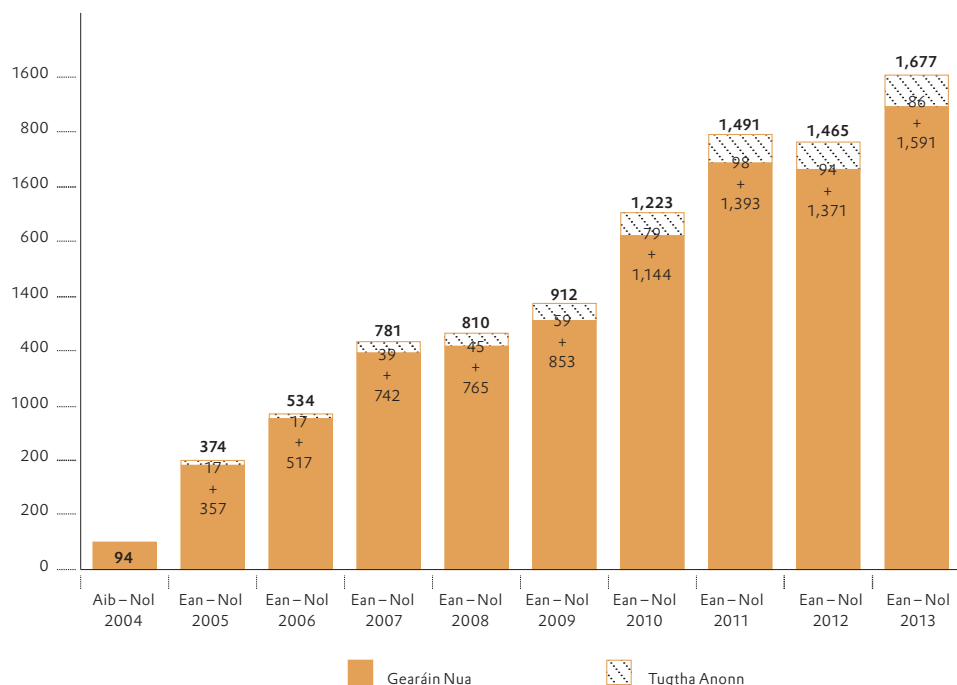
Staitisticí

Gearáin ar Déileáladh leo in 2013

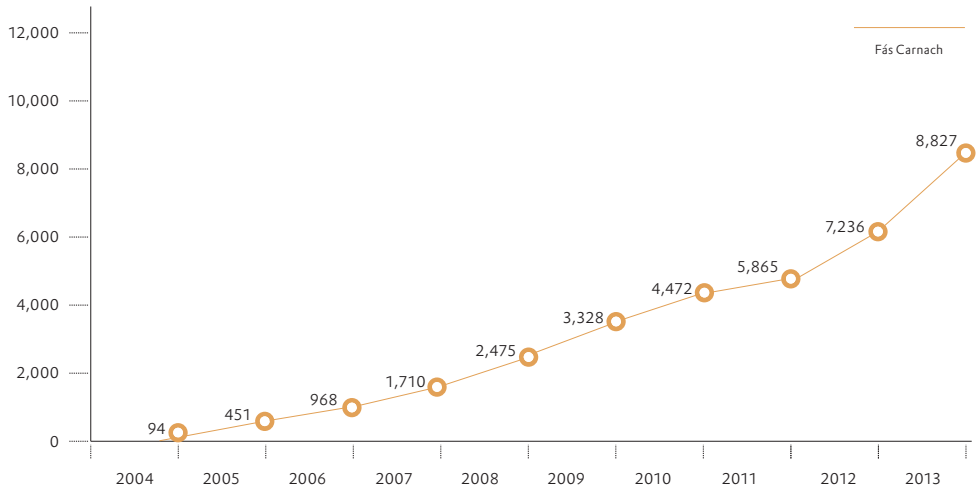
Mar ab amhlaidh i mblianta roimhe seo, d'ardaigh an líon gearán a fuair an Oifig in 2013 mar ar déileáladh le 1,677 gearán le linn na bliana – sin 1,591 gearán a fuarthas agus 86 a tugadh anonn ó 2012. In 2013 d'ardaigh an líon gearán faoi 16% i gcomparáid le 2012 agus, mar atá léirithe i dTáblaí 1.1 & 1.2 thíos, tá méadú de 28% tagtha ar líon na ngearán ó 2010 i leith. Mar is léir ó na figiúirí le haghaidh 2013 laghdaigh an líon gearán a tugadh anonn isteach in 2014, rud a léiríonn go ndearnadh iarrachtaí feabhas a chur ar thréachur na hoifige agus laghdaigh an méid ama a thógann sé gearáin a láimhseáil.

Tábla 1.1

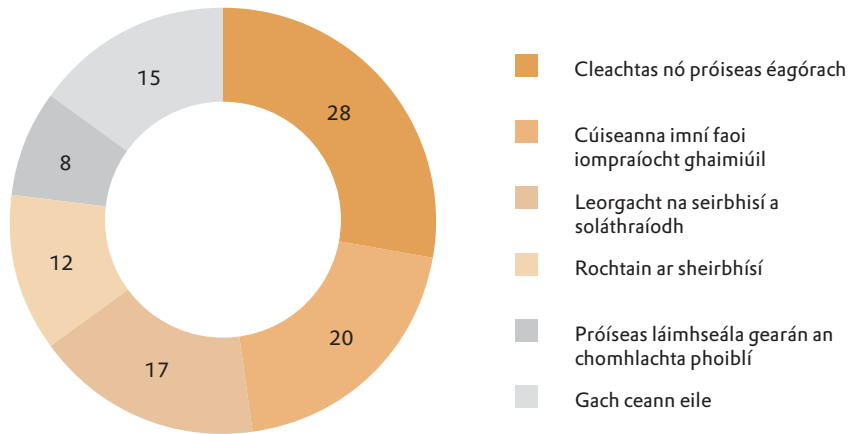
Líon na nGearán ar Déileáladh leo gach Bliain ó 2004 i leith



Tábla 1.2
Fás Carnach go dtí Nollaig 2013

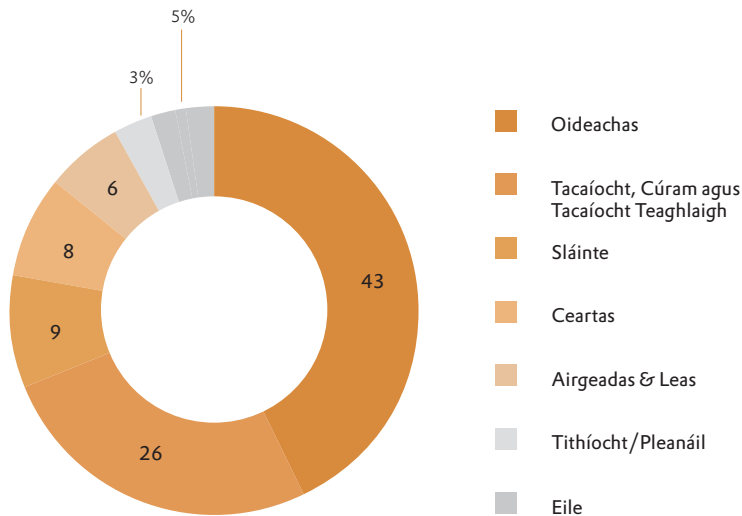


Tábla 1.3
Príomhcheisteanna a ndearnadh gearán fúthu in 2013 (%)



Sa chart thíos léirítear dáileadh de réir earnála na 1,591 gearán nua a fuarthas:

Tábla 1.4



I dTábla 1.4 léirítear na catagóirí a ndearna an pobal gearán fúthu in 2013.

Sa chomparáid, le haghaidh 2012 agus 2013, idir na catagóirí as ar eascair gearáin nua tugadh seo a leanas le fios:

- Tá an chatagóir Oideachas fanta mar an gcéanna ó bhí 2012 ann agus is ann atá an líon is airde gearán, ag seasamh ag 43%;
- Laghdaigh an sciar iomlán de ghearáin a bhain leis an gcatagóir Tacaíocht Teaghlaigh, Cúram agus Cosaint (iadsan go léir atá faoi scáth na Gníomhaireachta um Leanaí agus an Teaghlach) ó 28% go 26%;
- Laghdaigh an sciar iomlán de ghearáin a bhain le cúrsaí sláinte (Ospidéal, Pobal, Meabhairshláinte agus Sláinte Phoiblí) ó 11% go 9%;
- Bhí ardú de 2% ann i sciar na ngearán a bhain le cúrsaí Ceartais ó bhí 2012 ann – agus seasann sé ag 8% anois.

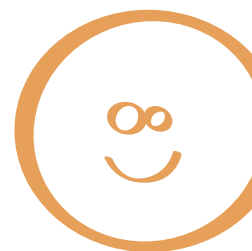
Oideachas

I dTábla 1.5 léirítear na príomhchatagóirí de ghearáin nua a fuarthas i ndáil le cúrsaí oideachais.

Tábla 1.5

| Gearáin i réimse an Oideachais 2013 (43% de gach gearán nua a fuarthas) |
|--|
| Na 5 Phríomh-Fhochatagóir |
| 1. Láimhseáil líomhaintí maidir le hiompar míchuí gairmiúil |
| 2. Acmhainní riachtanais speisialta |
| 3. Déileáil le bulaíocht |
| 4. Láimhseáil gearán, cinntí agus beartas |
| 5. Díbirt, fionraí & rollú |

Faigheann OCO gearáin i gcónaí a bhaineann le láimhseáil líomhaintí maidir le hiompar míchuí gairmiúil i measc múinteoirí agus foirne scoile. Tá cosc sonrath orainn scrúdú a dhéanamh ar líomhaintí maidir le hiompar míchuí gairmiúil. Cibé scéal é, faoi láthair níl aon bhealach eile réiteach a fháil ar ghearáin mar nach bhfuil tosach feidhme tugtha go fóill do Chuid 5 den Acht um Chomhairle Mhúinteoireachta (2001). Seo cúis mhór imní don Oifig seo agus is saincheist í a d'ardaíomar le hAirí Oideachais éagsúla ar a seal agus leis an Oireachtas. Is é seasamh leanúnach an OCO ná gur chóir go dtabharfaí tosach feidhme do Chuid 5 chomh luath agus is féidir gan aon mhoill bhreise.



Tacaíocht Teaghlaigh, Cúram agus Cosaint

Sular bunaíodh an Ghníomhaireacht nua um Leanaí agus an Teaghlach, chuir an Oifig seo córas ar bun chun monatóireacht shonrach a dhéanamh ar leibhéal agus ar chineál na ngearán a fuarthas a bhain le sainchúram na Gníomhaireachta um Leanaí agus an Teaghlach.

I dTábla 1.6 léirítear na catagóirí nua gearán a fuarthas i ndáil le Tacaíocht Teaghlaigh, Cúram agus Cosaint, a dhéanann suas 26% de gach gearán a fuarthas in 2013.

Tábla 1.6

| Tacaíocht teaghlaigh, cúram agus cosaint in 2013 |
|--|
| (26% de gach gearán nua faighte) 5 Phríomhchatagóir |
| 1. Cosaint leanaí |
| 2. Cúram malartach |
| 3. Tacaíocht teaghlaigh |
| 4. Seirbhísí oibre sóisialta |
| 5. Cúram leanaí, réamhscóil agus an Scéim Cúraim agus Oideachais Luath-Óige (ECCE) |

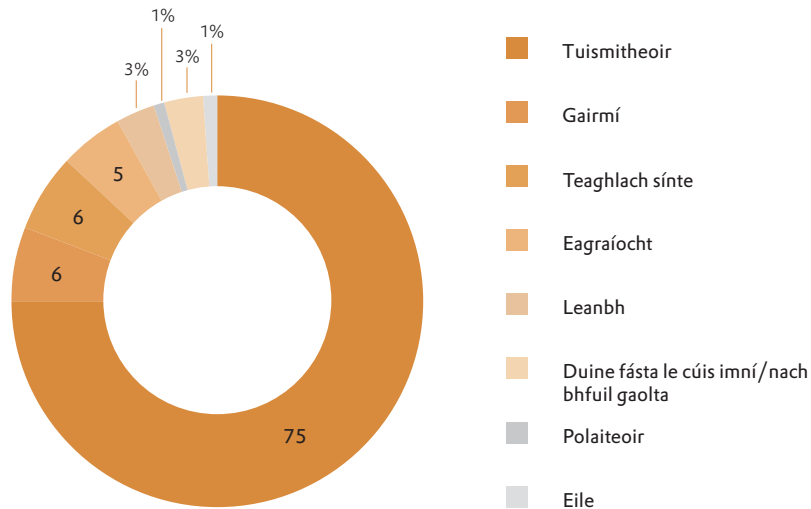
Tábla 1.7

| Gearáin i réimse na Sláinte 2013 (9% de gach gearán nua faighte) |
|--|
| Príomhchatagóirí |
| 1. Seirbhísí cúraim pobail |
| 2. Ospidéal |
| 3. Seirbhís meabhairshláinte |
| 4. Seirbhísí sláinte poiblí |

Sa tábla thuas (1.7) tugtar breacléargas ar na catagóirí is mó a ndéantar gearán iontu i ndáil le Sláinte. Baineann roinnt de na saincheistanna a thagann chun cinn sna gearáin seo le soláthar seirbhísí Míchumais, Teiripe Urlabhra agus Teanga, Teiripe Shaothair agus Measúnú ar Riachtanais Leanaí atá faoi mhíchumas. Is minic a dhéantar gearán freisin faoi rochtain ar sheirbhísí fiacloíreachta agus faoi bhainistiú na seirbhísí sin agus faoi na liostaí fada feithimh. Tháinig méadú beag ar líon na ngearán faoi leanaí a bhfuil fadhbanna meabhairshláinte acu agus cóireáil á chur orthu i suíomhanna nach bhfuil oiriúnach ar chor ar bith – saincheist a ardaíodh leis an Oireachtas i dtuarascálacha bliantúla roimhe seo.

Daoine a rinne teagmháil leis an Oifig

Tábla 1.8



Mar ab amhlaidh i mblianta roimhe seo is iad na tuismitheoirí na daoine is minice a bhíonn i dteagmháil leis an oifig thar ceann a leanaí. Is minic freisin a bhíonn gairmithe a oibríonn le leanaí ag pléadáil ar a son, go háirithe i gcás nach bhfuil sé de chumas ag an tuismitheoir an gearán a dhéanamh iad féin.

Déanann na Oifig gach iarracht gearán a scrúdú agus a thabhairt chun críche ar an gcaoi is éifeachtaí agus is críochnúla agus is féidir ach fós féin bíonn an oifig ar a dícheall a bheith chomh cóir cothrom agus is féidir leis an ngearánach agus leis an gcomhlacht poiblí araon. Bíonn an Oifig ar a dícheall tathant ar dhaoine iarracht a dhéanamh réiteach a fháil ar an leibhéal áitiúil, rud atá ag teacht le prionsabail Ombudsman. Tá Oifig an Ombudsman do Leanaí tar éis a lán dá hacmhainní daonna a lua le réiteach a lorg ar an leibhéal áitiúil i gcás gach gearáin a ndéileáiltear leis. In 2013, i gcás gur iomchuí é, lean an Oifig ag idirghabháil le comhlachtaí poiblí maidir leis na céimeanna is gá a ghlacadh chun dul i ngleic go díreach leis na cúiseanna imní ag gearánaigh. Déantar formhór na gcásanna a réiteach ag an gcéim seo, de ghnáth laistigh de 4-6 seachtaine.

D'fhéach an Oifig go minic le bheith ag plé go díreach leis na comhlachtaí poiblí go ginearálta chun a mbeartais, a gcleachtais agus a ngnáthaimh a fheabhsú agus a mhionathrú d'fhonn na torthaí is fearr a bhaint amach do leanaí a d'fhéadfadh bheith i dteagmháil leis na comhlachtaí poiblí sin.

Mura ndéanann an comhlacht poiblí réiteach éigin a lorg ar an scéal, féadfaidh an Oifig dul ar aghaidh chun imscrúdú a dhéanamh ar an ngearán. Is éard atá i gceist le himscrúdú ná a chinneadh cibé acu an raibh an gníomh a rinne an comhlacht poiblí ina ghníomh a bhí fónta ó thaobh riaracháin de nó nach raibh agus cibé acu an raibh, nó an bhféadfadh go raibh, tionchar díobhálach ag an ngníomh sin ar leanaí nó nach raibh. Fiú ag an staid seo

bíonn an deis ag an gcomhlacht poiblí agus ag an ngearánach teacht ar réiteach chun an tionchar díobhálach ar an leanbh a mhaolú. Má tharlaíonn sé seo féadfaidh an Oifig an cás a dhúnadh ach choinneodh an Oifig an rogha i gcónaí dul ar aghaidh leis an imscrúdú i gcás gur saincheist chórasach atá ann a bhféadfadh tionchar a bheith aici ar leanaí i gcoitinne. Féadfaidh sé roinnt mhaith ama imscrúdú iomlán a chur i gcrích, agus cé go ndéantar gach iarracht an próiseas a chur i gcrích chomh tapa agus is féidir, ní pléadalaí an OCO don leanbh ná freasúra i gcoinne an chomhlachta phoiblí ach oiread agus dá bhrí sin is gá don Oifig a bheith cóir cothrom agus caitheamh le meas ar gach páirtí i gceist chun an deis a thabhairt dóibh go léir a gcás a dhéanamh sula nglacfar cinneadh ina leith. Chomh luath agus a chuireann an OCO imscrúdú i gcrích, i gcás go seasann an Oifig leis an ngearán, cuirfidh an Oifig torthaí an imscrúdaithe agus moltaí ar fáil. Ansin déanfaidh an Oifig athbhreithniú tar éis sé mhí chun a bheith cinnte de go bhfuil an comhlacht poiblí ag cur i bhfeidhm mholtaí an OCO. Mura bhfuil an OCO sásta leis an dul chun cinn atá déanta ag an gcomhlacht poiblí cuireann sí a cúiseanna imní faoi bhráid an Oireachtais.

