

# 2020 Childhood Paused

Ombudsman for Children's Office  
Annual Report



ombudsman  
do leanaí  
for children







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**Dr Niall Muldoon**  
Ombudsman for Children

## Message from the Ombudsman for Children

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Covid-19 has changed everything. It is therefore unsurprising that the pandemic has greatly influenced my Annual Report for 2020.

2020 Childhood Paused details how the work of the office has been influenced by the pandemic, the complaints we received, and the initiatives we have undertaken to ensure that children's views are represented at every level. It also outlines other important projects that started before the outbreak of Covid-19 and which I am proud to say were completed in 2020, despite the difficulties presented.

2020 was a devastating year for children – they were described as vectors and blamed for transmission. Children were seen as carriers, children were not welcome in public places. Schools closed, sports facilities closed, music, art and other hobbies came to an abrupt halt. Children couldn't see family or each-other. All the rites of passage - Communion, Confirmation, Debs, Graduation, and things that make childhood fun, were taken away.

Our most vulnerable children and young people have been at the sharp end of the pandemic as risk factors soared and the number of children who contacted us increased. While we were all told to stay at home, home is not a safe space for every child as the increase in domestic violence incidents in 2020 illustrates. Incidents of possible abuse that may have been missed, delayed or undetected are of concern to me. The number of child protection referrals we received in 2020 (often received as part the complaints process) dropped significantly. The number of such referrals received up to May 2021 already exceeds the total number for 2020.

During 2020 children themselves were picking up their phones and calling us about their worries and concerns as they watched various Ministers (Education, Health, Children) on podiums announcing decisions that will shape their young lives. The U-turns and constant speculation compounded their anxiety, leaving them feeling exposed and unheard.

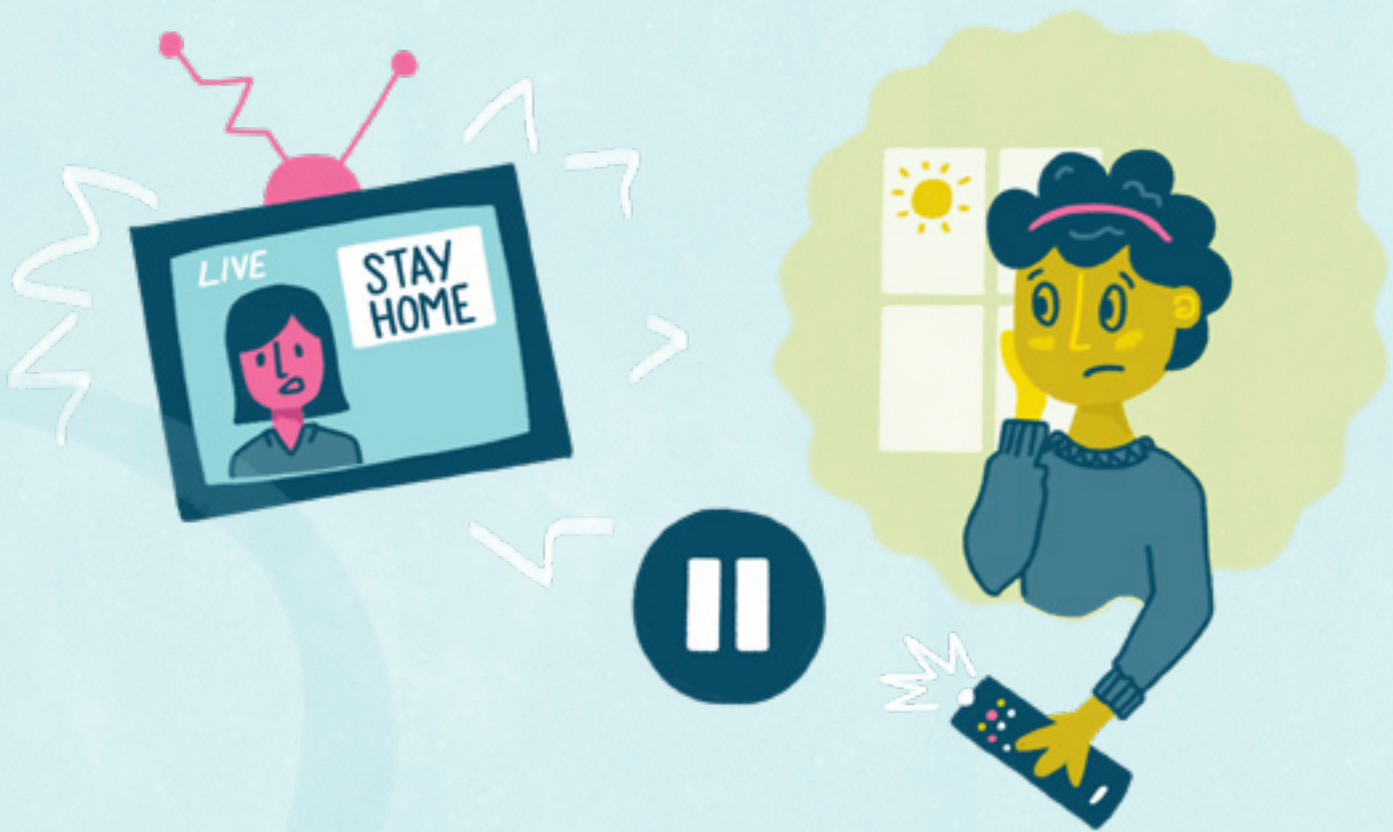
The speculation around the cancellation of the Leaving Certificate was of particular concern and this report shows that yet again education made up the bulk of our complaints in 2020.

We heard heart-breaking stories of children with additional needs regressing and the turmoil the uncertainty caused. Children were grappling with the digital divide and they worried about parents who had lost their jobs as the pandemic wreaked havoc on the economy.

The political landscape in 2020 proved difficult to navigate as an inconclusive election and prolonged government formation talks led to a caretaker Government who had to stem the tide of the pandemic in the first half of the year. Children's issues risked slipping further down the agenda.

The Department of Children and Youth Affairs came under threat in May with suggestions it





would be subsumed into other departments. This would have led to an abdication of responsibility and accountability when it came to upholding children's rights at a pivotal time. The retention of the Department is a vital success for children's rights, and I am hopeful that the new department will offer a path to fully integrate children's rights into the fabric of the state governance structure. There should never again be any doubt that a Department for Children should exist – if the pandemic proved anything it is that Government needs to mainstream the rights of children and have them at the fore when a crisis hits.