Foras Naomh Pádraig

I mí Iúil 2013, d'fhógair an tAire Dlí agus Cirt agus Comhionannais nach mbeadh daoine óga faoi bhun 18 mbliana d'aois le bheith faoi choinneáil a thuilleadh in Foras Naomh Pádraig faoi dheireadh na bliana. An rún a bhí ann ná go rachadh gach duine óg chuig Campas Bahile an Oibricigh ina ionad sin. Cibé scéal é, sa méid go raibh gá fairsingiú agus atheagrú a dhéanamh ar Champas Bhaile an Oibricigh, beartaíodh go gcoinneofaí daoine óga i bPríosún Chruithneachtáin mar réiteach eatramhach. Thug an tOmbudsman do Leanaí cuairt ar Phríosún Chruithneachtáin go luath i ndiaidh an fhógra sin agus d'aontaigh go raibh na háiseanna agus an córas i bhfeidhm ann níos oiriúnaí ná na cinn in Institiúid N. Pádraig. Ansin tháinig sí le chéile leis an gCoiste Oireachtais um Shláinte agus Leanaí chun a cúiseanna imní a chur in iúl faoin easpa dul chun cinn a bhí déantar ar thionscadal Bhaile an Oibricigh. Athluaigh an tOmbudsman a cúiseanna imní faoin tábhacht a bhain le gach duine óg faoi bhun 18 mbliana d'aois as Institiúid N. Pádraig isteach in ionad ina mbeadh an córas ann níos láraithe ar an leanbh.

In 2013 rinne an Oifig obair ar roinnt gearán agus tá roinnt díobhsan sonraithe sna cás-staidéir thíos. Tá sé tábhachtach aitheantas a thabhairt don chúnamh a chuir Stiúrthóir na bPríosún ar fáil agus bhí plé cuiditheach idir a fhoireann go léir, Gobharnóir Institiúid Naomh Pádraig san áireamh, leis an Oifig seo an t-am ar fad. Anuas air sin, bhí idirchaidreamh ann idir an OCO de réir mar ba chúil le Cigire na bPríosún.

Gearán i ndáil le hionsaí ar dhuine óg in Institiúid Naomh Pádraig

An gearán

Bhí máthair i dteagmháil leis an Oifig i ndáil le rud a tharla dá mac agus é in institiúid Naomh Pádraig. D'ionsaigh duine eile a bhí faoi choinneáil san Institiúid a mac, agus gortaíodh go holc é. Tugadh a mac isteach san Aonad Timpistí agus Éigeandála agus ina dhiaidh sin chuir foireann leighis an phríosúin cóireáil bhreise air agus choinnigh súil air. Chuir an máthair

in iúl gur tharla a leithéid trí huaire dá mac ó thosaigh sé a thréimhse in Institiúid Naomh Pádraig dhá mhí roimhe sin.

Chuir an Mháthair in iúl nár inis údaráis an phríosúin di siúd gur ionsaíodh a mac agus gur cuireadh san ospidéal é agus nár cuireadh í féin ná a teaghlach ar an eolas faoin tarlú, ná gur gortaíodh a mac, go dtí gur thug siad cuairt air go luath ina dhiaidh sin.

Agus scrúdú á dhéanamh ar an ngearán, chuir an mháthair in iúl gur tharla ionsaí eile dá mac agus é i bhForas Naomh Pádraig. Anuas ar na saincheisteanna leighis, bhí an mháthair míshásta freisin leis an líon íseal cuairteanna a bhí ceadaithe don teaghlach agus a mac faoi choinneáil istigh agus gur laghdaíodh an líon sin, nó gur tarraingíodh siar iad, mar thoradh ar thuarascálacha smachta a bhí scríofa, tuarascálacha ar a dtugtar P19, i gcoinne a mic.

Scrúdú OCO

Rinne an OCO réamhscrúdú ar an ngearán agus dhírigh an scrúdú sin ar roinnt saincheisteanna, lena n-áirítear:

- An easpa teagmhála le tuismitheoirí ó údaráis an phríosúin i gcás gortuithe tromchúiseacha agus faoin ionsaí a tharla do dhuine faoi bhun aois 18;
- Leibhéal na hairde leighis a thugtar ar dhuine óg; agus
- Easpa cuairteanna oscailte teaghlaigh le linn thréimhse choinneála an duine óig agus tarraingt siar a phribhléidí mar thoradh ar smachtbhannaí ag eascairt ó thuarascálacha P19.

Tar éis réamhscrúdú substainteach a dhéanamh ar an ngearán, lena n-áirítear cruinniú leis an duine óg agus leis an teaghlach tar éis é a scaoileadh as an institiúid, chinn an OCO go raibh dóthain faisnéise ar fáil chun cinneadh a dhéanamh.

Bhí imní ar an OCO nár cuireadh an tuismitheoir ar an eolas faoi ionsaí a tharla ar a mac. Bhí imní uirthi freisin nár cuireadh eolas imleor ar fáil do theaghlaigh faoi chuireanna príosúin. Rinne an OCO moltaí, a chuir sí faoi bhráid Ghobharnóir Institiúid Naomh Pádraig bunaithe ar na cúiseanna imní seo.

Moltaí

Mhol an OCO go ndéanfaí scrúdú arís ar an gceist faoi chuireanna teaghlaigh a dhiúltú do dhaoine san institiúid mar ghníomh smachta. I bhfianaise leochaileacht daoine óga faoi bhun 18 i dtimpeallacht ina bhfuil siad faoi choinneáil, tá an OCO den tuairm gur chóir go dtacófaí leis an teagmháil leis an teaghlach agus go n-éascófaí an teagmháil sin agus nár chóir d'úsáid an P19 mar ghníomh smachta dul i bhfeidhm go míréireach ar na cuairteanna sin.

Bhí Gobharnóir Institiúid N. Pádraig dearfach mar gheall ar na moltaí agus leasaigh sé na treoracha don fhoireann tar éis mholtaí an OCO a fháil i ndáil le teagmháil le tuismitheoirí, le cumarsáid a bheith níos soiléire agus le go ndéanadh Seirbhís Príosúin na hÉireann scrúdú arís ar úsáid P19.

Gearán i ndáil le riachtanais mheabhairshláinte ag duine óg in Institiúid N. Pádraig

An gearán

Rinne máthair teagmháil leis an OCO faoina mac, a bhí faoi bhun 18 mbliana d'aois agus a bhí faoi choinneáil in Institiúid N. Pádraig. Bhain an chéad chomhfhreagras uathí le cúiseanna imní a bhí aici faoi fholláine shíciatrach a mic – ar tráchtadh air agus an breitheamh ag gearradh tréimhse phríosúnachta air. Bhí sí buartha freisin faoi ghiuirléidí pearsanta a mic ag an bpríosún agus faoin gcaoi a raibh na hoifigigh sa phríosún ag caitheamh leis tar éis gur cuireadh ina leith gur ionsaigh sé ball d'fhoireann an phríosúin.

Imscrúdú an OCO

Sa chéad teagmháil ag an Oifig le húdaráis an phríosúin bhí na húdaráis ina ann a léiriú don Oifig go rabhthas ag freastal ar riachtanais shíciatracha an duine óig sa phríosún, agus go rabhthas tar éis é a atreorú chuig seirbhísí síciatracha Institiúid N. Pádraig agus go raibh sé tar éis freastal ar a choinní leis na seirbhísí sin ó thosaigh a thréimhse san institiúid.

Mar sin, dhírigh an OCO go príomha ar an ngearán leis an bpríosún gur cuireadh ionsaí i leith an duine óig agus d'fhiosraigh an OCO an t-imscrúdú a rinne an príosún i ndiaidh na líomhna sin. Lorg an Oifig sonraí faoi chóras inmheánach imscrúdaithe na hOifige agus faoin gcaoi a ndearna siad imscrúdú ar an ionsaí líomhanta agus ina dhiaidh sin scríobh sí chuig institiúid N. Pádraig ag cur in iúl nach raibh sí sásta le gnéithe áirithe den imscrúdú inmheánach a rinne siad.

Sa mhéid gur bhain an gearán le líomhaintí gur ionsaigh an duine óg oifigigh sa phríosún, mhol an OCO go ndéanfadh an Gobharnóir an cheist a atreorú chuig Cigire na bPríosúin agus go ndéanfaí athscrúdú ar an ngearán trí úsáid a bhaint as córas láimhseála gearán nua Chatagóir A atá i bhfeidhm ag Seirbhís Príosún na hÉireann, a tháinig i bhfeidhm i mí na Samhna 2012.

Glacadh leis an moladh seo agus chomh luath agus a bhí imscrúdú déanta ar an ngearán trí Chatagóir A faoi ghnáthaimh nua SPÉ, rinne an Oifig seo athbhreithniú ar thuarascáil an imscrúdaithe sin. Scríobh an OCO chuig Ard-Stiúrthóir SPÉ ag cur in iúl go raibh roinnt saincheistanna ar ghá imscrúdú breise a dhéanamh orthu.

Bhí an OCO sásta leis na torthaí agus leis na moltaí a rinneadh sa chéad tuarascáil eile i ndáil le dea-chleachtas a bheadh le leanúint amach anseo.



Imscrúduithe

Seo thíos roinnt de na imscrúduithe a d'fhoilsigh an Oifig in 2013.

FSS – pleanáil agus soláthar iarchúraim

An gearán

Fuarthas gearán ó ghairmí a bhí ag obair le duine faoi mhíchumas intleachtach, agus a bhí 17 mbliana d'aois. Bhain an gearán le pleanáil agus soláthar iarchúraim a chuir Feidhmeannacht na Seirbhís Sláinte ar fáil. Bheadh an duine óg seo 18 i gceann dhá mhí agus chuir an gearánach in iúl go raibh imní uirthi faoin mhoill fhada agus faoin éiginnteacht leanúnach i ndáil le hoideachas agus socrúchán cónaitheach a sholáthar don duine óg. Ag an uair bhí an duine óg ag cónaí in ionad cónaitheach de chuig FSS do leanaí faoi chúram agus bhí an gearánach den tuairim, mar gheall ar mhíchumas an duine óig, go raibh gá síneadh a chur le tréimhse an tsocrúcháin ionas go bhféadfaí an duine óg a ullmhú leis an aistriú chuig iarchúram. Cibé scéal é, ní fhéadfaí é sin a cheadú go dtí go mbeadh socrúchán oiliúna/ oideachais faighte leis na Seirbhísí Míchumais.

Imscrúdú

Rinne an Oifig imscrúdú mar a ndearnadh athbhreithniú ar na comhaid chúig go léir agus mar ar reáchtáladh cruinnithe leis an ngearánach, leis an duine óg, lena haonad cónaitheach, le Rannóg Oibre Sóisialaí FSS, le seirbhísí míchumais FSS, le seirbhísí Cónaitheacha do Leanáí FSS agus leis an soláthraí seirbhísí iarchúraim ainmnithe ag FSS. Chinn an Oifig:

- Nár breithníodh iarchúram go dtí go raibh an duine óg beagnach 17 mbliana d'aois agus ní raibh sé sin ag teacht le beartas náisiúnta seirbhísí iarchúraim FSS maidir le fágáil agus iarchúram ina ndearbhaítear gur chóir tosú ar an bpleanáil chomh luath agus a shroicheann an duine óg 16 mbliana d'aois.
- Nár tugadh cuireadh do na Seirbhísí Míchumais páirt a ghlacadh sa phleanáil don iarchúram ag céim luath den phleanáil sin. Níor tugadh iad isteach sa scéal go dtí 7 mí roimh 18ú breithlá an duine óig. Chomh maith leis sin, níor ghlac na Seirbhísí Míchumais páirt ghníomhach sa phleanáil tar éis dóibh an cuireadh a fháil bheith páirteach.
- Nár chuir na Seirbhísí Míchumais isteach ar shocrúchán cónaitheach chomh luath agus a cuireadh iad ar an eolas faoi riachtanais an duine óig. Tar éis an t-iarratas seo a fháil, cuireadh ar feitheamh é i bhfianaise síneadh neamhcheadaithe a chur le socrúchán cónaitheach reatha an duine óig.
- Go raibh moill ann iarratas foirmiúil a dhéanamh don síneadh le socrúchán reatha cónaitheach an duine óig.

Chinn an Oifig go raibh gníomhartha Fheidhmeannacht na Seirbhíse Sláinte tar éis tionchar díobhálach a bheith acu ar an leanbh agus mar thoradh air sin nach raibh sé soiléir cén plean iarchúraim a bhí ann don duine óg. Cuireadh moill chomh maith le réiteach a fháil ar a cás. Go háirithe, gníomhartha nó neamhgníomhartha na Seirbhísí Míchumais i ndáil le cóiríocht chuí, thráthúil a fháil, rud a chuir moill leis an bplean iarchúraim agus a chuir leis an éiginnteacht.

Toradh

Tá an duine óg seo anois i gcóiríocht thacaithe, cuireadh é/í i dteagmháil le raon seirbhísí agus tá cúnaimh á chur ar fáil dó/di chun cuidiú leis/léi scileanna don mhaireachtáil neamhspleách a fhorbairt.

D'athdhearbhaigh FSS a thiomantas i leith a chinntiú go ndéantar daoine óga a atreorú chuig seirbhísí iarchúraim tráth atá cóngarach go leor ó thaobh ama dá 16ú breithlá, de réir an bheartais iarchúraim. Chomh maith leis sin, d'eagraigh FSS cruinnithe leis na Seirbhísí Leanaí agus Teaghlaigh, leis na Seirbhísí Míchumais agus leis na Seirbhísí Meabhairshláinte chun a chinntiú go mbeadh comhoibriú ann agus iad ag aithint riachtanais na leanaí faoi chúram ag céim luath agus chun ról agus freagrachtaí a shoiléiriú do na seirbhísí agus chun na seirbhísí sin a sholáthar.

De bhun mholtaí na hOifige seo, cuireadh plean iarchúraim i bhfeidhm don duine óg, a áiríonn soláthar cóiríochta/socrúcháin ainmnithe dó/di chomh maith le breisoideachas/breisoiliúint. Aistríodh í chuig árasán féin chuimsitheach atá buailte le teach arna rith ag soláthraí áitiúil seirbhíse míchumais.

FSS – cosaint agus leas leanaí

An gearán

Chuir Ball den Fhoireann Oibre Sóisialta sa Laoi Thuaidh gearán faoi bhráid na hOifige seo. Bhain an gearán le líon na gcásanna a bhain le leas agus cosaint leanaí a fuair an fhoireann dualgais agus na deacrachtaí a bhí acu freagairt don líon ard sin. Maíodh go raibh líon suntasach daoine óga ag feitheamh ar sheirbhís oibre sóisialta agus cé go rabhtas ag freastal ar dtús ar na leanaí is mó i mbaol, bhí líon ard leanaí i mbaol nach raibh siad in ann freastal orthu toisc easpa foirne. Tráth a ndearna siad teagmhail leis an Oifig seo bhí 147 cás ann nár sannadh oibre sóisialta dóibh agus d'áirigh sé sin cásanna le stádas Tosaíochta 1 d'fhaillí agus de mhí-úsáid ghnéasach.

Imscrúdú

Rinne an Oifig imscrúdú mar a ndearnadh athbhreithniú ar cháipéisíocht agus mar ar reáchtáladh cruinníú leis an ngearánach agus le hionadaithe ó réigiún Náisiúnta Theas Fheidhmeannacht na Seirbhíse Sláinte. Leagadh béim san imscrúdú ar roinnt cúiseanna móra imní lena n-áirítear:

- An líon cásanna ar an gcóras dualgais nach raibh oibrí sóisialta sannta dóibh – ceist a d'ardaigh an lucht bainistíochta Oibre Sóisialta go mion minic ó bhí 2007 ann.

- Cumas FSS an leibhéal iomchuí d’iarchúram a sholáthar do dhaoine a atreoraíodh mar sin chomh maith le hamlínte do chur i gcrích na bhfiosruithe tosaigh agus an measúnuithe tosaigh. Léirigh sé seo go raibh moill mhór le coinní a shocrú le leanaí agus a dteaghlaigh mar chuid den phróiseas seo.
- An tionchar ag an ualach oibre sóisialta. Díol suntais é gur mhol lucht áitiúil bainistíochta FSS i mí Márta 2010 nach raibh sé indéanta cleachtas oibre sábháilte, maith a sholáthar i réimse na hoibre sóisialta mar thoradh ar an ualach oibre.

Rinne an OCO roinnt moltaí a d’áirigh na moltaí seo a leanas:

- Go ndéanfaí iniúchadh seachtrach ar cháschomhaid mar ábhar práinne;
- Go sainaithneofaí aon bhearta ba ghá chun a chinntiú go bhféadfaí freagairt go hiomchuí agus go tráthúil do chásanna;
- Go mbeadh ionadaíocht mar ba chóir ag cásanna dualgais agus iontógála sa chomhad don iniúchadh;
- Go ndéanfaí soiléiriú ar na gnáthaimh cosanta leanaí i ndáil le seiceálacha líonra a dhéanamh;
- Go mbeartófaí ar an tsamhail/modh chun cinneadh a dhéanamh maidir leis an ualach oibre;
- Go gcuirfí feabhas ar an taifeadadh ar ghníomhaíocht ghairmiúil chun a chinntiú go mbeadh taifid chun dáta ann den ghníomhaíocht chliniciúil agus
- Go gcinnteofaí go mbeadh faisnéis chomhaimseartha ar fáil ar an gcóras cosanta leanaí chomh maith le cuntasacht phoiblí trí mheán na nAthbhreithnithe Leorgachta.