It is one of the great privileges of my job to be able to travel the length and breadth of the country to events and meetings with children and young people to learn about their views and opinions on issues. However, the pandemic called a halt to this. I look forward to getting back out on the road when restrictions allow and also welcoming children back to our office for workshops and events.

In February 2021 I was reappointed to serve a second term as Ombudsman for Children. I am extremely honoured and privileged to

continue in this role for another six years and I am acutely aware of the responsibility I have to children at this particular time in our history.

As we begin to plan now for life post-Covid, my priority as Ombudsman for Children, will be to ensure that the rights and needs of children are considered and planned for. We know that there are immediate and very significant problems that will have to be dealt with – long waiting lists for essential services, an increase in mental health referrals, reduced services for children with disabilities and special needs, ongoing disruption to education, increased child protection referrals and much more.

C.S. Lewis said "You can't go back and change the beginning but you can start where you are and change the ending". In that vein, I feel strongly, that dealing with these issues alone is a failure to maximise children's potential. A return to normal for many children in Ireland is simply not good enough. We must take this once in a generation event and make long lasting changes. Changes which will reap positive rewards for generations of children to come. We need to ask ourselves how we want children in Ireland to live and to be treated.



A child who is thriving and developing in a safe, warm and healthy home setting will be on a continuous upward trajectory. They will be improving, growing and achieving on an ongoing basis – so they are never paused! However, those who experience disadvantage or vulnerability are living a stop-start life and need much more state support to thrive and reach their potential. Poverty is at the heart of so many issues affecting children and it is here where I feel real and long-lasting changes can be made.

Like most organisations, the operations and running of the Ombudsman for Children's Office have been completely changed by Covid-19.

Since March 2020, our worlds have been turned upside down. For many of our staff, kitchens became offices and schools, as we adapted to keeping our services up and running during the pandemic. I am immensely proud of the work carried out by the great team at the OCO during this difficult time. I want to thank all of them for the huge effort they put in to keep our service delivery at a high standard despite so many barriers being placed before us via the pandemic. I look forward to continuing to work with them on behalf of children in 2021 and beyond.





## Who we are

The Ombudsman for Children's Office (OCO) is a human rights institution that promotes the rights and welfare of children and young people under 18 years of age living in Ireland. The OCO investigates complaints about services provided to children by public organisations. The service is free and independent.

The Ombudsman for Children Act, which sets out the role and powers of this Office, was agreed by the Dáil and the Seanad in 2002. Dr Niall Muldoon has been the Ombudsman for Children since 2015. Niall was appointed by the President and reports directly to the Oireachtas.

## OCO Values

**Compassionate**

**Accessible**

**Authoritative**

**Innovative**

**Transparent**

**Independent**

## OCO Vision

We want to see an Ireland where children's rights are respected, protected and fulfilled, and where all children and young people are actively heard and respected so that they experience safe, fulfilling and happy everyday lives. We will use our independence and powers to the fullest extent to bring this about.

## OCO Statistics and Highlights

**1,187**

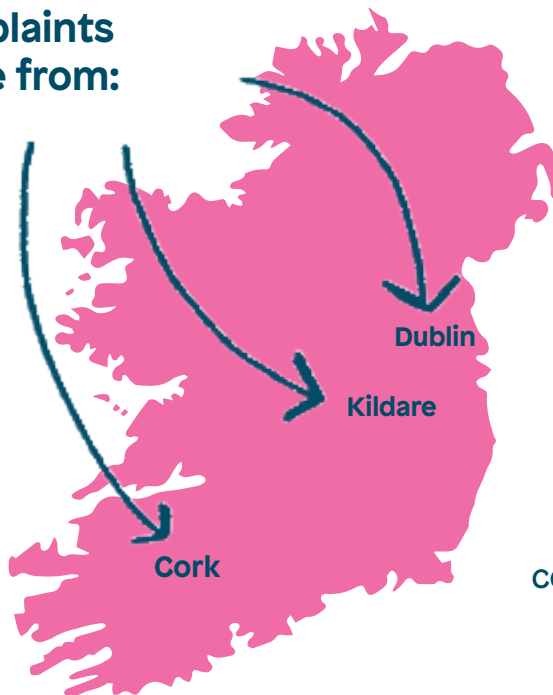
complaints received  
in 2020

**6%**

of complaints  
in 2020 were from  
children

In March, April and  
May we received only  
203 complaints  
compared to 382 in 2019

Most  
complaints  
came from:



Counties still not  
contacting  
the OCO in expected  
numbers based on  
population of children:  
**Longford, Laois,  
Carlow**

The main issue people  
complained about in 2020.  
**46% of complaints  
were about:**

What do people  
contact us about:

Justice

Education

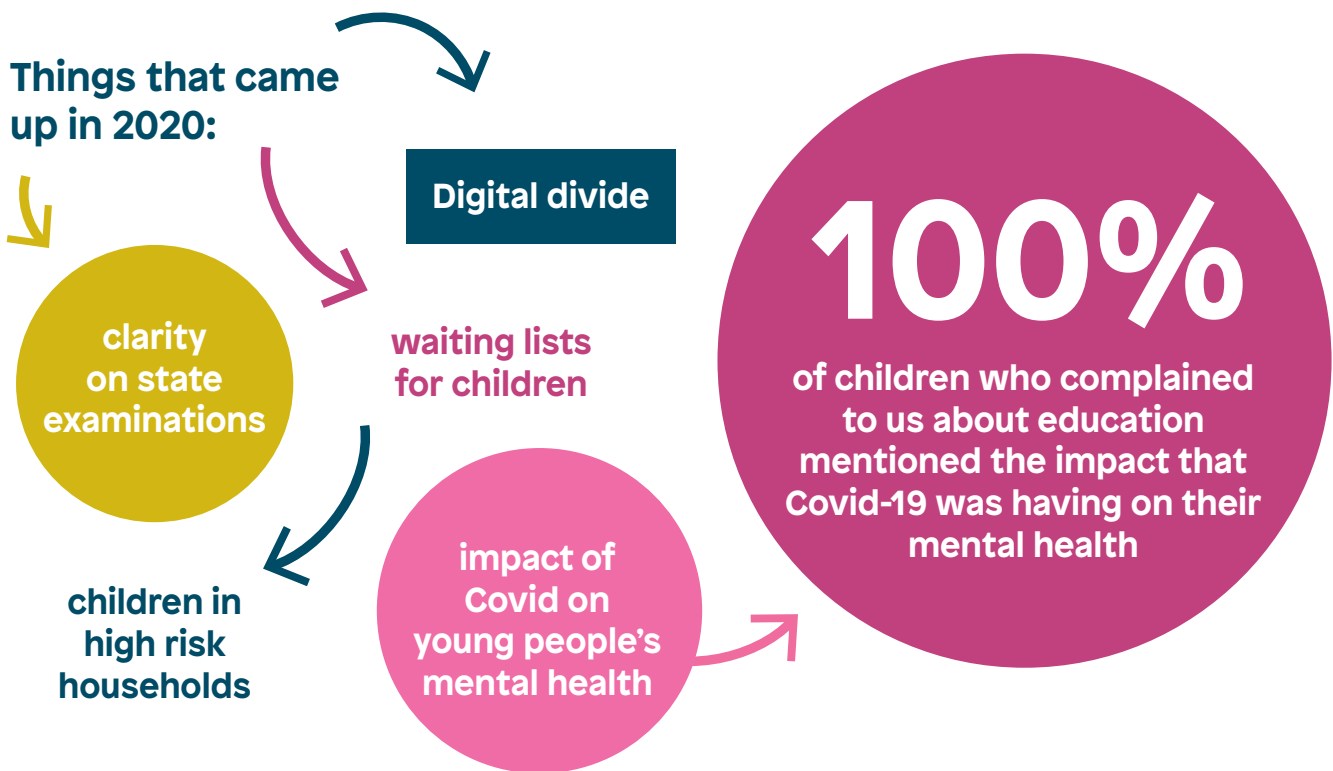
Family Support  
and Planning

Housing

Health



Things that came up in 2020:



**7**

schools visited the OCO for education workshops

**140**

students took part in workshop in our office

**211**

3rd level students attend workshops in our office

**29**

students attend OCO pilot online workshop

**95**

3rd level students attend OCO online workshops

#### **Publications:**

Molly Two Years On  
Unmet Needs  
Pathways to Irish  
Citizenship  
Direct Division  
Annual Report 2019  
Jack's Case  
Life in Lockdown

#### **OCO advice and submissions**

Submission to the UN Committee on the Rights of the Child  
Submission on the draft new Youth Justice Strategy  
Submission on the review of the Child Care Act 1991  
Submission on the White Paper on international protection accommodation



## OCO Online

### Twitter Top 5 Video Impressions

**39,237** Children share their views on living in Direct Provision in Ireland

**38,875** Direct Division experience video clip

**33,407** Cuan Child Talks Speech on children with autism

**15,923** Niall Muldoon on World Mental Health Day

**8,024** Niall Muldoon on Direct Division report

### Website Top 5 most viewed pages

**23,664** OCO.ie

**19,786** About us

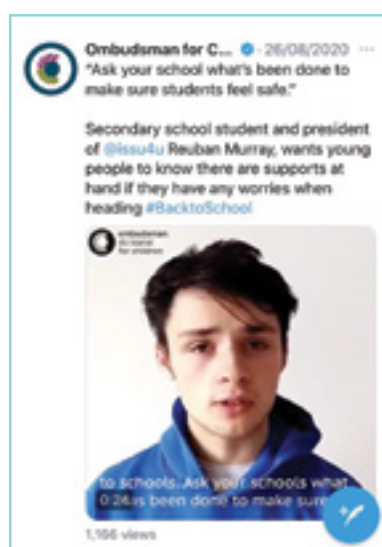
**6,044** Children's Rights

**5,872** Covid 19 information for children

**5,715** It's Your Right (Game)

### Back to School

Back to School, a series of online videos, featuring tips and advice for children and young people getting ready to return to school ran in August. Niall's message to Leaving Cert students reached over 19,000 timeline on Twitter.



Website page views

**166,940**

Website new users

**50,925**

Overall Facebook reach in 2020

**209,594**

New Facebook followers in 2020

**776**



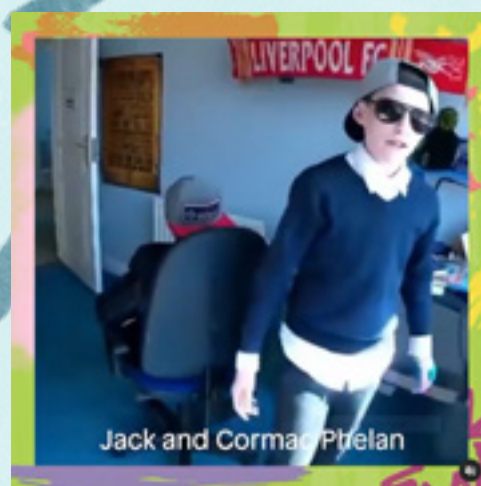
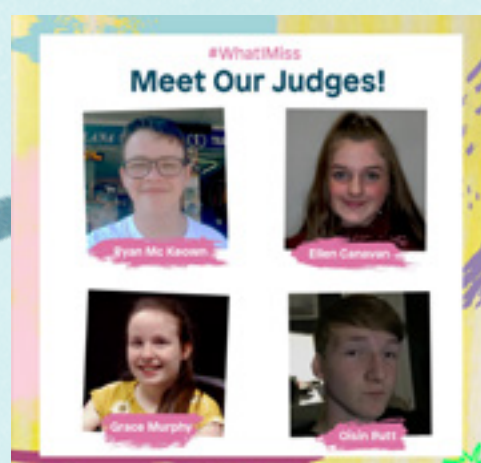
# #WhatIMiss

## How is the lockdown affecting children?



### #WhatIMiss

In April 2020 the OCO ran #WhatIMiss, a social media campaign inviting children and young people to share their experiences of the first lockdown. This competition was judged by a group of young people who took part in Child Talks 2019.





## Ombudsman engaging with Government on children's issues

- OCO Priorities for Children ahead of GE2020
  - end to Direct Provision, right to Housing, Pathfinder
- Leaving Cert and calculated grades
- Return to school for children with Autism
- Access to education for children from high risk families
- Government responsibilities to children during Covid-19
- Roma children unable to secure accommodation after isolating
- Conditions for Traveller children during Covid-19
- Conditions for children in detention during Covid-19
- Operation encompass – children who are victims of domestic violence

## OCO Events: Child Talks

Child Talks 2020 took place on 20th November to mark World Children's Day. 2020 was the third year of Child Talks, a series of inspiring speeches by young people about their lives. In 2019 this event was attended by over 400 people. However, in 2020 it was launched in July via zoom webinar featuring three of our past speakers Eric Ehigie, Katie McKenna and Kate Murphy who shared their experiences of taking part in the event. Due to Covid restrictions, Child Talks 2020 was a pre-recorded, hour-long video event, which was broadcast on RTÉ Television and livestreamed on the OCO website. It included a special video message from An Taoiseach, Micheál Martin. The event was covered widely by media, including an interview with the Ombudsman on RTÉ Morning Ireland, a feature package on RTÉ's News2Day, Today FM radio, a feature interview in the Irish Examiner, as well as widespread local radio and newspaper coverage featuring

several of our speakers and hosts. It was also shown in hundreds of classrooms around Ireland.