Toradh

Ghlac FSS leis na moltaí go léir agus chuir siad in iúl cad iad na céimeanna a bhí i gceist acu a chur i bhfeidhm chun dul i ngleic leis an scéal.

Sa fhreagra ó FSS áiríodh sonraí maidir leis na nithe seo a leanas: tabhairt isteach beartas iniúcháireachta comhad a áireoidh cásanna dualgais agus iontógála; tá athbhreithniú náisiúnta ar siúl ar leithdháileadh cásanna oibre sóisialta; tá grúpa oibre náisiúnta ag dul i ngleic le cad is ualach oibre réasúnta ann agus cuireadh moladh chun tosaigh maidir leis sin le go ndéanfaí é a fhaomhadh ar an leibhéal náisiúnta; tá obair leanúnach ar siúl i ndáil le feabhas a chur ar thaifeadadh na gníomhaíochta gairmiúla ar an leibhéal áitiúil agus tríd an córas nua náisiúnta ríomhairithe a úsáideann Oibrithe Sóisialta.

Tugadh isteach an tionscadal “Measuring the Pressure” le linn an imscrúdaithe mar a ndéantar sonraí a bhailiú gach mí ó fhoirne oibre sóisialta d’fhonn tomhas a dhéanamh ar an éileamh agus ar an soláthar ag céim an dualgais/an atreoraithe.

Ar deireadh thiar, is gá anailís riachtanas a dhéanamh i ndáil le cad iad na hacmhainní is gá agus cad é an t-atheagrú eagraíochta a mbeidh gá leis, nó aon treoir bhreise, chun dul i ngleic leis na heasnamh a sainaithníodh.

Tar éis athbhreithniú a dhéanamh ar an dul chun cinn maidir leis na moltaí, ar cuireadh tús leis i mí na Nollag 2013, scríobh an Oifig seo chuig an nGníomhaireacht um Leanáí agus an Teaghlach chun béim a leagan ar na cúiseanna imní faoin líon ard cásanna a bhí á n-atreorú chugainn, faoin ngá a bhí le modh bainistithe ualaigh oibre agus faoin ngá le soiléiriú a fháil ar na gnáthaimh don líonra chun a chinntiú go mbeifí ag cloí le Children First.

An Roinn Oideachais agus Scileanna – soláthar múinteoireachta acmhainne

An gearán

Fuair an Oifig dhá ghearán ó fhoinsí éagsúla ach a bhí bainteach lena chéile ó dhá mháthair a rinne gearán ar son na leanaí acu agus go háirithe faoi ghníomhartha de chuid na Roinne Oideachais agus Scileanna. Bhain an gearán acu le nár áiríodh Siondróm Down mar chatagóir ísealmhnicíochta den chatagóir riachtanais speisialta oideachais i gcritéir na Roinne.

I gcás go meastar leanbh a bheith sa chatagóir ísealmhnicíochta míchumais, bronnar uaireanta breise teagaisc acmhainne ar scoil do riachtanais an linbh áirithe sin. Faigheann na scoileanna na huaireanta breise sin anuas ar na blocuaireanta a fhaigheann siad faoin tSamhail Ghinearálta Leithdháileacháin (SGL) chun freastal ar leanbh le minicíocht ard míchumais.

Faoi SGL, tugtar blocuaireanta teagaisc do scoileanna bunaithe ar mhéid na scoile agus ar ghnéithe eile amhail inscne agus míchumas socheacnamaíoch sa scoil. Déantar na blocuaireanta seo a leithdháileadh ar scoileanna agus ansin beartaíonn na scoileanna féin ar conas freastal ar riachtanais na leanaí le minicíocht ard riachtanas speisialta. D'fhéadfaí an soláthar sin a dhéanamh trí theagasc i ngrúpaí beaga nó trí thacaíocht indibhidiúil a sholáthar don leanbh.

Mhaígh an bheirt tuismitheoirí nár cuireadh san áireamh, sa chóras reatha leithdháilte acmhainní teagaisc atá dírithe ar leanaí le míchumas éadrom, leanaí le Siondróm Down agus an tionchar aige sin ar a gcuid oideachais. Bhí an bheirt leanaí ag fáil tacaíocht oideachais trí SGL. Chuir na tuismitheoirí in iúl go raibh imní orthu nach raibh an teagasc i ngrúpaí beaga ag soláthar dóthain ama ionas go bhfretalófaí ar riachtanais speisialta a leanaí. Mhaígh siad freisin nár sainíodh leibhéal na tacaíochta arna soláthar trí SGL agus nach raibh sé ag brath ar líon na leanaí a raibh gá acu leis an tacaíocht sin. Is é sin le rá, ba chuma cibé acu an raibh tacaíocht de dhíth ar leanbh amháin nó ar 15 leanbh, ní chuirtear ach an méid céanna tacaíochta ar fáil.

Imscrúdú

Rinne an Oifig imscrúdú ar ghníomhartha na Roinne i ndáil le riar an tsoláthair do riachtanais speisialta oideachais do leanaí le Siondróm Down a fhreastalaíonn ar bhunscoileanna príomhshrutha.

Ag eascairt ón imscrúdú cinneadh an méid seo a leanas:

- Theip ar an Roinn Oideachais agus Scileanna socruithe a bhunú agus a choinneáil i bhfeidhm chun sruth eolais leanúnach a sholáthar le go mbeadh an Roinn ar an eolas go

hiomlán faoi dhul chun cinn leanaí le riachtanais speisialta oideachais lena n-áirítear go bhfreastalófaí ar leanaí le Siondróm Down faoi SGL.

- Theip ar an Roinn amscálaí a shocrú agus a bhainistiú do chur i gcrích éifeachtach athbhreithniú SFL. Tráth ar bunaíodh é in 2005, chuir an Roinn in iúl go ndéanfaí athbhreithniú tar éis 3 bliana de SFL a bheith i bhfeidhm. Cé gur tosaíodh an t-athbhreithniú féin in 2008, ghlac sé tuairim is 3 bliana é a chur i gcrích.
- Cuireadh moill shuntasach ar an Roinn maidir le tús a chur le gníomh críochnaitheach chun inniúchadh a dhéanamh ar chúiseanna imní tromchúiseacha arna n-ardú ag na Páirtithe Oideachais (go háirithe NCSE, NEPS, IPPN agus INTO) in athbhreithniú SGL agus chomh maith leis sin an aighneacht a rinne Down Syndrome Ireland i mí Dheireadh Fómhair 2010.
- Gníomhartha na Roinne i ndáil leis na nithe thuasluaite sa mhéid a ndeachaigh siad i bhfeidhm ar leanaí le Siondróm Down.

Mhol an Oifig seo gur chóir don Roinn:

1. Soláthar imleor a dhéanamh láithreach lena n-áirítear modh an tsoláthair. An toradh air seo a fhoilsiú go poiblí, lena n-áirítear aon amscálaí bainteacha don chur i bhfeidhm.
2. Tuarascáil Athbhreithniú SGL a fhoilsiú chomh maith leis na gníomhartha atá beartaithe a chur i gcrích nó idir lámha chun na moltaí a thagann chun solais a chur i bhfeidhm, maille leis na hamscálaí bainteacha.
3. Socruithe a dhéanamh chun monatóireacht lárnach a dhéanamh ar an tionchar a bheadh ag bearta breise tacaíochta ar dhul chun cinn oideachais na leanaí a bhfuil riachtanais speisialta oideachais acu, Siondróm Down san áireamh.
4. Athbhreithniú a dhéanamh ar ghnáthaimh ionas go bhféadfaí breithniú a dhéanamh ar aon saincheistanna a thioctadh chun cinn i ndáil leis an gcatagóir riachtanais speisialta agus dul i ngleic leo go tráthúil.

Toradh

Mar fhreagra air seo mhol an Roinn go mbunóidís Meitheal chun togra a fhorbairt do shamhail nua leithdháilte acmhainní a dhíreoidh ar acmhainní breise leithdháileadh ar leanaí de réir a leibhéil riachtanais seachas de réir na catagóire míchumais. Tá an Oifig ar an eolas, bunaithe ar ráiteas ón Aire, go bhfuil sé i gceist ag an Meitheal tuairisc a chur ar fáil ag deireadh an earraigh 2012 agus gur dócha go nglacfaidh sé bliain eile ina dhiaidh sin na moltaí go léir a chur i bhfeidhm. Pointe dearfach le meabhrú ná dearcadh NCSE go n-éireoidh leis an tsamhail nua a thabharfar isteach deacrachtaí a shárú a bhaineann le freastal ar leanaí faoi mhíchumais éadroma foghlama, lena n-áirítear leanaí le Siondróm Down, a bhfuil deacrachtaí sa bhreis acu agus ar ghá freastal orthu de réir a leibhéil riachtanais.

Ina dhiaidh sin scríobh an tOmbudsman do Leanáí chuig an gComhchoiste Oireachtais um Oideachas agus Cosaint Shóisialta chun cúiseanna imní a chur in iúl maidir leo seo a leanas:

- an chaoi a mbeidh tionchar aige seo go léir ar leanaí le Siondróm Down san idirlinn agus an chaoi a rachaidh sé i bhfeidhm ar a gcumas an pháirt is mó agus is féidir a ghlacadh sa bhunscolaíocht phríomhshrutha.
- leorgacht na dtograí ag an Roinn i ndáil le monatóireacht a dhéanamh ar an tionchar a bheadh ag tacaí breise. Sa mhéid go bhfuil samhail nua de leithdháileadh acmhainní le tabhairt isteach, tá an tOmbudsman do Leanaí den tuairim go bhfuil gá le meicníochtaí lárnacha monatóireachta d'fhonn meastóireacht a dhéanamh ar an tsamhail agus ar an gcur chuige nua. Ní féidir dul i ngleic go sásúil le ceist an tsoláthair chothroim seirbhíse ach trí mhonatóireacht lárnach mar sin a dhéanamh.

An Roinn Oideachais agus Scileanna – soláthar oideachais

An gearán

Fuair an OCO gearán freisin ó Chaomhnóir ad Litem (GAL) i ndáil le soláthar oideachais do leanbh dealaithe a bhí ag iarraidh tearmainn. Ag an uair bhí an leanbh 13, agus eisiadh an leanbh sin go buan ón scoil. D'ainneoin go ndearna an Bord Náisiúnta Leasa Oideachais (BNLO) agus oibrí sóisialta an linbh iarratas le tuairim is 30 scoil sa scoilcheantar agus go ndearnadh achomharc amháin Alt 29, níor éirigh leo áit scoile a fháil don leanbh. Cheadaigh an Roinn naoi huair in aghaidh na seachtaine de Theagasc sa Bhaile (de réir Chiorclán M29/95 de chuid na Roinne Oideachais agus Scileanna is é 28 n-uair na huairanta íosta teagaisc in aghaidh na seachtaine in iar-bhunscoil) le haghaidh an linbh le linn na tréimhse seo. Mhaígh SGL gur theip ar an Roinn ina freagracht áit scoile a sholáthar don leanbh agus go raibh tionchar díobhálach ag an eisiadh neamhdheonach seo ón scoil ar fhorbairt shóisialta agus acadúil an linbh.

Imscrúdú

Mhaígh an Roinn go raibh sí toileánach go ndéanfaí achomharc Alt 29 in aghaidh gach cinn de bheagnach 30 scoil a dhiúltaigh áit a chur ar fáil don leanbh agus nach bhfuil aon fhreagracht orthu ná aon mhodh acu chun iallach a chur ar scoil glacadh le haon leanbh. Cibé scéal é, is é dhá mhí an fad caighdeánach ama a thógann sé Achomharc amháin Alt 29 a chur i gcrích agus ní féidir dhá cheann a bheith ar siúl i gcomhthráth lena chéile. De bhreis air sin, mhaígh an Roinn go bhféadfadh FSS bheith tar éis iarratas a dhéanamh an líon uaireanta de Theagasc sa Bhaile a mhéadú sa chás seo go dtí breis is 9 n-uair in aghaidh na seachtaine, cé nach raibh faisnéis faoin gcineál sin de réiteach ar fáil go héasca.

Toradh

Tugadh áit scoile don leanbh seo tar éis dhá bhliain lasmuigh den chóras agus dar leis na tuairiscí tá ag éirí go maith leis, tar éis tús deacair.

Chinn an OCO go raibh tionchar díobhálach ag an neamhláithreacht dhá bhliain scoile ar an leanbh. Mhol an OCO go ndéanfaidh an Roinn, i gcomhar leis an nGníomhaireacht um Leanaí agus an Teaghlach, beartas sonracha maidir le soláthar oideachais a fhorbairt do leanaí faoi chúram. Chinn an OCO freisin go mbeadh sé iomarcach líon ard d'achomhairc Alt 29 a dhéanamh agus go gcuirfeadh sé sin ualach riaracháin rómhór ar FSS agus ar an Roinn

agus mhol sé freisin go mbeadh próiseas malartach achomhairc ann mar chuid den Bhille Oideachais (Ligean Isteach ar Scoil). Tá na moltaí seo go léir á mbreithniú ag an Roinn mar cuid den chomhairliúchán leanúnach faoin mBille seo.

Chomh maith leis sin, measadh go raibh cur i bhfeidhm docht fhorálacha na Scéime um Theagasc sa Bhaile mar idirghabháil ghearrthéarmach, thar thréimhse dhá bhliain, ina chleachtas neamh-inmhianaithe riaracháin agus moladh go ndéanfaí athbhreithniú ar fheidhmiú agus ar riar na Scéime sin. Tá sé seo fós á bhreithniú ag an Roinn.

An Scéim um Cúram agus Oideachas na Luath-óige (SCOL) – soláthar do leanaí a bhfuil riachtanais speisialta acu

An gearán

Fuair an Oifig gearán ó thuismitheoir linbh a bhfuil riachtanais speisialta aige i ndáil le soláthar SCOL – idir infhaighteacht an dara bliain agus tacaí do chuimsiú an linbh sa réamhscoil. Bhí an leanbh ag freastal ar an réamhscoil ag an uair ach ansin ní raibh sé in ann freastal ar an réamhscoil go lánaimseartha mar nach raibh na tacaí riachtanacha ar fáil.

Imscrúdú

I bhfianaise na gceisteanna a d'ardaigh an gearánach i ndáil le cuimsiú an linbh sa réamhscoil agus an tionchar díobhálach a d'fhéadfadh a bheith aige sin ar an leanbh, breathnaíodh ar an nithe seo a leanas san imscrúdú:

- gníomhartha Oifig an Aire Leanaí agus Gnóthaí Óige (an Roinn Leanaí agus Gnóthaí Óige ina dhiaidh sin) i ndáil leis an teip cead a thabhairt don leanbh leas a bhaint as an dara bliain ar an réamhscoil faoi SCOL; an chaoi ar cuireadh eolas faoin scéim in iúl; an leibhéal idirchaidrimh, comhoibrithe agus cumarsáide a bhí ann idir OMCYA agus FSS i ndáil leis an scéim.
- gníomhartha FSS i ndáil le hinfaighteacht tacaíochta réamhscoile; an fháil ar sholáthar malartach; agus an leibhéal idirchaidrimh, comhoibrithe agus cumarsáide a bhí ann idir OMCYA agus FSS i ndáil leis an scéim.
- gníomhartha na hOifige um Míchumas agus Meabhairshláinte i gcomhordú na cuimsitheachta réamhscoile do leanaí faoi mhíchumas.

Sa mhéid gur bhain an gearán le ról dhá chomhlacht phoiblí i soláthar seirbhíse “aontaithe” réamhscoile don leanbh, dhírigh an t-imscrúdú ní hé amháin ar ghníomhartha na gcomhlachtaí poiblí faoi seach, ach ar an gcomhordú trasearnála a bhí follasach i ngníomhartha na gcomhlachtaí poiblí a bhféadfaí a mheas go raibh tionchar acu ar chuimsiú an linbh.

Ar cheann de na saincheisteanna a sainaithníodh trí mheán an imscrúdaithe bhí an neamhchomhseasmhacht sa leibhéal tacaíochta ar fáil ar bhonn náisiúnta; go háirithe an cúnamh tacaíochta réamhscoile chun a chinntiú go ndéanfaí leanaí faoi mhíchumas a chuimsiú a mhéad agus is féidir ar scoil.

I mí Aibreáin 2010 bunaíodh Meitheal trasearnála chun creat a fhorbairt d'imeascadh leanaí faoi mhíchumas i suíomhanna réamhscoile. Chinn an Mheitheal seo go mbíonn an-éagsúlacht ann i gcineál agus méid na tacaíochta a chuireann FSS ar fáil ar fud na tíre. Cinneadh dá réir maidir leis na socruithe reatha do chuimsiú leanaí faoi mhíchumas i suíomhanna réamhscoile nach raibh na seirbhísí sin comhsheasmhach agus anuas air sin, nach raibh siad cothrom agus nach raibh siad ag freastal go himleor ar riachtanais leanaí. Rinneadh roinnt moltaí maidir le cur i gcrích na tuarascála.

Le linn imscrúdú an OCO tugadh faoi deara nach raibh aon dul chun cinn déanta ar na moltaí seo. Amhail mí Márta 2013, 2 bhliain tar éis an chruinnithe dheireanaigh leis an Meitheal, ní raibh aon phlean don chur i bhfeidhm dréachtaithe go fóill, ní raibh aon amlíne ar bun agus ní rabhthas tar éis teacht ar aon chomhaontú faoi cén Roinn a dhéanfadh stiúradh ar an gcur i bhfeidhm.

Toradh

De bhun an imscrúdaithe cuireadh SCOL ar fáil don leanbh don dara bliain ar bhonn pro rata agus fuair an leanbh tacaí cúnamh réamhscoile don dara bliain ó Fheidhmeannacht na Seirbhíse Sláinte.

Mhol an OCO go nglacfaí céimeanna chun dul chun cinn a dhéanamh ar na nithe a bhí fós le socrú ag eascairt as moltaí na Meithle. Mar fhreagra air sin cuireadh in iúl don Oifig gur bunaíodh foghrúpa ar a mbeadh an Roinn Sláinte, Leanaí agus Gnóthaí Óige, an Roinn Oideachais agus Scileanna agus Feidhmeannacht na Seirbhíse Sláinte chun mionscrúdú a dhéanamh ar an tuarascáil agus chun breithniú níos sonraí a dhéanamh ar na moltaí. Thosaigh an foghrúpa seo ag teacht le chéile i mí Bealtaine 2013.

Rinneadh dul chun cinn i ndáil le roinnt moltaí, go háirithe maidir le hoiliúint agus gnóthú scileanna i measc na foirne réamhscoile. Chomh maith leis sin, tá gealltanais i gCreat Náisiúnta Beartais do Leanaí agus Daoine Óga 2014-2020 maidir le plean a fhorbairt do chuimsiú leanaí faoi mhíchumas i suíomhanna réamhscoile príomhshrutha agus an dara bliain réamhscoile saor in aisce a thabhairt isteach chomh luath agus a bhaintear amach caighdeán cháilíochta agus ar an gcoinníoll go bhfuil na hacmhainní ar fáil chuige.

Cibé scéal é, chuir an Oifig a míshástacht in iúl maidir leis an easpa dul chun cinn i ndáil le tuarascáil na Meithle go háirithe ar cheist an tsoláthair oideachais réamhscoile do leanaí a bhfuil cúram agus tacaíocht fhisiceach de dhíth orthu. Scríobh an Oifig ina dhiaidh sin chuig Ard-Rúnaí na Roinn Sláinte agus na Roinne Leanaí agus Gnóthaí Óige. Tá an mheitheal athbhunaithe fós ag teacht le chéile agus níl réiteach faighte ar an scéal seo go fóill.

Cás-staidéir

FSS – An Scéim um Thinneas Fadtéarmach (TF)

An gearán

Fuair an OCO gearán faoi mháthair bheirt bhuachaillí óga a bhfuil Neamhord Hipirghníomhaíochta an Easnaimh Airde orthu. I mí an Mheithimh 2013, diúltaíodh leabhair Tinnis Fhadtéarmaigh don bheirt bhuachaillí. Mhínigh sí go raibh cóir leighis ag teastáil ón mbeirt acu chun cuidiú leo a n-aird a choinneáil ar an obair agus iad ar scoil agus ní raibh sé d'acmhainn aici íoc as na gcóir leighis agus as na hidirghabhálacha gan tacaíocht ón scéim TF.

Mhínigh an mháthair an réasúnaíocht ba bhun le gur dhiúltaigh FSS an tacaíocht seo di agus go rabhtas tar éis treoir a thabhairt do gach ball de FSS i meabhrán a scaipeadh an 1 Bealtaine 2013 stop a chur le heisiúint leabhair TF do chliaint nua bunaithe ar dhiagnóis Neamhord Hipirghníomhaíochta an Easnaimh Airde ón dáta sin amach. An chúis a tugadh ná go rabhtas ag breithniú cibé acu an bhféadfaí ADHD a rangú mar thinneas meabhairshláinte faoin Scéim nó nach bhféadfaí agus bhí an cheist seo curtha faoi bhráid na Roinne Sláinte. Déanfar é seo a bhreithniú i gcomhthéacs athbhreithniú na Scéime TF mar chuid den Chlár Rialtais.

Imscrúdú an OCO

Chuir an Oifig seo cúiseanna imní na Máthar faoi bhráid FSS Náisiúnta agus rinne réamhscrúdú ar an ngearán. Mar fhreagra air sin, luaigh FSS, mar fhreagra ar an OCO, go raibh athbhreithniú á dhéanamh ar na critéir incháilitheachta le haghaidh an Chárta TF agus go raibh sé i gceist acu treoirlínte náisiúnta a fhorbairt agus a eisiúint do riar comhsheasmhach na Scéime TF roimh dheireadh mhí Dheireadh Fómhair 2013. Gheall siad go ndéanfaidís scrúdú athuair ar iarratas na máthar ag an staid sin.

Mar chríoch lena rannpháirt sa scéal, rinne an Oifig roinnt moltaí maidir leis na treoirlínte nua oibríochtúla i ndáil le ADHD agus leis an scéim Tinnis Fhadtéarmaigh.

Luaigh an Oifig go raibh cúiseanna imní aige faoin tíochar a bheadh aige seo ar theaghlaigh sa mhéid go raibh éagothroime ann idir na hiarratasóirí nua agus reatha sa mhéid gur cuireadh ar fionraí gach iarratas nua fad is atá an t-athbhreithniú idir lámha.

Toradh

Mar thoradh ar idirghabháil Oifig an Ombudsman do Leanaí, tugadh chun tosaigh iarratais na beirte agus ceadaíodh iad faoi na treoirlínte nua oibríochtúla.

Luaigh Feidhmeannacht na Seirbhíse Sláinte gur bogadh ar aghaidh go mear na hiarratais a bhí ar fionraí ó eisíodh na treoirlínte oibríochtúla. Chomh maith leis sin, ghlac FSS lenár moltaí i ndáil le hamscála réasúnta a shocrú do chur i gcrích aon athbhreithnithe amach anseo agus chuir FSS in iúl don OCO go raibh foirm iarratais nuashonraithe náisiúnta ann anois agus go raibh an fhoirm sin á cur i gcrích faoi láthair agus go rabhtas ag súil go gcuirfeadh an fhoirm sin comhsheasmhacht ar fáil.

Is mian le hOifig an Ombudsman do Leanaí aitheantas a thabhairt do na céimeanna réamhghníomhacha, dearfacha a ghlac Feidhmeannacht na Seirbhíse Sláinte ina leith seo.

Feidhmeannacht na Seirbhíse Sláinte – Seirbhísí Míchumais

An gearán

Baineann an gearán le duine óg faoi mhíchumas trom intleachta. Chuir a tuismitheoir in iúl nach bhfuil aon urlabhra ná tuiscint ag an iníon agus go mbíonn taomanna aici gach lá. D'fhreastail an duine óg seo ar sheirbhís faoisimh ach ní raibh an tseirbhís sin in ann freastal ar a riachtanais a thuilleadh agus atreoraíodh na tuismitheoirí chuig Bainisteoir Míchumais Fheidhmeannacht na Seirbhíse Sláinte chun comhairle agus maoiniú a fháil le go bhféadfaidís dul i ngleic le riachtanais an linbh.

Chuir na tuismitheoirí síos ar an easpa tacaíochta agus ar phráinn an scéil agus go mb'fhéidir nach mbeadh aon dul as acu ach a n-iníon a fhágáil thar oíche sa tseirbhís faoisimh seo cé nach raibh an tseirbhís sin in ann freastal ar riachtanais a n-iníne.

Imscrúdú an OCO

Ina comhfhreagras le Feidhmeannacht na Seirbhíse Sláinte d'fhiosraigh an Oifig seo cibé acu an raibh sé beartaithe acu iarracht réiteach a fháil ar an scéal ar an leibhéal áitiúil i bhfianaise an chaidrimh leanúnaigh idir iad agus an teaghlach i ndáil le soláthar tacaíochta agus teiripí don duine óg seo. Mhol an Oifig seo go ndéanfadh an gearánach agus Feidhmeannacht na Seirbhíse Sláinte iarracht caidreamh a bhunú arís ar bhealach comhoibritheach ag féachaint le réiteach a fháil ar dheacrachtaí an teaghlach seo. Mhol an OCO d'Feidhmeannacht na Seirbhíse Sláinte breithniú a dhéanamh ar na cúiseanna imní a ardaíodh agus ar an ngá a bhí ann le plé oscailte, iontaofa idir an dá pháirtí.

Toradh

Ghabh Feidhmeannacht na Seirbhíse Sláinte leithscéal leis an máthair as an moill freagairt dá gearán ag an tús agus gheall siad go ndéileálfai leis an gcás mar ábhar práinne. Eagraíodh cáschruinniú go luath ina dhiaidh sin chun cinntí a dhéanamh maidir le riachtanais an duine óig seo agus chun aontú ar conas freastal ar na riachtanais sin ar an mbealach is oiriúnaí agus ab fhéidir.

D'aontaigh FSS maoiniú a sholáthar do mheasúnú bliana cónaitheach le gníomhaireacht phríobháideach sláinte ag féachaint le cúram comhroinnte a sholáthar fad is a bheadh an idirghabháil ar siúl. Chuir an tuismitheoir in iúl gur athraigh sé seo an saol dá teaghlach agus go bhfuil sí den tuairim nach dtarlódh sé sin ach go ndearna an Oifig seo idirghabháil.

Feidhmeannacht na Seirbhíse Sláinte – áiteanna speisialta réamhscoile a sholáthar

An gearán

Fuair an OCO gearán ó mháthair, thar ceann a hiníne trí bliana d'aois, a bhfuil roinnt ríochtaí éagsúla uirthi a théann i bhfeidhm ar a forbairt. Mar thoradh air sin, bíonn gá aici le Teiripe Urlabhra agus Teanga, le Teiripe Saothair agus le Fisiteiripe. Bhí an gearánach ag súil go mbeadh an deis ag a hiníon freastal ar réamhscoil speisialta i réigiún FSS Theas, áit a

mbeadh fáil aici ar theiripí cuí. Cibé scéal é, d'aineoinn gur chomhlíon sí na critéir go léir le go mbeadh cead aici freastal ar réamhscoil agus d'aineoinn go raibh sí ar an liosta feithimh le tamall fada, níor tairgíodh áit di.

Bhí imní ar leith ar an máthair faoin úsáid a bhaint á bhaint ag Feidhmeannacht na Seirbhíse Sláinte as an bhfoirm, 'Priority Rating for Pre Schools', chun leanaí a chur in ord tosaíochta do réamhscoileanna speisialta sa limistéar. Bhí an gearánach den tuairim go ndearna an fhoirm idirdhealú éagórach ar roinnt leanaí, ó thaobh míchumais agus ar bhonn sóisialta de araon. Anuas air sin, mhaígh sí go ndéanann an córas scórála idirdhealú éagórach ar theaghlaiha a dhéanann iarracht an scéal a fheabhsú dá leanaí.

Imscrúdú an OCO

Chuir an Oifig seo cúiseanna imní na máthar faoi bhráid FSS agus rinne réamhscrúdú ar an ngearán. Dar le Feidhmeannacht na Seirbhíse Sláinte sháraigh an t-éileamh an líon áiteanna ar fáil, agus chuir siad in iúl go raibh ionadaithe ó gach disciplín páirteach i bhforbairt an Chórais Tosaíochta d'Áiteanna Réamhscoile chun bainistiú a dhéanamh ar iarratais agus chun áiteanna a chur in ord tosaíochta. Chuir siad in iúl freisin go ndéanfaidís athbhreithniú ar an gcóras ar bhonn bliantúil, agus go gcuirfidís an t-aiseolas a gheobhadís san áireamh.

Toradh

Mar thoradh ar idirghabháil an OCO, leasaíodh na critéir chun leanaí a chur in ord tosaíochta d'áit réamhscoile – go háirithe an fhoclaíocht agus an scóráil ar an gcuid chuí ionas go mbeidís níos cothroime do gach leanbh a bhí ag iarraidh áit a fháil ar réamhscoil speisialta.

Ag an gcéad chruinniú tosaíochta eile, sannadh áit ar an leanbh i réamhscoil do mhí Mheán Fómhair 2013.

An Roinn Coimirce Sóisialaí – iarratas ar Liúntas Míchumais

An gearán

Rinne an OCO athbhreithniú ar ghearán i gcoinne na Roinne Coimirce Sóisialaí (RCS) a rinne máthair ar son a hiníne, ar diúltaíodh Liúntas Míchumais di tar éis achomharc a dhéanamh leis an Oifig Achomharc Leasa Shóisialaigh (OALS). Tá a hiníon 16 bliana d'aois agus tá sí faoi mhíchumas meánach foghlama. Cé go maítear sna tuarascálacha gairmiúla go bhfuil sí ag freastal ar scoil speisialta ar bhonn sóisialta, seachas ar bhonn acadúil, diúltaíodh dá hiarratas ar an mbonn go raibh sí ag freastal ar scoil.

Tar éis don RCS an Liúntas Míchumais a dhiúltú ar dtús, chuir an mháthair tuarascálacha leighis cúig OALS chun tacú lena hachomharc. Dearbhaíodh sna tuarascálacha seo nach mbeadh sé riamh ar chumas a hiníne na Scrúduithe Stáit a dhéanamh; ní raibh sa scoil ach cineál Teiripe Saothair, agus ar an mbonn sin ba chóir an liúntas a thabhairt di. Dar le OALS, níor ceadaíodh an t-achomharc ar an bhforas gur féidir an Liúntas Míchumais a íoc 'le duine atá srianta go substaintiúil i ndéanamh oibre a bheadh oiriúnach don té sin, murach an míchumas, ag tagairt dá n-aois, dá dtairgí agus dá gcáilíochtaí.' Dar leis an OALS, bhí an

duine óg ag freastal ar scoil, a bhí ina ghairm iomchuí do dhuine den aois agus taithí sin agus leis na cáilíochtaí sin.

Imscrúdú an OCO

Chuir an Oifig tús le scrúdú tosaigh ar an ngearán agus scríobh chuig an RCS agus chuig OALS. Rinne an Oifig iarracht a dhéanamh amach cén réasúnaíocht ba bhun leis an gcaoi a raibh siad ag caitheamh leis an scoil amháil is dá mba gairm nó fostaíocht a bhí i gceist. Mar fhreagra ar fhiosruithe an OCO, dúirt OALS, tar éis dóibh an scéal a bhreithniú, go mbaineann an scéim Liúntais Míchumais le fostaíocht sa mhargadh oscailte. Luaigh siad, sa mhéid nach gcoisceann an reachtaíocht faighteoir Liúntais Míchumais ar rochtain a fháil ar oideachas, go raibh an chomparáid a rinne siad idir an scoil agus fostaíocht ina chomparáid mhícheart. De bhreis air sin, bhí go leor fianaise leighis ann a thabharfadh le fios go raibh srian substaintiúil ar an duine óg agus nach bhféadfadh sí obair a dhéanamh, ag tagairt dá haois, dá taithí agus dá cáilíochtaí, a d'fhéadfadh sí a dhéanamh d'éagmais a míchumais.

Toradh

De bhun réamhscrúdú an OCO, rinne an Príomhoifigeach Achomharc in OALS leasú ar an gcinneadh tosaigh agus cheadaigh achomharc na máthar. Ceadófar an Liúntas Míchumais dá hiníon anois ar bhonn seachtainiúil agus íocfar na riaráistí ó dháta a 16ú breithlái i leith (dáta ar cháligh sí don scéim). Mar sin, gheobhaidh a hiníon tuairim is €15,000 d'íocaíochtaí siarghabhálacha.

Tithíocht Údarás Áitiúil

An gearán

Bhain an gearán seo le gur theip ar an údarás áitiúil cóiríocht mhalartach a sholáthar do theaghlach d'ainneoin go raibh cúiseanna imní tromchúiseacha leanúnacha ann faoi fholláine agus faoi shábháilteacht a n-iníne, 15 bliana d'aois, atá faoi mhíchumas meánach foghlama, dá bhfanfaidís sa tithíocht ina bhfuil siad faoi láthair.

Bhí an teaghlach ar liosta feithimh, ó mhí Aibreáin 2010, le go n-aistreofaí iad chuig tithíocht nua agus ba dhuine óg a n-iníon a bhí i mbaol páirt a ghlacadh in iompraíocht ardbhaoil. Bhí cúiseanna imní ann go raibh úsáid ghnéasach á bhaint ag daoine sa cheantar as an gcailín seo. Sonraíodh na cúiseanna imní seo agus dhearbhaigh gairmithe don údarás áitiúil go raibh sé seo fíor. Ansin chuir an mháthair in iúl go raibh brú á chur ar a hiníon páirt a ghlacadh in iompraíocht fhrithshóisialta; go raibh iompraíocht fhrithshóisialta á dhéanamh i gcoinne an teaghlaigh agus na maoinne acu; agus chomh fada agus a d'fhan siad sa cheantar go mbeadh an teaghlach agus an leanbh i mbaol.

Imscrúdú an OCO

Tar éis don OCO réamhscrúdú a dhéanamh, d'eisigh an Oifig litir ag cur in iúl go réachtálfaí imscrúdú mura rachfaí i ngleic leis an scéal. Níor chuir an t-údarás áitiúil dóthain eolais ar fáil agus bhí ceisteanna fós le freagairt maidir leis na nithe seo a leanas:

- Tráth a raibh eolas ar fáil don Údarás Tithíochta faoi shábháilteacht an linbh, conas agus cathain ar breithníodh sábháilteacht agus leas an linbh sa phróiseas?