## OCO Partnerships:

The OCO continued its partnership with Baboro International Children's Arts Festival in 2020. We produced a virtual workshop on children's rights for schools throughout the west of Ireland.

## Breakdown of complaints

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In 2020 the complaints received by the OCO were heavily influenced by the pandemic. When restrictions were introduced in March 2020, complaints came to almost a complete halt. People were not complaining about services provided to children. The country was in a state of shock and children, parents, families and others working with children held back to give Government departments an opportunity to deal with the emergency at hand. When it became clear that a return to normality was a long way off, and as the impact of the pandemic on children took effect, complaints began to come in again. As is always the case, the complaints received by the OCO reflect some of the major issues affecting children and families in Ireland. They outline areas where Government departments and public bodies can make improvements to provide for children, and they highlight shortcomings where children have been let down. 2020 was no different.

## Complaints received: 1,187

What this means: We received 316 fewer complaints in 2020 than we did the previous year. This is directly linked to the pandemic. In March, April and May we received only 203 complaints compared to 382 in 2019 whereas the remaining months reflected the previous year. There was a significant change in the type of complaints we received after March as public services and schools were closed or restricted.

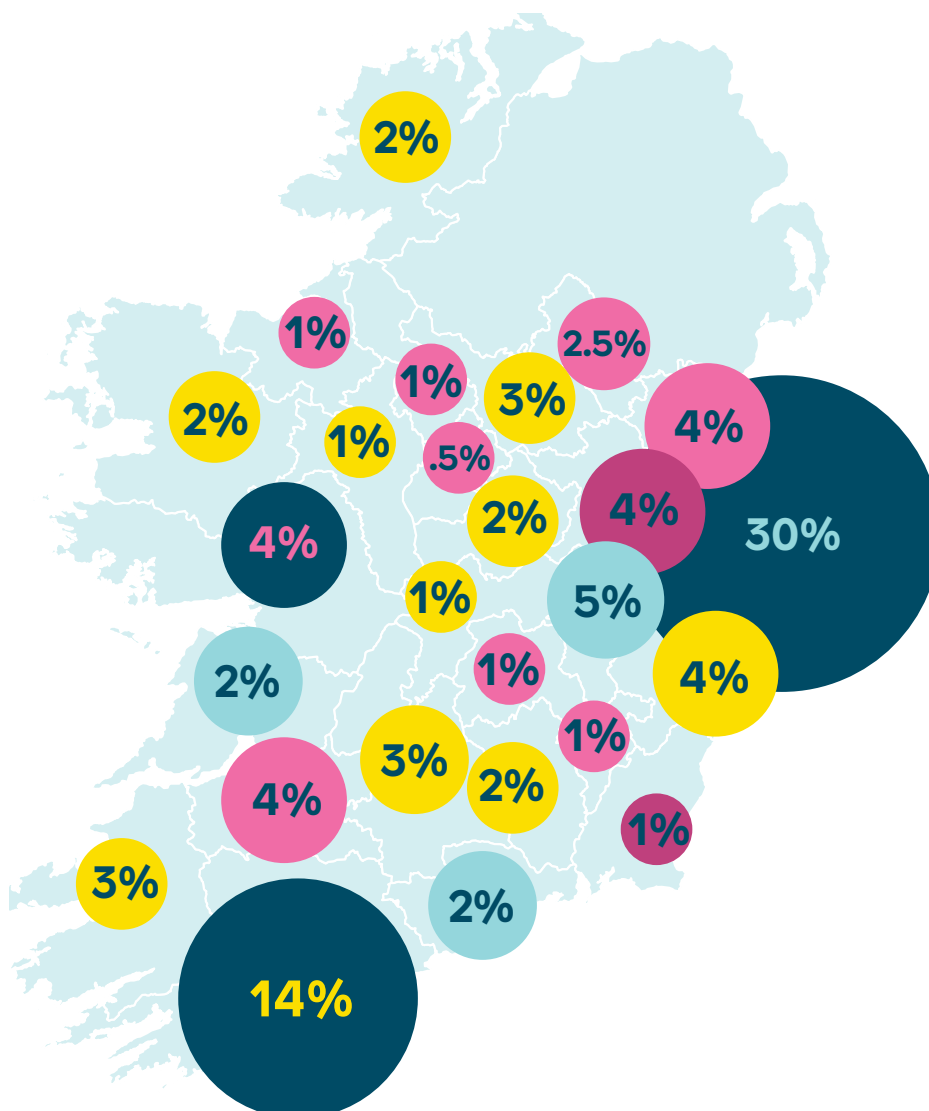


## Complaints by County

We do not always know where the person bringing the complaint, or the child, is located. This may be because we only receive very general information about a child, or because the issue is not about a specific child in a particular location. This map only includes the cases where a location is known.

Of the 805 new complaints in 2020 where location is known, the highest number came from the Dublin region. This is to be expected given that it is the most highly populated area. 241 complaints were received from this region, comprising 30% of all new complaints in 2020.

Carlow	1%	Longford	.5%
Cavan	3%	Louth	4%
Clare	2%	Mayo	2%
Cork	14%	Meath	4%
Donegal	2%	Monaghan	2.5%
Dublin	30%	Offaly	1%
Galway	4%	Roscommon	1%
Kerry	3%	Sligo	1%
Kildare	5%	Tipperary	3%
Kilkenny	2%	Waterford	2%
Laois	1%	Westmeath	2%
Leitrim	1%	Wexford	1%
Limerick	4%	Wicklow	4%



## Who contacted us:

80%	Parents
8%	Professionals and Organisations
6%	Children
4%	Other
3%	Extended Family Members
3%	Unrelated Adults

The majority of complaints, as in previous years, were made by parents or other family members who play a critical role in raising concerns about how children are treated by public bodies. However, 2020 saw a significant increase of the number of children that contacted us directly to make complaints. In 2019 3% of all complaints were children and this rose to 6% in 2020. This was very much welcomed by the office and provided the Ombudsman for Children with invaluable information that he was able to use in his meetings with the Ministers and decision makers to influence change. The influence of children's voices in bringing about policy change is evident in the cases investigated by the OCO including those in relation to calculated grades, state examinations and children living in very high risk households.