- Cad iad na céimeanna a ghlac an tÚdarás Tithíochta chun a beartas maidir le hiompraíocht fhrithshóisialta a chur i bhfeidhm, ag dul i gcomhairle leis na gníomhaireachtaí iomchuí (FSS agus na Gardaí) agus ag dul i ngleic leis na cúiseanna imní a ardaíodh?

Toradh

Tar éis a mholadh go ndéanfaí imscrúdú ar an scéal rinne an gearánach teagmháil leis an OCO chun a chur in iúl don Oifig go raibh an Chomhairle tar éis tithíocht a thairiscint don teaghlach i gceantar eile ina mbraithfeadh sí sábháilte.

Ina dhiaidh sin dhearbhaigh an Chomhairle go ndearna siad an tairiscint agus gur ghlac an teaghlach léi.

Meabhairshláinte

An gearán

Rinne duine óg 16 bliana d’aois teagmhail leis an Oifig chun gearán a dhéanamh gur cuireadh é in aonad d’othair chónaitheacha sa tSeirbhís Mheabhairshláinte do Leanaí agus Ógánaigh (SMLÓ) ar feadh 6 mhí nuair nach raibh gá leis sin. Bhí an duine óg den tuairim nach raibh gá aige leis an gcúram cónaitheach. Bhí foireann SMLÓ den tuairim freisin nach raibh gá aige le cúram cónaitheach. Cuireadh an duine óg san aonad sin tar éis géarchéim ghearrthéarmach; ach nuair a bhí an ghéarchéim sin thart, níor scaoileadh é amach chun fillleadh ar an mbaile agus níor ceadaíodh iarratais a rinne Feidhmeannacht na Seirbhíse Sláinte ar na haonaid chónaitheacha. Bhain a ghearán leis an méid ama a ghlac sé socrúchán iomchuí cónaitheach a aimsiú dó, go háirithe ceann a bhí cóngarach go leor d’áras an teaghlach ionas go mbeadh an teaghlach is ann teacht agus cuairt a thabhairt air.

Imscrúdú an OCO

Rinne an OCO athbhreithniú ar an eolas a cuireadh ar fáil ar dtús agus i bhfianaise ainspianacht an ghearáin, chinn an OCO feidhmiú go gasta ar an gcás agus cruinnithe duine le duine a lorg le foireann Oibre Sóisialta Fheidhmeannacht na Seirbhíse Sláinte a bhí ag plé leis an ngearánach agus le foireann SMLÓ a bhí ag déanamh cúraim den ghearánach

Toradh

Go luath tar éis idirghabháil an OCO, fuarthas áit don duine óg in aonad a bhí i bhfad níos oiriúnaí chun freastal ar a riachtanais.

Fócas ar shaincheisteanna téamacha

Chuir an Oifig san áireamh freisin raon saincheisteanna nua a cuireadh faoina bráid, a mb’fhéidir nach leor iad chun imscrúdú a dhéanamh, ach ar cúis imní iad fós féin agus nár mhiste iad a iniúchadh go pointe áirithe.

Sin mar a sheas an scéal le linn 2013 agus seo a leanas sa chéad rannóg eile roinnt de na ceisteanna a ndearnadh imscrúdú orthu.

1. Fóram Gearáin & Imscrúduithe

Chomh maith leis na cruinnithe oibríochtúla, faoi fheidhm Gearán na hoifige, tháinig baill d'fhoireann shinsearach an OCO le chéile gach mí chun a chinntiú go mbainfí an leas is éifeachtaí agus ab fhéidir as na cumhachtaí atá ag an Oifig faoin Acht um Ombudsman do Leanaí (2002) agus an Oifig ag freagairt do shaincheisteanna téamacha arna n-ardú leis an oifig. Féachadh, trí mheán an fhórait sin, le saineolas comhthiomsaithe bhaill foirne na hOifige a úsáid chun dul i ngleic leis na saincheisteanna sin ar léir nach raibh faoi scáth réimse ar leith.

Is é aidhm an fhórait iniúchadh a dhéanamh ar shaincheisteanna a chuirtear faoi bhráid na hOifige ach nach ndéantar déileáil leo mar ghearáin ar leithligh. D'áireofaí ina measc saincheisteanna

- nach léir go dtagann siad faoi scáth na rannóige gearán agus imscrúduithe;
- ar féidir dul i glic leo mar ghearáin indibhidiúla ach a bhféadfaí toradh níos fearr agus níos tráthúla a bhaint amach dóibh trí leas a bhaint as cumhachtaí an OCO faoi ailt eile den Acht seachas an chuid den Acht a bhaineann le gearáin agus imscrúduithe;
- a chuirtear go díreach faoi bhráid an Ombudsman do Leanaí lasmuigh den fhormaid a bhaineann le gearáin; nó
- a leagtar béim orthu laistigh dár n-obair reachtúil nó chumarsáide.

Tháinig an Fóram seo le chéile le linn 2013 agus cuireadh i bhfeidhm roinnt de na moltaí a rinneadh maidir leis na saincheisteanna, mar atá sonraithe thíos:

- *Glacadh le hÁrachas Sláinte do leanaí* – Ardaíodh cúis imní leis an Oifig seo i ndáil le saincheist ar leith a bhain le clúdach árachais do leanaí a raibh riocht leighis réamhbheitheach orthu. De réir dealraimh, i gcás go bhfuil polasaí príobháideach árachais sláinte ag tuismitheoir, de ghnáth níl leanbh a uchtaítear clúdaithe i leith na ríochtaí leighis sin ar feadh tréimhse cúig bliana. Seo i gcomparáid le leanbh a rugadh do na tuismitheoirí le polasaí árachais, agus bheadh na leanaí sin clúdaithe go huathoibríoch is cuma cibé riocht leighis a bheadh acu.

De réir na reachtaíochta a chlúdaíonn an réimse seo, níl sé de cheangal leanaí uchtaithe a chlúdach i bpolasaí árachais ar an gcaoi chéanna le leanaí a bheirtear sa teaghlach sin. Sonraítear i Rialacháin a rinneadh faoin Acht Árachais Sláinte, 2004 – arna leagan amach in I.R. 332 de 2005 - na tréimhsí uasta feithimh do chlúdach árachais do ríochtaí réamhbheitheacha; is faoi na soláthraithe árachais sláinte iad féin beartú ar cibé acu tréimhse feithimh a fhorchur nó gan é sin a dhéanamh nó beartú ar thréimhse feithimh níos giorra a fhorchur má theastaíonn uathu.

Chomh maith leis sin, féadfaidh tuismitheoirí a bhfuil an polasaí ábhartha árachais acu aon leanbh a rugadh dóibh a chur láithreach bonn ar an bpolasaí sin; ní gá dóibh athnuachan a dhéanamh ar an bpolasaí nó an polasaí a leasú láithreach. Is cosúil nach bhfuil sé seo amhlaidh i gcás polasaithe árachais tuismitheoirí leanaí a uchtaítear.

Ina fhianaise seo, rinne an Oifig teagmháil leis an Aire Sláinte agus mhol go ndéanfaí leasú ar na Rialacháin arna leagan amach in I.R. 332 de 2005 ionas go gceadófaí eisceacht le haghaidh leanaí uchtaithe don phrionsabal ginearálta a bhaineann le ríochtaí réamhbheitheacha leighis gan a beith clúdaithe, agus chun go ndéanfaí foráil le go bhféadfaí leanaí uchtaithe a chur ar pholasaithe árachais a dtuismitheoirí sa chaoi chéanna le leanaí a rugadh don teaghlach sin. Bhí an t-aiseolas dearfach ina leith seo agus cuireadh in iúl go bhfuil na saincheistean a d'ardaigh an OCO atreoraithe anois chuig an bhFoghrúpa um an bhFóram Comhairliúcháin maidir le hÁrachais Sláinte a scrúdaíonn saincheistean reachtúla.

- *Seirbhísí ortódótacha do dhaoine óga* – Fuair an Oifig gearáin faoi fhad na liostaí feithimh do dhaoine óga i gcatagóirí áirithe, a chiallaigh go praiticiúil nach bhfaighidís riamh cúram fiacloireachta. Rinne an Oifig teagmháil leis an Roinn Sláinte a chuir in iúl don Oifig go raibh Príomhoifigeach Fiacloireachta nua fostaithe agus i measc na hoibre a bheadh mar chúram ar an bPríomhoifigeach sin bheadh athbhreithniú ar ghnéithe áirithe den bheartas a bhaineann le sláinte béil.

Ó shin i leith bhí an Oifig i dteagmháil leis an bPríomhoifigeach Fiacloireachta ag féachaint lena thuairim a fháil i ndáil leis an cúiseanna imní a d'ardaíomar.

- *Rochtain ar phornagrafaíocht trí thimpiste* – Bhí roinnt tuismitheoirí buartha go raibh sé chomh héasca sin do leanaí óga rochtain a fháil ar phornagrafaíocht trí thimpiste. Bhí plé againn leis an Roinn Cumarsáide, Fuinnimh agus Acmhainní Nádurtha chun an cheist a phlé leo faoi scagadh a dhéanamh ar ábhar idirlíne agus chun breac-chuntas a fháil uathu ar a mbeartas ina leith sin. Tá súil á choinneáil againn ar an scéal faoi láthair.
- *An fhreagracht atá orthusan a fhaigheann cóiríocht ar cíós ó Údarás Áitiúla* – Maidir le ceist na tithíochta, thug an Oifig seo faoi deara go bhfuil difríocht ann sna leibhéil freagrachta atá orthusan a fhaigheann cóiríocht ar cíós ó údarás áitiúla agus orthusan a fhaigheann cóiríocht ar cíós ar bhonn príobháideach. Is cosúil go bhfuil dliteanas níos mó ar thionóntaí an Údarás Áitiúil ná mar atá orthusan a fhaigheann cóiríocht ar cíós ó Thiarna Talún ar bhonn príobháideach, maidir le míreanna a athsholáthar sa teach acu i gcás go ndéantar damáiste dóibh, mar thoradh ar iompraíocht fhrithshóisialta, bíodh sin ina iompraíocht fhrithshóisialta a raibh siad féin ina bun nó iompraíocht fhrithshóisialta duine eile. I gcás go mbristear fuinneog mar thoradh ar iompraíocht fhrithshóisialta comharsa agus go bhfuil tionónta ag íoc cíosa le tiarna talún príobháideach, is ar an tiarna talún sin, bunaithe ar rialacháin ó 2008, atá an dualgas an fhuinneog a dheisiú dóibh. Ar an taobh eile de, más é an tÚdarás Áitiúil an tiarna talún, is ar na tionóntaí féin atá an dualgas an fhuinneog sin a dheisiú, agus tá sé sin sonraithe ina gcomhaontú tionóntachta. Mar thoradh air seo, tharla sé go raibh ar Oifigigh Leasa Pobail maoiniú speisialta a sholáthar do thionóntaí Údarás Áitiúil ó am go chéile chun míreanna a dheisiú i gcás gurb é an ról a bhí acu tacú le daoine ar ioncam íseal trí nithe a sholáthar dóibh amhail bia, teas, bróga do leanaí nó iompar. Ag eascairt uaidh sin scríobh an Oifig seo chuig an Aire Comhshaoil, Pobail agus Rialtais Áitiúil maidir leis an gceist agus cuireadh an cheist faoi bhráid an Aire Stáit Jan O'Sullivan a bhfuil freagracht uirthi as Tithíocht agus Pleanáil agus atá ag lorg comhairle dlí ar an gceist faoi láthair.

2. Soláthar díreach

Foráiltear in Alt 11 (1) (e) (i) den Acht um Ombudsman do Leanaí, 2002 nach ndéanfadh an tOmbudsman do Leanaí imscrúdú ar ghníomh a dhéantar agus an dlí á riar i gcúrsaí a bhaineann le tearmann, inimirce, eadóirseacht nó saoránacht. Mar thoradh air sin, tá roinnt gníomhartha de chuid na Roinne Dlí agus Cirt agus Comhionannais atá lasmuigh de shainchúram na hOifige seo; bheadh na gníomhartha nó na héighníomhartha áirithe sin a mbeadh cead ag an Ombudsman do Leanaí imscrúdú a dhéanamh orthu ag brath ar na cúinsí.

Luaigh an tOmbudsman do Leanaí cúis imní ina céad tuarascáil bhliantúil a cuireadh faoi bhráid an Oireachtais faoi eisiámh riar an dlí i ndáil le tearmann, inimirce, eadóirseacht nó saoránacht lena n-áirítear leanaí i soláthar díreach laistigh de shainchúram a hOifige. Bhí díospóireacht shuntasach ann ar cheist an eisiaimh sin tráth a raibh an Bille um Ombudsman do Leanaí á rith trí Thithe an Oireachtais. Go háirithe, luadh cúiseanna imní faoi go bhfágfadh sé seo an grúpa leochaileach de leanaí agus daoine óga lasmuigh de shainchúram imscrúdaitheach an Ombudsman do Leanaí. Mar fhreagra air sin, luaigh an tAire Leanaí a bhí in oifig ag an uair go mbeadh rochtain ag leanaí na n-iarrthóirí tearmainn ar an Ombudsman do Leanaí ar an gcaoi chéanna is a bheadh ag gach leanbh eile in Éirinn agus an t-aon ní a chuirfí as an áireamh ná na gnáthaimh a bheadh ann chun sainiú a dhéanamh ar cibé acu an raibh duine i dteideal stádas áirithe nó nach raibh, agus ní cibé acu an raibh siad i dteideal na seirbhísí féin.

Sa phlé a bhí ag an Oifig seo ina dhiaidh sin leis an Roinn Dlí agus Cirt, tháinig sé chun solais nach bhfuil comhthuiscint ann faoi raon an eisiaimh atá san Acht sin.

Ar an gcúis sin, mhol an tOmbudsman do Leanaí cúpla uair go leasófaí Acht 2002 ionas nach mbeadh aon amhras ann faoin gceist agus chun a chinntiú nach meádh aon bhac ann ar leanaí agus teaghlaigh ó thaobh soláthar díreach agus rochtain a fháil ar mhodh neamhspleách láimhseála gearán.

D'ainneoin go raibh easpa soiléireachta ann maidir lena réimse cúraim, tá an OCO tar éis déileáil le gearáin a cuireadh faoina bráid a bhain le leanaí a bhí i gcóiríocht soláthair dhírih. D'iarr agus fuair an OCO réiteach ar na gearáin a cuireadh faoina bráid a bhain le leas leanaí, cé nach bhfuil an Roinn Dlí agus Cirt agus Comhionannais tar éis glacadh leis na cásanna seo mar chásanna a bhfuil cead an OCO déileáil leo laistigh den chreat láimhseála gearán a sonraítear san Acht um Ombudsman do Leanaí. I gcás roinnt de na saincheistanna a bhfuaireamar gearáin fúthu bhain siad le 1) cosaint leanaí 2) láimhseáil gearán laistigh den tseirbhís 3) an rochtain a bhíonn ag leanaí ar oideachas 4) éadaí agus aiste bia cuí do ghrúpaí áirithe reiligiúin.

Cé gur tharraing an Oifig seo aird ar an eisiámh sin, bhí an Oifig seo ag áitiú, cé go bhfuil gníomhartha áirithe de chuid na Roinne Dlí agus Cirt agus Comhionannais atá lasmuigh de shainchúram imscrúdaitheach na hOifige seo, gur chóir go mbeadh gach gníomh eile a bhaineann le leanaí atá ina gcónaí in Éirinn oscailte le go ndéanfadh Oifig an Ombudsman do Leanaí iniúchadh orthu. Ar an gcaoi sin bheidh an deis chéanna ag gach leanbh atá ina gcónaí in Éirinn is cuma cén áit a rugadh iad nó cén stádas dlí acu.

3. Meitea-anailís ar Sholáthar Seirbhísí do Leanaí faoi Chúram

Is mion minic a fuair an Oifig seo gearán faoi leanaí i gcúram an Stáit agus faoin gcaoi a ndéanann FSS cúram díobh (10% de gach gearán ó bhí 2004 ann). D'ainneoin ilchineálacht na n-imscrúduithe arna ndéanamh ag an Oifig sa réimse seo, is léir go bhfuil a lán fadhbanna ann ar fianaise iad de dheacrachtaí córasacha a tharlaíonn arís is arís eile. Sa mhéid go bhfuil an Ghníomhaireacht um Leanaí agus an Teaghlach nuabhunaithe anois, mheas an Oifig go raibh sé tráthúil meitea-anailís a sholáthar de na himscrúduithe i réimse an chúraim do leanaí. Trí thorthaí a chomhthiomsú agus a chur i gcomparáid lena chéile ó imscrúduithe éagsúla, tagann na treochtaí chun solais atá ina bhonn luachmhar eolais d'fhorbairt dlí agus beartais sa réimse seo.

Cuireadh an tuarascáil isteach de réir alt 13(7) den Acht um Ombudsman do Leanaí 2002, a fhorálann le go bhféadfadh an tOmbudsman do Leanaí tuarascálacha a chur faoi bhráid an Oireachtais maidir le cur i bhfeidhm a feidhmeanna de réir mar is dóigh léi a bheith iomchuí.

Aidhm na tuarascála sin ná aird a tharraingt ar cheisteanna córasacha agus ar cheisteanna a tháinig chun cinn arís is arís eile. I gcás gur sainithníodh fadhbanna córasacha a bhain le feidhmiú na reachtaíochta nó soláthar seirbhísí do leanaí, bheadh gá go ndéanadh comhlachtaí gar-bhreithiúnacha amhail an tOmbudsman do Leanaí imscrúdú ar na fadhbanna céanna arís is arís eile. Táthar ag súil go gcabhróidh torthaí na tuarascála seo chomh maith leis na moltaí atá déanta ann leis an athchóiriú leanúnach atá ar siúl ar sheirbhísí leanaí agus teaghlaigh in Éirinn, agus nach mbeidh ar an Oifig imscrúdú a dhéanamh ar na bunchúiseanna leis na fadhbanna sin a thuilleadh, ach amháin i gcásanna eisceachtúla.

Baineann na moltaí sa tuarascáil leo seo:

- Cúram cónaitheach a sholáthar do leanaí
- Cosaint do leanaí i gcúram
- Measúnú agus pleanáil don chúram
- Cleachtas oibre sóisialta
- Comhoibriú idir ghairmithe agus idir-ghníomhaireachta
- Coinneáil taifead
- Rialachas

Cuireadh an cháipéis seo i gcrích i mí na Nollag 2013 agus tá sí ar fáil anois mar bhonn eolais don Oifig chun plé a bheith ann leis an nGníomhaireacht um Leanaí agus an Teaghlach ionas go bhféadfaí déileáil le gearáin chomhchosúla ar bhealach níos tráthúla.

Tá sé mar aidhm freisin ag an Oifig go gcuideoidh an cur chuige seo leis an nGníomhaireacht um Leanaí agus an Teaghlach a gcórais a chur in oiriúint sa chaoi is go bhfeabhsófar an córas agus go laghdófar ar an ngá gearán a dhéanamh leis an Oifig seo faoi leanaí i gcúram.

4

BEARTAS AGUS REACHTAÍOCHT

Leagtar amach in Alt 7 den Acht um Ombudsman do Leanaí 2002 (Acht 2002) beartas, taighde agus feidhmeanna athbhreithnithe reachtaíochta na hOifige. Go háirithe, foráilann sé go ndéanfadh an tOmbudsman do Leanaí:

- Comhairle a sholáthar d’Airí maidir le forbairt agus comhordú an bheartais a bhaineann le leanaí;
- Comhairle a sholáthar d’airí ar chúrsaí a bhaineann le cearta agus leas leanaí, go háirithe an tionchar is dócha a bheadh ar leanaí ag tograí reachtaíochta;
- Taighde a dhéanamh, a chur chun cinn agus a fhoilsiú ar aon cheist a bhaineann le cearta agus leas leanaí; agus
- Faisnéis a mhalartú agus comhoibriú le Ombudsmána Leanaí i Stáit eile.

In 2013 chuir Oifig an Ombudsman do Leanaí comhairle ar fáil i ndáil leis an reachtaíocht bheartaithe i réimse athchóiriú na gcúirteanna, sainaitheint inscne, iontrálacha scoile agus bunú na Gníomhaireachta nua um Leanaí agus an Teaghlach.

Comhairle maidir leis an mBille um Chúirteanna 2013

D’fhoilsigh an tAire Dlí agus Cirt agus Comhionannais agus Cosanta an Bille um Chúirteanna 2013 ar an 19 Márta 2013. Tá dhá phríomhchuspóir ag an mBille: mionathrú a dhéanamh ar fheidhmiú na rialach a bhaineann le ceamara a bheith ar siúl sa chúirt agus méadú ar na teorainneacha údaráis airgeadaíochta atá ag baint le himeachtaí sna Cúirteanna Cuarda agus Dúiche.

Sa chomhairle a sholáthair an tOmbudsman do Leanaí maidir leis an mBille, d’fháiltigh sí roimh an rún atá ann an reachtaíocht a leasú le go mbeadh imeachtaí cúirte níos trédhearcaí ionas go mbeadh an pobal agus na páirtithe i gceist in ann tuiscint níos fearr a fháil ar na himeachtaí sin. Chuir an Oifig a tuairim in iúl gur chóir go mbeadh saintréithe áirithe ag baint le himeachtaí cúirte a bhaineann le cúram leanaí, mar shampla: cloí le cearta daonna; nach mbeadh drogall ar dhaoine páirt a ghlacadh i bpróiseas na gcúirteanna; forléargas córasach a sholáthar d’imeachtaí cúirte; inbhuanaitheacht; agus neamhspleáchas.

Bhí imní ar Oifig an Ombudsman do Leanaí nach gá go n-áireofaí na saintréithe go léir sin sa chóras a bhfuiltear ag súil leis faoin mBille agus go bhféadfadh go mbeadh torthaí

diúltacha ag eascairt uaidh sin. Luaigh an Oifig sa chomhairle a chuir sí ar fáil gur foráileadh cheana féin sa reachtaíocht le go ndéanfadh abhcóidí, aturnaetha nó daoine eile arna gceadú faoi na rialacháin tuairisciú ar chásanna a bhain le dlí teaghlaigh agus cúram leanaí; tugadh na forálacha seo isteach faoin Acht um Dhliteanas Sibhialta agus Cúirteanna 2004 agus faoin Acht um Chúram Leanaí (Leasú) 2007. As seo a d'éascair an Tionscadal um Thuairisciú ar Dhlí Teaghlaigh, a bhí curtha i gcrích tráth a foilsíodh an Bille um Chúirteanna 2013, agus an Tionscadal um Thuairisciú ar Dhlí Cúram Leanaí, a bhí ar bun ag an uair ach a bhí am-shrianta. Luaigh Oifig an Ombudsman do Leanaí na buntáistí a bhain le córas tuairiscithe nach mbeadh ach tuairisceoir amháin ann dó i ngach cás agus nach mbeadh aon tuairisciú comhaimseartha ag tarlú lena linn.

Mhol an tOmbudsman do Leanaí go ndéanfaí athbhreithniú ar fhorálacha an Bhille um Chúirteanna 2013 maidir le láithreach na meán in imeachtaí cúirte dlí teaghlaigh agus cúraim, ionas go bhféadfaí dul i ngleic le cúiseanna imní na hOifige ina leith.

Comhairle maidir le Scéim Ghinearálta an Bhille um Inscne a Aithint 2013

D'fhoilsigh an tAire Coimirce Sóisialaí Scéim Ghinearálta an Bhille um Inscne a Aithint ar an 17 Iúil 2013. Príomhaidhm na reachtaíochta sin ná creat a sholáthar do bhronnadh Deimhniú Aitheanta Inscne, a cheadódh aithint inscne an té sin ar gach cúis, lena n-áirítear aon déileáil a bheadh acu leis an Stát, le comhlachtaí príobháideacha agus le comhlachtaí poiblí.

Lorg an tAire Coimirce Sóisialaí tuairimí an Ombudsman do Leanaí faoi sholáthar na Scéime Ginearálta a chuir as an áireamh daoine faoi bhun 18 mbliana d'aois ón reachtaíocht, de réir alt 7 den Acht um Ombudsman do Leanaí 2002.

Luaigh Oifig an Ombudsman do Leanaí gurb é an rún ba bhun le daoine faoi bhun 18 a fhágáil ar lár ón reachtaíocht ná chun iad a chosaint ó na hiarmhairtí diúltacha a d'fhéadfadh a bheith ag a n-inscne a aithint nuair nach raibh dearcadh cinntithe acu féin i ndáil lena gcéannacht inscne go fóill. Cibé scéal é, bhí an Oifig den tuairim nach mbeadh an reachtaíocht mholta sin ag feidhmiú chun leas is fearr an linbh.

Sa chomhairle a cuireadh ar fáil don Aire tarraingíodh aird ar go bhféadfadh constaicí agus deacrachtaí a bheith ann do leanaí trasghnéasacha nó idirghnéasacha maireachtáil le dínit, agus go mbíonn na daoine sin dofheicthe go minic ar a lán bealaí. Luadh freisin go mb'fhéidir go bhféadfaí dúshlán a thabhairt faoi Choinbhinsiún na hEorpa um Chearta an Duine don reachtaíocht sa mhéid go raibh ag teip ar an dlí an deis a thabhairt do dhaoine faoi bhun 18 Deimhniú Aitheantais Inscne a fháil.

An chomhairle a chuir an tOmbudsman do Leanaí ar fáil don Aire Coimirce Sóisialaí ná gur mheas sí go raibh an cosc iomlán ar dhaoine óga nó a dtuismitheoirí Deimhniú Aitheantais Inscne a fháil ina chur isteach díréireach ar chearta daoine óga go n-aithneofaí a n-inscne agus mhol sí:

- Go bhforálfadh an Bille um Inscne a Aithint do leanaí agus daoine óga ach an critéar a bhaint a bhaineann le haois íosta chun Deimhniú Aitheantais Inscne a fháil;

- Go gcuirfí ar chumas tuismitheoirí nó caomhnóirí cur isteach ar Dheimhniú Aitheantais Inscne a fháil thar ceann a leanaí; agus
- Go gcuirfí ar chumas daoine óga a bhfuil aois 16 bainte amach acu cur isteach ar aitheantas dlíthiúil dá rogha inscne as a stuaim féin, ar mhaithe le comhsheasmhacht a bhaint amach idir an Bille um Inscne a Aithint agus an tAcht um Chionta Neamh-Mharfacha in aghaidh an Duine 1997.

Bhreithnigh an Comhchoiste Oireachtais um Oideachas agus Coimirce Shóisialta comhairle an OCO maidir leis an Scéim Ghinearálta le linn a bhreithniúcháin féin maidir leis an reachtaíocht mholta. Mhol an Coiste Oireachtais gur chóir an aois ag a mbeadh duine i dteideal cur isteach ar Dheimhniú Aitheantais Inscne a laghdú ó 18 bliana d’aois chuig 16 bliana d’aois, de réir na moltaí arna ndéanamh ag an Ombudsman do leanaí. Cé nár mhol an Coiste Oireachtais go bhféadfadh daoine faoi bhun 16 bliana d’aois Deimhniú Aitheantais Inscne a fháil, mhol sé gur chóir bearta a chur i bhfeidhm chun dul i ngleic leis na cúiseanna imní laethúla a bhíonn ag daoine trasghnéasacha faoi bhun 16 bliana d’aois.

Comhairle maidir le Scéim Ghinearálta an Bhille Oideachais (Ligean Isteach ar Scoil) 2013

D’fhoilsigh an tAire Oideachais agus Scileanna Scéim Ghinearálta an Bhille Oideachais (Ligean Isteach ar Scoil) ar an 2 Meán Fómhair 2013. Is é aidhm na reachtaíochta molta agus na rialachán bainteach ná creat nua a sholáthar chun rialú a dhéanamh ar bheartais iontrála scoileanna do gach bunscoil agus iar-bhunscoil.

D’fháiltigh Oifig an Ombudsman do Leanaí roimh ghnéithe éagsúla na Scéime Ginearálta, sa mhéid go ndeachaigh siad i ngleic leis na fadhbanna arna sainaithint ag na Oifig trína hobair imscrúdaitheach, lena n-áirítear: comhsheasmhacht a bhaint amach idir na beartais iontrála go léir; trédhearcacht sna beartais iontrála; na cúiseanna don diúltú a chur in iúl do thuismitheoirí; bac ar rollú i scoil; agus maoirseacht lárnach a dhéanamh ar chásanna nach féidir le leanaí áit scoile a fháil.

Cibé scéal é, bhí Oifig an Ombudsman do leanaí den tuairim go raibh roinnt réimsí ina bhféadfaí feabhas a chur ar an reachtaíocht chun freastal ar leas is fearr an linbh i ndáil leis na nithe seo a leanas; critéir iontrála agus critéir maidir le hiomarca daoine a bheith cláraithe d’áit scoile; modhanna achomhairc; agus maoirseacht agus monatóireacht.

Go háirithe, rinne Oifig an Ombudsman do leanaí na moltaí seo a leanas:

- Go mbeadh an fhéidearthacht ann maolú a fháil i ndáil le go mbainfí an critéar ó thaobh iarscoláirí.
- Ba chóir Alt 7 den Acht um Stádas Comhionann 2000 a leasú ionas go bhforálfaí nach dtabharfaí rochtain fhabhrach d’aon leanbh ar oideachas atá maoinithe go poiblí ar bhonn a gcreidimh, ach amháin go bhféadfaidís áit a fháil i scoil le creideamh áirithe i gcás go bhféadfadh pobal na scoile tiontú ina phobal nach mbeadh aon saintréithe den chreideamh sin le sonrú ann.

- Ba chóir go mbainfí an chumhacht atá ag scoileanna diúltú áit scoile a thabhairt do leanbh bunaithe ar thuairim Fheidhmeannacht na Seirbhíse Sláinte nó an Garda Síochána i ndáil leis an tionchar a bheadh ag leanaí áirithe a scaoileadh isteach sa scoil ar shábháilteacht daltaí eile nó ar shábháilteacht na foirne.
- Go gcoinneofaí coistí achomhairc Alt 29 a dhéanann breithniú ar achomhairc a bhaineann le rollú scoile.
- Ba chóir go gceanglófaí ar an gComhairle Náisiúnta um Oideachas Speisialta agus ar an mBord Náisiúnta Leasa Oideachais breithniú a dhéanamh ar leas is fearr an linbh agus iad ag breithniú ainmniúchán faoi Mhírcheann 9, chomh maith le tuairimí na ndaoine óga a mbeadh tionchar ag an gcinneadh orthu, le haird mar is cóir á tabhairt ar na tuairimí sin i bhfianaise aois agus aibíocht na leanaí.
- Ba chóir go soiléireodh an reachtaíocht acmhainneacht an BNLO agus an CNOS ainmniúchán a dhéanamh i gcás gur stad scoil ag ligean daltaí isteach i rang áirithe – mar thoradh ar an tsolúbthacht seo sheachnófaí cur chuige dolúbtha ó thaobh mhéid an ranga a bhféadfadh tionchar tromchúiseach a bheith aige ar dhaoine óga as mhéid go mbeidís ag brath rómhór ar theagasc baile.
- Ba chóir go sonródh an reachtaíocht an t-amscála a bheadh ag Pátrún chun treoir ón Aire a chomhlíonadh, agus dá dteipfeadh air sin go gceapfaí duine neamhspleách de réir na reachtaíochta.
- Ba chóir don Roinn Oideachais agus Scileanna sonraí a thiomsú go córasach maidir le feidhmiú bheartais rollúcháin scoileanna ionas go bhféadfaí meastóireacht iomlán a dhéanamh ar an tionchar a bheadh ag reachtaíocht mholta.

Le linn a bhreithniúcháin maidir leis an Scéim Ghinearálta, thagair an Comhchoiste Oireachtais um Oideachas agus Coimirce Shóisialta go minic do na moltaí a rinne Oifig an Ombudsman do Leanaí.

An Bille fán nGníomhaireacht um Leanaí agus an Teaghlach 2013

D'fhoilsigh an tAire Leanaí agus Gnóthaí Óige an Bille fán nGníomhaireacht um Leanaí agus an Teaghlach 2013 ar an 12 Iúil 2013. D'fhoráil an Bille seo do bhunú na Gníomhaireachta um Leanaí agus an Teaghlach agus d'aistriú feidhmeanna ó Fheidhmeannacht na Seirbhíse Sláinte, ón nGníomhaireacht um Thacaíocht Teaghlaigh agus ón mBord Náisiúnta Leasa Oideachais chuig an nGníomhaireacht.

Bhain beagnach aon deichiú de gach gearán a fuair Oifig an Ombudsman do Leanaí, faoi dheireadh 2013, le cosaint leanaí. Mar thoradh air sin, bhí nithe a raibh baint dhíreach acu le bunú agus feidhmiú na Gníomhaireachta um Leanaí agus an Teaghlach ina gcuid mhór den phlé idir an Oifig agus Feidhmeannacht na Seirbhíse Sláinte ó bunaíodh Oifig an Ombudsman do Leanaí.

Ina fhianaise seo, agus sa mhéid gur dócha go mbeidh idirchaidreamh rialta agus leanúnach idir an Oifig agus an Gníomhaireacht um Leanaí agus an Teaghlach amach anseo, chinn Oifig an Ombudsman do Leanaí nach mbeadh gá comhairle fhoirmiúil a sholáthar don Aire Leanaí agus Gnóthaí Óige maidir leis an mBille. Cibé scéal é, tharraing

Oifig an Ombudsman do Leanaí aird ar go mbeadh ar mhodh inmheánach gearáin na nGníomhaireachta a bheith ag teacht leis an gceann atá i bhfeidhm ag Oifig an Ombudsman do Leanaí chun a chinntiú go mbeadh an creat is stuama agus is féidir ann do na leanaí agus na teaghlaigh ar mhian leo gearán a dhéanamh faoin nGníomhaireacht.

Chomh maith leis sin, bhí plé ann idir an Oifig agus an tAire i ndáil leis an nGníomhaireacht nua trí mheitea-anailís a rinneadh a bhfuil cur síos níos sonraí air sa Rannóg Gearán agus Imscrúduithe sa tuarascáil seo.

Athbhreithniú ar an Acht um Ombudsman do Leanaí 2002

Mar a luadh i dTuarascáil Bhliantúil dheireanach an Ombudsman do Leanaí, chuir an Oifig tuarascáil ar fáil don Oireachtas faoi fheidhmiú an Achta um Ombudsman do leanaí inar sonraíodh moltaí chun feabhas a chur ar fheidhmiú Acht 2002. Luadh sa Tuarascáil Bhliantúil gur chuidigh rith an Achta Ombudsman (Leasú) 2012 trí Thithe an Oireachtais deis a sholáthar roinnt athruithe a chur sa tsiúl ar athruithe iad a bhí á lorg ag an Oifig seo.