In 2020, the relationship of the complainant to the child was known in 1,132 cases. Over 84% of these complaints came from parents or siblings and other family members.

## What did we receive complaints about in 2020?

Percentage of complaints relating to various sectors 2020	
46%	Education
20%	Family Support Care and Protection
14%	Health
7%	Other
6%	Housing and Planning
5%	Justice
2%	Finance, Social Protection and Welfare

Education, Family Support Care and Protection, and Health are still the issues that feature in most of the complaints received by the OCO. These are consistently the most common issues raised in complaints made on behalf of children every year and that trend continued in 2020.

Due to the pandemic we did not receive the same number or same types of complaints in many areas. This was due to the fact that many services were closed or offering only basic cover. It is therefore difficult to compare the types of complaints received in 2020 with those of other years. The complaints role also adjusted to try and address the changing nature of how children were being affected. There are defined instances throughout the year when our complaints work involved seeking real-time information from public bodies and Departments on how best to guide children and their advocates as the increasing and protracted impact of the pandemic on services, supports and children's lives took effect.



It is important to note that 2020 saw complaints about a number of new issues affecting children. These include the digital divide, lack of clarity on State examinations, the disproportionate effect the pandemic has had on children with disabilities, children in care and children in high risk households.

Education complaints related to schools, the Department of Education and Skills and other education agencies with a role in supporting or providing access to education, such as the National Council for Special Education (NCSE).

Family Support Care and Protection complaints relate to Tusla, the Department of Children, Equality, Disability, Integration and Youth. They can also feature other organisations such as, the Health Service Executive (HSE), hospitals or Court which can play a key role for children when they or their advocates are seeking such support, care and protection.

Complaints relating to crèches and childcare is a significant and emerging category that is contained within both Education and Family Support. In 2020 approximately 3% of complaints received related to accessing crèche placements and complaint handling.

Health complaints relate to the HSE or hospitals directly, and some are complex cases involving a number of agencies with differing roles and remit such as Tusla or CAMHS. This year also saw a number of concerns regarding HSE guidance with respect to Covid-19 regulations and the impact upon the health of children attending school.

Justice complaints received which were in remit related mainly to the Direct Provision and Emergency Accommodation system. This category also included matters that we could not examine including court issues, interaction with An Garda Síochána, and complaints relating to citizenship, naturalisation and passports.

The 'Other' category contains the efforts of the team to support and signpost individuals to access appropriate redress mechanisms. There were also a small number of complaints about social media, and sports and community facilities.

## Section 1

# The impact of Covid-19 on children and the work of the OCO





## 1. Education

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**Children's education was completely disrupted and in many cases curtailed in 2020 due to the pandemic. Children of all ages were impacted in many ways. Closing schools meant that children not only missed their friends, teachers and all of the development opportunities that school offers, but some missed essential health and other supports, while others missed out on meals and vital contact with one good adult.**

### **We dealt with complaints about:**

1. Remote learning and the digital divide
2. Lack of clarity about state examinations and the mental impact on young people
3. Fairness of the calculated grades process
4. Children in very high risk households unable to access remote learning
5. The disproportionate impact on children with special educational needs

## **What we did:**

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### **Remote learning, the digital divide and lack of clarity about state examinations**

As a result of the COVID-19 outbreak and subsequent lockdown measures that resulted in the closing of schools, young people were left with a great deal of ambiguity regarding their education and the status of state examinations. The majority of the education complaints we received related to the Leaving Certificate Exams and the impact it was having on the daily lives of young people.

The Ombudsman for Children was in continuous contact with the Minister for Education and the Department putting forward the concerns of students and their families. The OCO engaged robustly, challenging suggested plans and putting forward possible solutions on behalf of children. The OCO consistently stressed the adverse effect that this very stressful time was having on children's mental health.

In 2020 6% of the complaints made to the OCO came directly from children, this is an increase from 3% in 2019. The increase in the number of children who contacted the OCO in 2020 can largely be attributed to those who contacted us in relation to education issues and is an indication of the level of upset among students.

While the complaints made to the OCO may have related to calculated grades, digital poverty or other issues, 100% of the children who contacted us mentioned the mental health of children.

**Sometimes I  
just want to  
give up.**



**My brother  
will die if he got  
covid and so will  
my ma.**

## **Children living in very high risk households**

During the summer of 2020, we became aware of the Forgotten Families; a group of children who were unable to return to school due to the risk of a vulnerable family member contracting the virus. The families felt forgotten when the Department of Education produced its guidance on children returning to school after the summer. Children who were in the very high risk category were exempt from returning to school and provision was made for their education to be delivered remotely. Unfortunately those children who had a parent or sibling in a very high risk category were not exempt and were expected to return as normal. This Office received direct contact from nine of these families.

Many children wrote directly to the Ombudsman for Children expressing their fears of causing the death of a parent or sibling. Many were facing into their exam years and had been told by their schools there was nothing they could do to help.

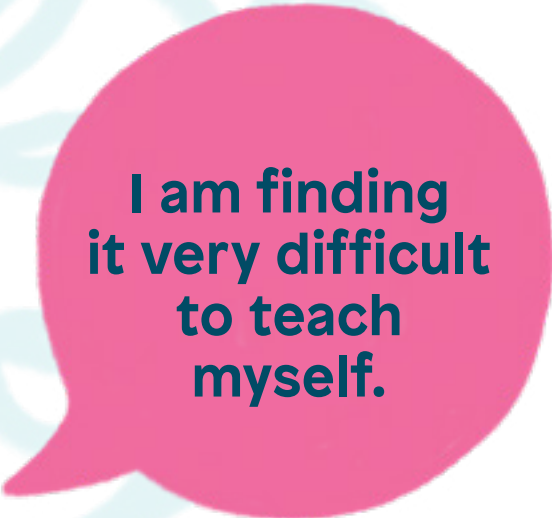
**The following are excerpts from letters received by Dr Niall Muldoon written by children:**

**"After six years in my secondary school, where I thought I was valued, I was told by my school principal that I couldn't have online classes. When asked why, he said he wouldn't because he didn't have to"**

**"My brother will die if he got covid and so will my ma"**

**"He's unwell every single day. How can you ask me to put him at further risk by me mixing five days per week with 1250+ children in school and nearly 100 teachers/SNAs/Staff?"**





**He's unwell every single day.  
How can you ask me to  
put him at further risk by me  
mixing five days per week  
with 1250+ children in  
school and nearly 100  
teachers/SNAs/Staff?**

**I am finding  
it very difficult  
to teach  
myself.**

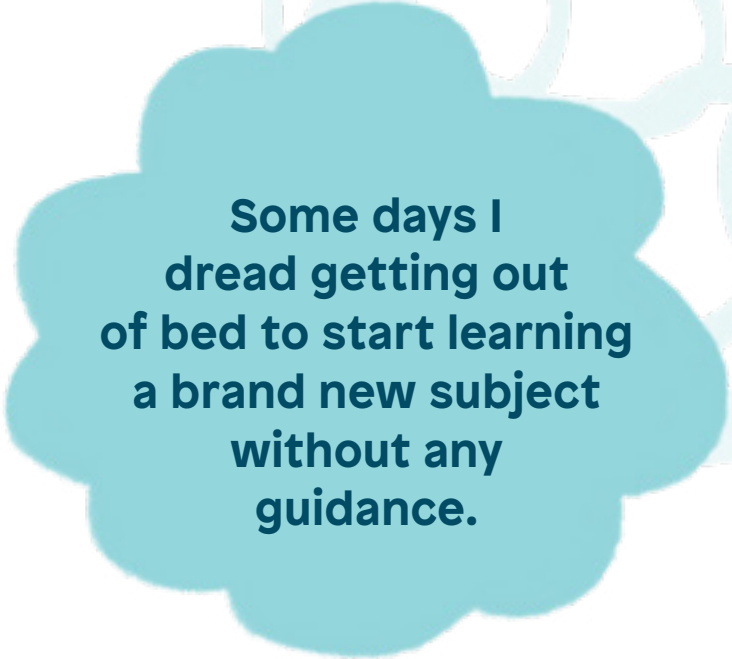
**"I am finding it very difficult to teach myself"**

**"Some days I dread getting out of bed to start  
learning a brand new subject without any  
guidance"**

**"Sometimes I just want to give up"**

The Ombudsman for Children's Office engaged with the Minister for Education and with the Department of Health to highlight the concerns of this group of children. We learned from Tusla, the Child and Family Agency, that the numbers of applications for Home Schooling had increased dramatically but that the child remained on the register of their school until the application could be processed. Some schools were more supportive than others.

Discussions on the subject of support for these children were interrupted by the third wave of Covid-19 to hit Ireland which resulted in the closure of all schools just before Christmas.



**Some days I  
dread getting out  
of bed to start learning  
a brand new subject  
without any  
guidance.**

## Calculated grades

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### No calculated grade for Steven

Steven's mother made a complaint to the OCO about the Calculated Grading System. Steven, who was 17, had studied accountancy outside of school with a tutor but had been refused a calculated grade for the subject. Steven's mother could not understand why her son was not provided with a grade given that the work he had done with his tutor had been documented. Steven's mother explained how this had caused immense stress for Steven as he had worked very hard in the subject and had hoped that the grade he would receive in accountancy would contribute to the points he needed to get his course of choice at university. He had exhausted local procedures with the Department, including the independent appeals mechanism.

### What we did:

We wrote to the Calculated Grade Executive Office (CGEO) in the Department of Education to seek clarity on why Steven had not been given a calculated grade and the rationale behind this decision. We also asked for all information collected by the CGEO that helped inform their decision as well as information passed to the Independent Appeals Scrutineer (IAS) when Steven submitted an appeal.

### Outcome:

In this particular case it appeared that both the CGEO and the IAS adhered to the appeals policies and procedures set out by the Department of Education to deal with appeals of the Calculated Grading System.

With this being said we know there was a number of challenges with the calculated grades processes and we hope that any learning from 2020 will drive improvements for students in 2021.

## Challenges for children returning to special education

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### Reduced timetable the only option for Sam

Sam is a 7 year old boy with autism. His dad came to the Ombudsman for Children's Office when Sam was refused entry to his school, unless his father agreed to a significantly reduced timetable. Sam had been unwell which resulted in his inability to take his medication for a short time. Without his medication, Sam's behaviour can be challenging. Once Sam was well, he was able to resume taking his medication but the school was still insisting that Sam stays on a reduced timetable.

When questioned by the parents, the school advised that they were unable to manage Sam without a full time SNA.

The parents had received confirmation from the Special Education Needs Organisers (SENO) that support was in place for Sam to attend school. They asked for a phased return to school but were initially denied. Following a multidisciplinary meeting at the school the principal agreed to allow Sam back to school. However, they reserved the right to call the parents to pick him up at any time, if there were any safety concerns. The parent expressed his concern that he would be called regularly to collect Sam



as his relationship with the school had broken down.

#### **What we did:**

The OCO met with representatives from Tusla Education Support Services (TESS) and raised our concern about the use of reduced timetables in this case. The OCO was asked to report all concerns regarding the misuse of reduced timetables to the TESS Regional Manager and the Education Welfare Officer (EWO).

The EWO met with the school and the parents separately. He formed the opinion that this school was not the best place for Sam and supported the parents with making an application to attend a special school who would be better able to manage Sam's needs.

#### **Outcome:**

Sam has remained with his school for the rest of the school year and there were no further reductions to his timetable. His parents, with the help of the EWO, have applied for Sam to attend a special school in September 2021 as it would be more suitable for him to meet his educational needs.

However, we remain concerned about the use of reduced timetables and will continue to engage with the Department of Education.

## **Children's rights education**

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Much of the work of the Participation and Rights Education Team – workshops, consultations and participation – relies on face-to-face contact with children and adults. As this contact was not possible during the Covid-19 restrictions, some projects had to be postponed and different ways of reaching children and 3<sup>rd</sup> level students in particular had to be developed. While limiting the reach of the team somewhat, we have worked hard to engage with as many children as possible through online platforms.

#### **Rights education workshops**

The delivery of education workshops to children and young people has been a core part of our work for many years. Unfortunately, due to Covid-19 restrictions, we were not able to welcome children into our office for workshops for most of 2020. This was particularly disappointing for us as the refurbishment of our education spaces had been completed in January 2020.

Before schools closed and restrictions were introduced in March 2020, seven schools – five primary and two post primary – came to our offices for workshops. In total, 112 primary school and 28 post primary pupils attended these workshops. The children loved our new educational space and the interactive facilities it provides.





We piloted remote workshops with children when schools reopened in September 2020. These workshops were held on Zoom over three classes, with 29 children taking part. Classes consist of an introduction to the UNCRC, children's rights and the office. We asked primary students to design a poster about children's rights or a right of their own choice and secondary school students design a billboard, poster or advertisement to encourage the government to take action on promoting and protecting children's rights. Following the successful pilot, we plan to offer these remote workshops in 2021 while restrictions continue.