Tá roinnt saincheistanna nár réitíodh go fóill; chuathas i ngleic le roinnt de na saincheistanna sin le linn 2013, lena n-áirítear soiléiriú a fháil ar shainchúram an Ombudsman do Leanaí i ndáil le scrúdú a dhéanamh ar ghearáin ó leanaí atá faoi choinneáil.

Lean an dea-chaidreamh idir Oifig an Ombudsman do leanaí agus an Roinn Leanaí agus Gnóthaí Óige i ndáil leis na bhféidearthacht brú ar aghaidh le leasuithe ar Acht 2002.

Tá an chomhairle go léir faoin reachtaíocht le fáil ag www.oco/publications.ie

Cur le Sainchúram an Ombudsman do Leanaí

Ag leanúint ón Acht Ombudsman (Leasú) 2012 a síníodh ina dháil an 31 Deireadh Fómhair 2012 cuireadh le sainchúram na hOifige seo ionas go mbeimis in ann imscrúdú a dhéanamh ar chomhlachtaí poiblí breise agus cuimsíonn an sainchúram sin anois 180 aonán breise. Áirítear i measc na n-aonán seo, ar a dtugtar gníomhaireachtaí in-athbhreithnithe, ollscoileanna, an Chomhairle Náisiúnta um Oideachas Speisialta (CNOS), an Bord Náisiúnta Leasa Oideachais (BNLO), Údarás Uchtála na hÉireann agus an tÚdarás um Fhaisnéis agus Cáilíocht Sláinte. Áirítear ar an liosta gníomhaireachtaí ilchineálacha éagsúla eile amhail Comhairle Spóirt na hÉireann, Bord Leigheasra na hÉireann, an tÚdarás um Bóithre Náisiúnta agus an Ghníomhaireacht Náisiúnta do Thomhaltóirí. Tá sé de chumhacht againn breithniú a dhéanamh ar aon ghníomhartha riaracháin a rinne na comhlachtaí sin agus a raibh tionchar díobhálach acu ar leanbh AGUS a tharla mar thoradh ar mhíriarachán de chuid an chomhlachta phoiblí. I gcás na gcomhlachtaí poiblí nua go léir tháinig siad faoinár réimse freagrachta an 31 Aibreán 2013 agus thugamar cuireadh do gach gníomhaireacht in-athbhreithnithe teacht chun bualadh linn ionas go bhféadfaimis ár ról a mhíniú dóibh agus a chur in iúl dóibh cad a mbeifí ag súil leis uatha i ndáil leis sin. Chuireamar síos ar na céimeanna a ghlacamar chun teacht ar réiteach ar an leibhéal áitiúil, ar ár gcumhachtaí imscrúdaithe agus ar na moltaí is féidir linn a dhéanamh tar éis dúinn imscrúdú a chur i gcrích. Tá sé anois mar fhreagracht ar na gníomhaireachtaí sin eolas a thabhairt do na baill sin den phobal a bhaineann úsáid as a seirbhísí gur féidir leis an OCO

cuidiú leo i gcás go bhfuil siad míshásta le gníomhartha míriaracháin na gníomhaireachta in-athbhreithnithe sin. Is cúis áthais dúinn é gur féidir linn an tseirbhís seo a sholáthar do leanaí agus dá dteaghlach, daoine nach raibh aon mhodh sásaimh acu roimhe seo i ndáil le roinnt mhaith de na gníomhaireachtaí sin. Tháinig méadú 16% ar líon na ngearán a fuair ár n-oifig in 2013 agus is féidir ar a laghad roinnt de sin a mhíniú toisc go bhfuiltear tar éis cur leis an líon comhlachtaí faoinár sainchúram.

Meastóireacht ar Oifig an Ombudsman do Leanaí

Chun tacú leis an tuarascáil a chuir an tOmbudsman do Leanaí faoi bhráid an Oireachtais i mí Márta 2012 maidir le feidhmiú an Achta um Ombudsman do Leanaí 2002, rinne Oifig an Ombudsman do Leanaí coimisiúnú ar mheastóireacht oibríochtúil ar obair na hOifige ó bunaíodh í sa bhliain 2004.

Is é Brent Parfitt a rinne an mheastóireacht – tá sé ina iarbhall de Choiste na Náisiún Aontaithe um Chearta an Linbh, agus ina shaineolaí idirnáisiúnta ar obair na n-institiúidí Ombudsman, lena n-áirítear na h-institiúidí a dhíríonn ar chearta an linbh.

Sa chéad chéim den meastóireacht rinneadh athbhreithniú deisce ar na ráitis foilsithe maidir leis himscrúduithe atá curtha i gcrích agus faoin gcomhairle reachtúil a chuir Oifig an Ombudsman do Leanaí ar fáil, chomh maith leis na beartais agus na gnáthaimh inmheánacha. Sa dara céim den athbhreithniú cuireadh agallaimh ar pháirtithe leasmhara tábhachtacha ón Rialtas, ón státseirbhís, ó chomhlachtaí poiblí eile, ón tsochaí shibhialta agus ó na meáin.

Tá Oifig an Ombudsman do Leanaí tiomanta de breithniú agus cur i bhfeidhm a dhéanamh ar mholtaí ag eascairt ón meastóireacht chomh luath agus a chuirfear an tuarascáil deiridh faoi bhráid na hOifige go luath in 2014.



5

OIDEACHAS AGUS RANNPHÁIRTÍOCHT

Faoi Alt 7 den Acht um Ombudsman do Leanaí, 2002 tugtar sraith cumhachtaí uathúla don Ombudsman do Leanaí chun tacú le hobair na hOifige ó thaobh imscrúdú a dhéanamh ar ghearáin agus cuireann siad dualgas dearfach ar an Ombudsman cearta agus leas leanaí suas go dtí 18 mbliana d'aois a chur chun cinn agus monatóireacht a dhéanamh orthu. Is é aidhm chlár oideachais agus rannpháirtíochta na hOifige éifeacht a thabhairt do na fheidhmeanna reachtúla seo a leanas faoi Alt 7 d'Acht 2002:

- Tacú le beartais, gnáthaimh agus cleachtais a chuireann cearta agus leas leanaí chun cinn;
- Feasacht a chur chun cinn sa phobal (leanaí san áireamh) maidir le nithe a bhaineann le cearta agus leas leanaí (lena n-áirítear Coinbhinsiún na Náisiún Aontaithe um Chearta an Linbh) agus conas is féidir le cearta sin a fhorfheidhmiú;
- Struchtúir a bhunú chun dul i gcomhairle le leanaí agus béim a leagan ar shaincheistean a bhaineann le cearta agus leas leanaí ar cúis imní iad do na leanaí iad féin; agus
- Faisnéis a bhailiú agus a scaipeadh maidir le nithe a bhaineann le cearta agus leas leanaí agus conas na cearta sin a fhorfheidhmiú, taighde a dhéanamh ar na nithe sin, an taighde a chur chun cinn nó an taighde a fhoilsiú.

Oideachas maidir le Cearta

Ceardlanna faoi chearta oideachais

Le linn 2013 thug beagnach 1,500 leanbh agus duine óg ó scoileanna i 17 gcontae cuairt ar an OCO. Reáchtáladh ár gceardlanna oideachais maidir le cearta leanaí dhá uair sa tseachtain do ghrúpaí leanaí agus daoine óga a thug cuairt ar an Oifig. Tá na ceardlanna seo ina gcroíchuid de chlár oideachais um chearta leanaí a bhíonn ar siúl ag an OCO, agus is deis luachmhar, sholúbtha na ceardlanna don Oifig plé go díreach le leanaí agus daoine óga d'aoiseanna éagsúla, atá ina gcónaí in áiteanna éagsúla ar fud na tíre agus i gcúinsí ilchineálacha.

Dearadh na ceardlanna sa chaoi is go spreagfaidís idirphlé idir an OCO agus leanaí. Cé go n-athraíonn an t-idirphlé agus an bhéim ó cheardlann go ceardlann, bíonn siad i gcónaí dírithe ar dhá phríomhaidhm: feasacht agus tuiscint na leanaí a fhorbairt maidir le cearta leanaí agus tuairimí na leanaí a fháil ar nithe a bhaineann le cearta leanaí ar spéis leo iad nó ar cúis imní dóibh iad.

“Bíonn eagla ar dhaoine roimh aon rud éagsúil. Bíonn eagla orthu athruithe a dhéanamh... Níl aon dlí chun muid a athrú mura n-athraímid muid féin. Idirdhealú éagórach: caithfear é seo a réiteach.”

“Tugann bia fuinneamh dúinn agus cuidíonn sé linn fás agus a bheith láidir... Cuireann sé as dúinn nuair a bhíonn ocras ar leanaí sa domhan.”

“Tá sé an-tábhachtach go mbeadh duine in ann teacht ar uisce glan. Is bunriachtanas maireachtála é an t-uisce.”

“Measaim go bhfuil an ceart ag gach leanbh go mbeadh cosaint acu ó dhíobháil. Níor chóir d’aon leanbh aon sórt mí-úsáide a fhulaingt, bíodh sin fisiceach nó meabhrach. Tá freagracht ar rialtais agus ar eagraíochtaí leanaí a chosaint ó dhíobháil ina dtíortha féin a mhéid is féidir leo é. Níl sé de cheart ag aon duine.”

“Tá an teaghlach an-tábhachtach mar go dtugann siad grá dúinn. Tá sé tábhachtach freisin mar go bhfuil gá agat le duine éigin chun tacaíocht a thabhairt duit.”

“Measaim go bhfuil an ceart chun príobháideachta tábhachtach mar nár chóir go mbeadh eolas ag daoine fút mura dteastaíonn uait go mbeidh an t-eolas sin acu.”

“Tá sé tábhachtach go mbeadh caighdeán maireachtála dóthanach agat mar go bhfuil gá ag gach duine le háit chónaithe, ina mbraithfidh siad sábháilte, áit ar féidir leo baile a thabhairt air.”

“Táimid den tuairim gur chóir do gach éinne a bheith in ann a bpearsantacht a chur in iúl gan daoine ag déanamh breithiúnais ina leith.”

“Tá sé an-tábhachtach go gcosnófaí leanaí ar dhúshaothrú...Faigheann leanaí bás ón dúshaothrú agus is féidir leo bheith gortaithe agus iad ag obair freisin. Cuireann sé isteach ar an bhforbairt...Ba chóir go mbeadh leanaí in ann bheith ag súgradh agus ag foghlaim. Níor chóir go mbeadh orthu uaireanta fada oibre a dhéanamh.”

“Measaim go bhfuil an ceart ainm a bheith agat an-tábhachtach mar go dtugann sé céannacht duit.”

“Ba chóir go mbeadh an ceart ag gach duine cúram sláinte a fháil. Tá sé de cheart ag gach duine cóireáil a fháil is cuma cén cúlra acu. Níor chóir go bhfaigheadh daoine bás ó thinneas a bhfuil leigheas ann dó. Ach ní leigheas ar ghalar an t-aon rud atá i gceist. Is gá galair a chosc chomh maith.”

“Dar liom, tá an ceart chun oideachais tábhachtach mar go múnlaíonn an t-oideachas an chuid eile den saol. Cuidíonn sé leat cairde a ghnóthú, gan bheith i dtrioblóid agus saol níos fearr a chaitheamh.”

“Tá sé tábhachtach a bheith in ann faisnéis a fháil ... tugann sé eolas don duine agus tugann eolas cumhacht duit.”

“Má thugtar grá do leanaí agus má dhéantar cúram díobh fásann siad ina ndaoine féinmhuiníneacha.”

Rinneadh iniúchadh sna ceardlanna sin ar an gcaoi a dtagann cearta leanaí chun cinn i gcomhthéacs an ghnáthlae acu ar scoil agus ina bpobail agus pléadh na róil éagsúla ag daoine, leanaí agus daoine óga san áireamh, chun a chinntiú go n-urramaítear agus go gcosnaítear cearta leanaí.

Chomh maith leis sin, chuidigh an OCO le leanaí agus daoine óga machnamh ar na cearta éagsúla atá ag leanaí faoi Choinbhinsiún na NA um Chearta na Linbh, trí cheardlanna físchomhdhála a réachtáil, teachtaireachtaí a thairneadh faoi na cearta atá ag leanaí, a raibh na leanaí den tuairim go raibh tábhacht ag baint leo. Tá na teachtaireachtaí físe seo á gcur in eagar faoi láthair chun cúpla gearrscannán a chruthú, a bheidh ar fáil ar shuíomh gréasáin an OCO agus ar chaineál You Tube, ocoireland. Chomh maith leis sin, ghlac breis is 500 leanbh agus duine óg, idir 7 mbliana d’aois agus 16 bliana d’aois páirt sa tionscadal seo agus roghnaíodh roinnt de na tuairimí a chuir siad in iúl le léiriú a dhéanamh ar raon leathan de chearta leanaí faoi CNAFL, ar cearta bunriachtanacha iad do leanaí in Éirinn agus ar fud an domhain.

Ceardlanna maidir le cearta do mhic léinn iarchéime

Ag teacht leis an dualgais reachtúla atá ar an Oifig faoi Alt 7 d’Acht 2002, d’fhorbair an Oifig sraith seimineár maidir le cearta oideachais, agus réachtáil na ceardlanna sin do mhic léinn iarchéime ar bhonn píolótach in 2012. Ag cur san áireamh spéis na rannpháirtithe sna seimineáir agus i bhfianaise an aiseolais a fuarthas a bhí an-dearfach, bheartaigh an Oifig clár eile a réachtáil in 2013 agus an deis a thabhairt do chohórt níos mó mac léinn iarchéime páirt a ghlacadh ann.

Le haird ar phlé na hOifige trína feidhmeanna reachtúla éagsúla le raon leathan saincheisteanna i réimsí na hoibre sóisialta, an chúraim shóisialta agus an oideachais, bhí na seimineáir a réachtáladh le linn 2013 dírithe ar mhic léinn a bhí i mbun staidéir iarchéime san obair shóisialta nó sa chúram sóisialta chomh maith le mic léinn a bhí i mbun clár chéime agus iarchéime san oideachas. Ghlac 150 mac léinn ó ocht gcinn d’institiúidí tríú leibhéal (OÉ Gaillimh, Coláiste na hOllscoile, Corcaigh, Coláiste Ollscoile Bhaile Átha Cliath, Coláiste na Tríonóide, Baile Átha Cliath, Ollscoil Chathair Bhaile Átha Cliath, IT Átha Luain, Coláiste Phádraig agus Institiúid Oideachais Marino) páirt sa chlár.

Is iad foireann an OCO a chuir na ceardlanna i láthair, idir mí Dheireadh Fómhair agus mí na Nollag 2013, agus dhírigh na seimineáir sin ar fheasacht a spreagadh faoi shainchúram reachtúil, feidhmeanna agus réimsí comhfhreagracha oibre na hOifige; ar thuiscint na rannpháirtithe ar chearta bunúsacha leanaí a spreagadh agus a gcur i bhfeidhm i gcomhthéacs an chleachtais ghairmiúil; agus cleachtas agus cinnteoireacht leanbh-láraithe a spreagadh, lena n-áirítear trí scrúdú éascaithe a dhéanamh ar chás-staidéir ag eascairt ó obair imscrúdaithe na hOifige.

Mar ab amhlaidh le clár píolótach 2012, fuarthas aiseolas dearfach ó na rannpháirtithe a ghlac páirt sna seimineáir a réachtáladh in 2013 agus tá sé beartaithe ag an Oifig clár comhchosúil a réachtáil le linn 2014. I measc shochair an chláir a luaigh na rannpháirtithe in 2013 bhí na nithe seo a leanas:

- *“Tuisint a fháil ar cad a dhéanann an tOmbudsman do Leanaí agus conas a théitear i ngleic le fadhbanna agus conas a réitítear iad”*
- *“Chuir sé mé ar an eolas faoi na bealaí éagsúla ar féidir le duine obair ar son leanaí, bíodh sin go díreach nó go hindíreach ... Bhí sé go hiontach bheith in ann foghlaim faoi na córais tacaíochta éagsúla atá ar fáil”*
- *“cearta leanaí a nascadh lenár ról mar mhúinteoirí agus machnamh níos doimhne a dhéanamh ar an gcaoi a bhfuilimid freagrach as leasa is fearr an linbh”*

Feachtas faisnéise do thuismitheoirí dealaithe agus a leanaí

“Níl tú i d’aonar. Níor chóir duit an locht a chur ort féin. Ná déan neamhaird de go bhfuil sé ag tarlú. Ní ortsa an locht agus tá grá ag do thuismitheoirí duit agus níl aon athrú tagtha air sin. Labhair le duine ina thaobh. Bíonn sé sin ina chabhair.”

Duine óg a roinn a dtuairimí leis an OCO

Le linn 2013, bhí comhoibriú ar leith ann leis na tSeirbhís Chúirteanna do chomhfheachtas faisnéise ag díriú ar thuismitheoirí dealaithe agus a leanaí. Ba é aidhm an fheachtais sin feasacht a spreagadh i measc tuismitheoirí dealaithe agus a leanaí faoi imeachtaí cúirte sna Cúirteanna Dúiche agus faoi na roghanna eile atá ann in ionad na Cúirte ó thaobh idirghabháil teaghlaigh de.