### **It's your right.ie**

We launched our new look It's Your Right webpages in September 2019, with information for three age groups: 4 to 7 years; 8 to 12 years and 13+ years and an interactive educational game called Right's Runner, aimed at children aged 8 to 12 years.

In 2020 we continued to update and add to the information on It's Your Right and promote it through schools. We also developed and added a number of online education resources for schools and students when schools were closed. These included videos, notes and activities for primary school, Junior Certificate and Leaving Certificate students, as well as a self-learning video and notes for Politics and Society students.

### **Transition Year work placements**

Each year, the OCO welcomes a number of Transition Year (TY) students to the office for work experience placements. This is an important opportunity for us to work directly with children and to give them an opportunity to explore what rights mean for them. Under normal circumstances, these students spend a week in our office meeting with staff from each team and working on a project of their choice.

In 2020 we hosted five TY students in our office before restrictions began and schools closed. In order to continue to provide placement opportunities later in 2020, we piloted these online in November and two TY students undertook their placements with us remotely. They joined us by Zoom each day, met with staff across the office and worked together remotely on projects and wrote blogs for us on an issue of their choice. Their blogs are posted on our It's Your Right webpages.

While we would prefer to have TY students in our office, feedback on the remote placements was generally positive from the two students who took part in them. We plan to continue to offer these remote placements as long as restrictions remain.

### **3rd level programme**

Engaging with third level students who are planning to work with children in their careers - such as student social workers, teachers, early years professionals and social care students - is an ongoing part of our education and awareness raising work. This year we also engaged with the UCD clinical psychology programme. Encouraging critical thinking about their professional role and practice, we provide workshops and seminars on the UNCRC and how professionals can promote and protect the rights of the children they work with and the work of our office.

As with our workshops for children, the number of third level seminars and workshops was necessarily limited in 2020. Prior to restrictions being introduced early in the year, we delivered six third level seminars in four institutions to a total of 211 students. During the remainder of 2020 we also delivered four remote seminars in three institutions. These remote seminars were attended by 95 students.

## 2. Health

**Waiting lists dominated complaints in 2020 as the health services focused on battling the pandemic and there is no doubt that this will be a dominant theme for 2021. 2020 also saw concerns raised about HSE guidance with respect to Covid-19 regulations and the impact upon the health of children attending school.**

### Homecare support for Fionn

Fionn is an 8 year old boy with complex medical needs. Fionn is reliant on a ventilator. He requires constant airway support and as result cannot be left alone at any time, even throughout the night. Fionn receives a paediatric homecare package through a private service provider procured by the HSE. Fionn and his family are entirely reliant on his homecare package, without which Fionn would be unable to be at home and would require full-time inpatient care.

Fionn's father made a complaint to the OCO concerning the HSE and a privately run service provider that was contracted by the HSE to provide Fionn's homecare package. Fionn's father made a complaint to the service provider about confidentiality and discretion, safety and staff competence, rostering and unprofessional conduct by management. The complaint was investigated but not upheld. Fionn's father was not satisfied with the outcome and didn't think that a

clear rationale had been provided for not progressing his complaint. He wrote a letter outlining his concerns to the HSE and the service provider and soon after the service provider terminated their contract with the HSE concerning Fionn's care. Fionn's father believes that the decision to terminate the contract was due to his complaint. He made a complaint to the HSE, but never received a formal response. He then raised his complaint with the Committee of Public Accounts and a response was provided by the HSE to the committee's request. The HSE said that Fionn's father had been incorrectly directed toward the HSE to seek a review of his complaint but owing to a policy change in 2017 it was now the responsibility of service providers of paediatric homecare packages to conduct their own complaint reviews. Fionn's father expressed concern in his complaint to the OCO about the HSE's oversight of paediatric homecare packages, he advised that families were not provided with an opportunity to give feedback on the service their child received.

### What we did:

We wrote to the HSE and interviewed the Head of Service for Primary Care in the area concerned. The HSE acknowledged shortcomings in relation to their communication with Fionn's father. They explained the oversight of paediatric homecare packages which takes place through a Service Arrangement Review process and through the public health nursing service. The HSE acknowledged that they should have picked up on the discrepancy within the Service Provider's complaints policy concerning how



complaints are reviewed and apologised for these shortcomings.

They explained that plans to establish twice yearly forums for parents of children who receive paediatric homecare packages have been put on hold due to the Covid-19 crisis. Parents will be given an opportunity to provide feedback in relation to the service they are receiving.

We wrote to the Service Provider and interviewed the Head of Advanced Community Care and the Clinical Risk Manager. The Service Provider acknowledged that their complaints policy had been inaccurate with respect to arrangements for reviewing complaints. Therefore Fionn's father did not have a mechanism open to him to ask for his complaint to be reviewed. The Service Provider has up-dated their policies to reflect their responsibility to conduct their own complaint reviews. They have also identified a suitably qualified person to undertake a review of the complaint concerning Fionn's care and committed to conducting the review.

#### **Outcome:**

The OCO always encourages and promotes local resolution of complaints by public bodies. We are satisfied with the Service Provider's plans to arrange for an independent review of the complaint. We also wrote to the HSE encouraging them to proceed with plans to establish forums for parents of children in receipt of homecare packages as soon as it is safe to do so in accordance with public health guidelines. We informed Fionn's father that it is open to him to revert back to the OCO if he remains dissatisfied following the completion of the complaint review.

### **How's Your Head? A Resource for Staying Afloat Post-COVID-19**

In July 2020, the OCO was contacted by India Kennedy, the Donegal Regional Officer for the Irish Secondary Student's Union (ISSU). India, a 6th Year student, had researched and written a mental health and well-being manual - How's Your Head? A Resource for Staying Afloat Post-COVID-19 - to help students returning to school in September in the context of the 'new normal' of the Covid-19 pandemic and restrictions.

We provided India and her ISSU colleagues with editorial and publishing assistance to help spread the word about the manual on our social media.

### **3. Children's development and family life**

We were concerned about the grave physical, emotional and psychological impact that Covid-19 and the subsequent Government policies were having on the lives of children and families. Their world reduced to 2 km, their schools closed, their team sports stopped and their playgrounds were locked.

Children's right to be heard and to be taken into account in decision-making processes does not cease in situations of crisis or in their aftermath. Therefore, in May 2020 we made a submission to the Special Oireachtas Committee on Covid-19 response highlighting our deep concerns and asking for the government to:

- Ensure that children have access to mental health support through whatever means necessary e.g. phone/online.
- Minimise the disruption to children's access to health care unrelated to Covid-19.