Ó bunaíodh an Oifig sa bhliain 2004 i leith, ar na réimsí gearáin a chuireann tuismitheoirí, agus go minic na leanaí iad féin, faoi bhráid na hOifige, tá nithe a bhaineann le himeachtaí cúirte agus an chaoi a dtéann siad i bhfeidhm ar leanaí, lena n-áirítear imeachtaí dlí teaghlaigh agus nithe a bhaineann le caomhnóireacht, le rochtain agus le cothabháil. Cé go bhfuil cinní ag eascairt ó na himeachtaí cúirte sin lasmuigh de shainchúram imscrúdaitheach na hOifige, is mian leis an Oifig an méid cabhrach agus is féidir a sholáthar ina leith. Ba chúis áthais é don Oifig tabhairt faoi chomhthionscnamh leis an tSeirbhís Chúirteanna de réir a dhualgais faoi Alt 7 d’Acht 2002 chun feasacht a spreagadh i measc an phobail, lena n-áirítear leanaí, faoi chúrsaí a bhaineann le cearta agus leas leanaí agus chun forbairt beartas, cleachtas agus gnáthamh a spreagadh agus chun cearta agus leas leanaí a chur chun cinn.

Reáchtáladh comhairliúchán le raon leathan gairmithe a bhfuil taithí fhairsing acu de bheith ag obair le tuismitheoirí agus le leanaí sna cúinsí seo chun eolas a bhailiú d’obair a bhí ar bun ag an Oifig agus ag an tSeirbhís Chúirteanna chun dhá scannán faisnéise a chur ar fáil do thuismitheoirí dealaithe agus a leanaí. Cé go raibh sé dúshlánach go leor teagmháil dhíreach a bheith ann le tuismitheoirí agus leanaí a raibh taithí acu ar dhealú tuismitheora, d’éirigh leis an Oifig teagmháil a déanamh le roinnt tuismitheoirí agus foghlaim óna ndearcadh trí chúnamh a fháil ó roinnt seirbhísí tacaíochta agus trí chruinnithe díreacha a reáchtáil agus iarraidh orthu ceistneoir a chur i gcrích. Trí mheán an cheistneora ar líne, le cúnamh SpunOut.ie, bhailigh an Oifig dearcadh daoine óga, agus ba chúnamh ar leith na tuairimí a chuir siad in iúl chun faisnéis thábhachtach agus teachtaireachtaí a bhailiú i bhfoirm físeáin ó dhaoine óga.

Ba é ba chuspóir ag an dá scannán a chuir an Oifig agus an tSeirbhís Chúirteanna ar fáil ná daoine a chur ar an eolas, ar daoine iad nach raibh aon eolas ná taithí acu roimhe sin, ar imeachtaí dlí teaghlaigh nó ar roghanna eile ar an gcúirt a bhí ar fáil dóibh. Mar sin, tá sé beartaithe scannáin ghearra a sholáthar do thuismitheoirí agus daoine óga faoi seach a chuideodh leo ag tráth deacair sa saol acu. Chomh maith le heolas a sholáthar do thuismitheoirí agus do dhaoine óga faoi na próisis seo agus faoi na seirbhísí comhairleacha agus tacaíochta atá ar fáil dóibh, meastar go mbeidh na scannáin ina n-acmhainn luachmhar do ghairmithe – mar shampla d’aturnaetha, d’idirghabhálaithe agus do chomhairleoirí – a bhíonn ag obair le thuismitheoirí dealaithe agus a leanaí.

Sheol an tOmsudsman do Leanaí agus Uachtarán na Cúirte Dúiche An Breitheamh Rosemary Horgan dhá scannán ar DVD dar teideal *Separating the Options*, i mí Feabhra 2014. Tar éis ócáid an tseolta scaipeadh an DVD sna Cúirteanna Dúiche sa tír, áit ar féidir amharc air agus áit ar féidir le Foireann na Cúirte Dúiche é a úsáid chun feasacht a spreagadh i measc dlíthithe faoi choinneáil, faoi chaomhnóireacht, faoi rochtain agus faoi chothabháil. Scaipeadh an DVD freisin i measc gairmithe a chuireann seirbhísí tacaíochta ar fáil do thuismitheoirí dealaithe agus dá leanaí. Chomh maith leis sin, tá na scannáin ar fáil le hamharc orthu ar líne – ar shuíomhanna gréasáin na Seirbhíse Cúirteanna agus an OCO (www.oco.ie agus www.courts.ie), áit a bhfuil eolas breise ar fáil faoin raon comhairle agus seirbhísí tacaíochta atá ar fáil do thuismitheoirí agus do leanaí. I measc na ngníomhaíochtaí a reáchtáladh chun feasacht faoi na scannáin a spreagadh i measc thuismitheoirí agus daoine óga bhí póstaear faisnéise a scaipeadh ar na hIonaid Faisnéise do Shaoránaigh agus ar na leabharlanna poiblí ar fud na tíre. Ar na bealaí seo agus ar bhealaí eile, táthar ag súil go mbeidh an méid thuismitheoirí agus leanaí agus is féidir atá sa suíomh seo in ann iad féin a chur ar an eolas agus an deis a bheith acu féachaint ar na scannáin.

Taighde ar Nithe a Bhaineann le Cearta agus Leas Leanaí

Oideachas do Leanaí faoi chúram

I mí Bealtaine 2013, d’fhoilsigh an tOmbudsman do Leanaí torthaí taighde arna choimisiúnú ag an Oifig agus a rinne an ESRI agus an tIonad Taighde Leanaí, Coláiste na Tríonóide, faoi sholáthar oideachais do leanaí faoi chúram.

Rinne an Oifig coimisiúnú ar thaighde d’fhonn cur lenár dtuiscint ar thaithe oideachais leanaí faoi chúram agus chun na bealaí is fearr a aithint ar féidir leis an gcóras oideachais, i gcomhar le seirbhísí sláinte agus sóisialta, tacú le freastal agus coinneáil leanaí faoi chúram sa chóras oideachais.

Cé gur féidir le leanaí faoi chúram taithí an-dearfach a bheith acu sa chóras oideachais i gcás go gcuirtear na tacaí cuí ar fáil dóibh, luadh sa taighde a rinne ESRI/TCD go mbíonn dúshlán shuntasacha ann do leanaí faoi chúram agus iad i mbun a gcuid oideachais, lena n-áirítear constaicí breise, teip ar shocrúcháin, pleanáil agus athbhreithniú neamleor cúraim, agus easnaimh agus moill le measúnacht. I gcás go dtagann na dúshlán seo chun cinn, bíonn leanaí faoi chúram i mbaol fionraí, díbirt nó luathfhágáil scoile. Is féidir le hiarmhairtí díobhálacha láithreacha nó fadtéarmacha eascairt uaidh seo do leanaí.

I measc na dtorthaí lárnacha a d'eascair ón taighde seo bhí athbhreithniú litríochta, agallaimh le cinnteoirí agus cleachtóirí agus rannpháirt dhíreach le leanaí faoi chúram agus le cúramóirí óga, bhí teirce na sonraí atá ann i ndáil le taithí oideachais na leanaí faoi chúram in Éirinn. Bhí an t-eolas sin chomh tearc nárbh fhéidir próifíl cheart a chruthú de fheastal, rannpháirtíocht agus rátaí gnóthachála oideachais leanaí faoi chúram i gcomparáid le leanaí sa ghnáthphobal sa tír. Is constaic an t-easnamh sin do chinnteoirí fianaise-bhunaithe agus is gá dul i ngleic leis má táthar chun beartais, gnáthaimh agus cleachtais éifeachtacha a bhunú chun maolú ar na constaicí atá i mbealach leanaí faoi chúram tabhairt faoin oideachas. Chomh maith le modh a bhunú do bhailiú córasach sonraí sa réimse seo, tá an Oifig den tuairim go mbeadh sé go maith taighde fadama a réachtáil chun cur leis an tuiscint ar thaithí agus ar chonairí oideachais leanaí faoi chúram. I bhfianaise an líon beag leanaí faoi chúram (6,462 amhail mí na Nollag 2013) i gcoibhneas leis an daonra leanaí in Éirinn, bheadh an staidéar seo indéanta agus bheadh sé buntáisteach do chinnteoirí agus do chinntí faoi chleachtas amach anseo.

Chomh maith le béim a leagan ar an ngá atá ann sonraí a bhailiú agus taighde a dhéanamh léirigh an staidéar go raibh roinnt réimsí ann inar ghá feabhas a chur ar thaithí oideachais leanaí faoi chúram. Ina measc bhí na réimsí seo a leanas:

- Comhphlean a fhorbairt agus a chur i bhfeidhm ar bhonn idirghníomhaireachta chun deiseanna oideachais a fheabhsú do leanaí faoi chúram;
- Faisnéis agus ábhair oiliúna a ullmhú a neartódh acmhainneacht i measc cúramóirí agus gairmithe leanaí faoi chúram ina gcuid oideachais;
- Roinnt cur chuige agus beart a chur i bhfeidhm i measc gairmithe oideachais agus cúraim ar féidir leo tacú go díreach agus go hindíreach le feastal, rannpháirt agus gnóthachtáil oideachais leanaí faoi chúram; agus
- Príomhshruthú a dhéanamh ar dheiseanna do leanaí faoi chúram, agus dá gcúramóirí, a dtuairimí a chur san áireamh i gcomhthéacs na cinnteoireachta ar nithe a théann i bhfeidhm orthu, lena n-áirítear pleanáil do chúram agus próisis athbhreithniúcháin ar shaincheisteanna a bhaineann le hoideachas leanaí.

Tá súil ag an Oifig go gcuideoidh na torthaí agus moltaí ag eascairt ón taighde seo leis an Roinn Oideachais agus Scileanna agus leis an nGníomhaireacht um Leanaí agus an Teaghlach agus iad ag ceapadh agus ag cur i bhfeidhm bearta ar bhonn comhoibritheach chun maolú ar na constaicí atá i mbealach leanaí faoi chúram rochtain a fháil ar oideachas.

Cúram Sláinte atá Inrochtana do Leanaí

An 20 Samhain 2013 – Lá Domhanda na Leanaí – d’fhoilsigh an tOmbudsman do Leanaí tuarascáil maidir le cúram sláinte a bheadh inrochtana do leanaí ag eascairt ón taighde arna choimisiúnú ag an Oifig agus a rinne an Coláiste Ollscoile Corcaigh thar ceann na hOifige.

Is é príomhaidhm an taighde a shainaithint conas is féidir cultúr a chothú de chúram sláinte atá inrochtana do leanaí ar fud réimse an chúraim sláinte a bhfreastalaíonn leanaí agus daoine óga orthu atá faoi bhun 18 mbliana d’aois agus atá ina gcónaí in Éirinn.

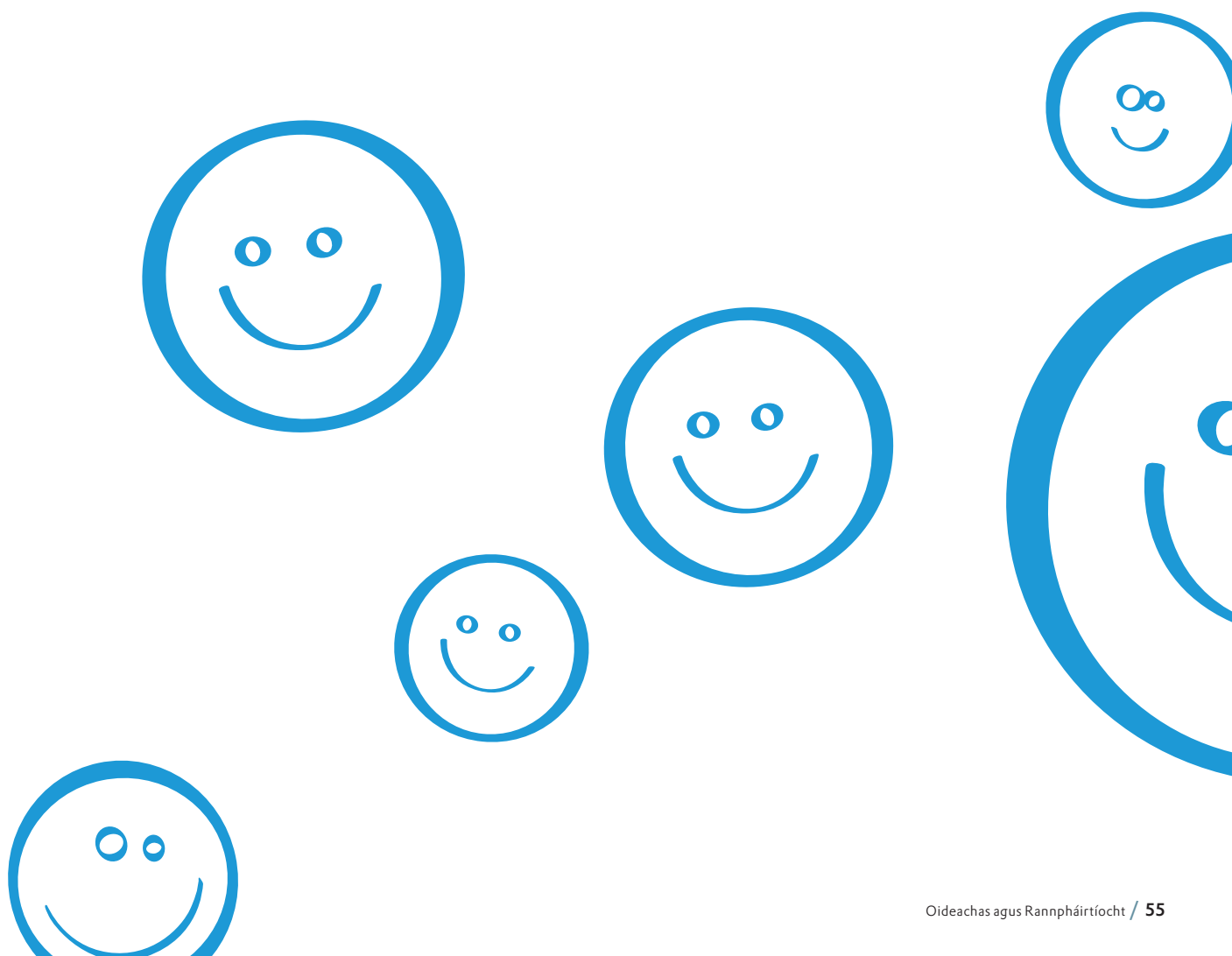
Ag tagairt do chaighdeáin idirnáisiúnta, agus go háirithe do Choinbhinsiún na Náisiún Aontaithe um Chearta an Linbh agus do Threoirlíne na hEorpa um Chúram Sláinte atá Inrochtana do Leanaí, luadh má táthar chun cur chuige agus beartas maidir le cúram sláinte atá inrochtana do leanaí a réadú go mbeidh gá cearta cúram sláinte leanaí a réadú, a chosaint agus a chur chun cinn. I measc na gceart sin tá croíphrionsabail a bhaineann le cearta leanaí, is é sin nach ndéanfaí idirdhealú éagórach orthu, go gcuirfí a leasa is fearr san áireamh i ngach gníomh a bhaineann leo, agus go gcuirfí a dtuairimí san áireamh i ngach cinneadh a théann i bhfeidhm orthu. Tá feidhm ag a lán ceart eile leanaí faoin CNAEL i gcomhthéacs cúram sláinte leanaí, lena n-áirítear a gceart teagmháil rialta a bheith acu lena dtuismitheoirí mar bhfuil sé sin ag teacht salach ar a leas is fearr, a gceart chun príobháideachta, a gceart a bheith cosanta ó gach cineál díobhála, a gceart chun faisnéise, a gceart chun oideachais agus a gceart chun sosa, súgartha agus fóillíochta.

Sa taighde seo, rinneadh iniúchadh freisin ar conas a d’fhéadfaí cearta leanaí a chur chun cinn agus a chosaint agus a chur i bhfeidhm i réimse an chúraim leanaí, ag tagairt do thionscnaimh atá á gcur i bhfeidhm i ndlínsí eile, forbairtí a tharla le déanaí sa reachtaíocht agus sa bheartas poiblí in Éirinn, taithí dhoiciméadaithe leanaí ar na seirbhísí cúram sláinte agus ar chleachtais i measc gairmithe sláinte.

Sa taighde sainaithear roinnt ‘bloic thógála’ thábhachtacha do chur chun cinn cúram sláinte leanaí in Éirinn. Ina measc tá siad seo:

- Beartas tiomnaithe náisiúnta a fhorbairt maidir le cúram sláinte atá inrochtana do leanaí;
- Caighdeáin de chearta leanaí a shocrú do réimse an chúraim sláinte;
- Feasacht a spreagadh i measc tuismitheoirí agus leanaí agus oiliúint a chur ar ghairmithe cúram sláinte faoi chearta leanaí sa chúram sláinte;
- Anailís a dhéanamh ar chleachtais reatha in Éirinn ag féachaint le béim a leagan ar chleachtais mhaithe agus na cleachtais sin a roinnt;
- Cur chuige comhoibritheach, comhordaithe a ghlacadh lena n-áirítear ceannaireacht ar leibhéal éagsúla den chóras cúram sláinte agus laistigh de réimsí éagsúla cúraim sláinte chomh maith le plé cuiditheach a áireodh gairmithe cúraim sláinte leanaí agus a dtuismitheoirí/a gcúramóirí; agus
- Príomhshruthú a dhéanamh ar rannpháirt leanaí agus a dtuairimí a chur san áireamh agus é seo a bheith ina chroíluch de chóras cúraim sláinte na hÉireann.

Tá sé beartaithe ag an Oifig seo tionscnamh píolótach a cheapadh agus a chur i bhfeidhm le linn 2014 a thógfaidh ar thorthaí an taighde seo agus a dhíreoidh ar chleachtais mhaithe a shainaithint agus a chur chun cinn sa chúram sláinte a thacaíonn le leanaí laistigh de réimse an chúraim sláinte.



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