- Create online resources providing child-friendly sexual and reproductive health information, including how to access services during the Covid-19 crisis.
- Closely monitor vaccination programmes to ensure all new born babies and school aged children receive their vaccinations.
- Disseminate accurate information about Covid-19 in formats that are child-friendly and accessible to all children, including children with disabilities, migrant children, children that are members of the Traveller and Roma community and children with limited access to the Internet.
- Continue to identify quickly, and react appropriately to, clusters of infections within specific groups of people e.g. communal living accommodation and or specific ethnic groups.
- Expand the Still Here campaign to include education on child abuse.
- Expand services for at-risk households, including home visits to families where children are at elevated risk of violence.
- Prioritise the full resumption of the activities of the Court Service for the purpose of family law matters.
- Conduct awareness campaigns on the risks of online abuse, including the sexual exploitation of children.
- Allow children leaving care to remain in their existing placement. Separated children seeking asylum turning 18 years of age during this crisis should not be placed in direct provision for the duration of this pandemic.
- Consider the partial opening of schools and other community-based services during the traditional summer holidays to ensure children do not remain “invisible” for an extended period of time. This is of particular importance for children with disabilities.
- Allow access visits to parents and/or siblings in different households as essential social visiting for the duration of the current Covid-19 restrictions.
- Impose a temporary moratorium on short remands for children for the duration of the Covid-19 crisis.
- Scale up social protection schemes to protect the most vulnerable families and to minimise any possible increase in child poverty.
- Transfer children in communal accommodation to more suitable family-based settings or family-friendly environments.
- Audit local authorities to ensure guidance to reduce the spread of Covid-19 and lessen the risk of infection in the Traveller community is being adhered to.
- Expand the Pandemic Unemployment Payment to young people aged 16 and 17 years of age who were in full employment prior to the pandemic and had sufficient PRSI payments to qualify for this payment.
- Explore and promote creative solutions for children to enjoy their right to play safely.
- Prohibit the discrimination of children entering places of business such as grocery shops and hardware stores as this can be a significant obstacle for some parents.
- Monitor the temporary assignment of special needs assistants (‘SNAs’) to the HSE to ensure the continuation of support to families via their Children Disability Network Team.
- Encourage all schools to mark important rites of passage for children, such as school graduation.
- Provide certainty on re-opening of schools, particularly for those who are moving into their examination years (3<sup>rd</sup> and 6<sup>th</sup> Years).



- Provide free or discounted access to high quality internet and computer equipment for both families and schools in poor and marginalised populations.
- Address the needs of the most vulnerable children who will miss out on vital services, including meals, while schools are closed.
- Consider permitting children with disabilities or additional needs to return to crèche at an earlier date with appropriate safety measures.

## 4. Direct Provision

### Direct Division: Life in Lockdown

When the Covid-19 restrictions were imposed in March 2020, there were 2,400 children seeking international protection in Ireland and living in Direct Provision or emergency accommodation. During August 2020 we spoke to a small number of the children who had participated in our earlier consultation to find out what life in lockdown was like for them.

The children shared the concerns and anxieties of many children in Ireland, including that they were falling behind in school, fears over returning to school and being exposed to the virus, anxiety that their families would become ill with the virus, isolation and boredom, lack of areas to play and socialise in, as well as a lack of, or confusing information, about Covid-19.

The boredom, loneliness and frustration felt by most people during the lockdown was magnified for children living in Direct Provision accommodation by the fact that they had to stay indoors, often in one small room or living space, with their

whole families for months. According to the children their right to education was most affected by the lockdown. All of the children we spoke to expressed difficulty with keeping up with school due to a lack of support services, digital poverty and language barriers.

The camaraderie among children living in Direct Provision, the support they provide each other and the bonds they form often combat their general social isolation. However, these relationships were challenged during lockdown as outbreaks in centres occurred. With families being removed from centres to self-isolate elsewhere, fear grew among residents and this led to children reporting stigmatisation and isolation from their peers on their return to their centre.

The Covid 19 pandemic and first lockdown amplified the isolation, exclusion and marginalisation of these children who were already living, in many cases, on the fringes of Irish society and brought many of the shortcomings of the Direct Provision system into sharp relief.

Our report Direct Division: Life in Lockdown can be accessed on our website.

## Section 2

# Progressing Children's Rights





While the pandemic influenced how the OCO carried out all of its work in 2020, there were a number of projects and publications that continued and were finalised in 2020. This work spans across the office and includes investigations, research and publications carried out by our Policy team, those in Participation and Education Rights, as well as Complaints and Investigations.

## 5. Disability

Focusing on the rights and needs of children with disabilities has been a priority for the OCO for many years and forms part of our Strategic Plan 2019-2021. In 2020 a number of key pieces of work were undertaken and finalised.

In 2020 we published Jack's Case. This case was important as it highlights, once again, the barriers facing children with disabilities as they try to access the services they need. The full text of Jack's Case is available on the OCO website. It is included as a case study here to emphasise the need for state agencies to find a way to communicate and work effectively together in the best interests of children.

### Jack's Case

In the summer of 2016, when Jack was three years old, he was involved in a serious road traffic accident in another country, resulting in a brain injury and other significant life-changing injuries. Jack, who had previously met all his developmental milestones, was diagnosed with an array of physical disabilities and a profound intellectual disability that would require full assistance with all aspects of his daily care.

In April 2017 Jack's mother discharged him from hospital abroad and brought him back to Ireland, where he was immediately admitted to hospital. In January 2018 we received a complaint on Jack's behalf from members of the multi-disciplinary team in the acute paediatric hospital where Jack was an inpatient. The team expressed concern about the delays in getting services for Jack by the relevant Health Services Executive (HSE) Disability Service so that he could leave hospital.

When Jack's mother expressed concern that she wouldn't be able to properly look after him at home, a referral was made to Tusla by a medical social worker informing them of this and seeking their help. This was followed up later by further referrals by a medical team. However, these were ultimately rejected by Tusla on the grounds that they were solely a matter for the HSE.

### What we did:

We investigated Jack's case and found that the administrative actions of both the HSE and Tusla had a negative impact on his life. After Jack was deemed

medically ready for discharge from hospital in August 2017, he remained living between two hospitals and a specialist community respite setting for two and half years due to the failure of the HSE Disability Services and Tusla, the Child and Family Agency, to work individually and together to meet his needs.

The OCO believes that if the HSE and Tusla had worked together at an early stage Jack may have had the opportunity, with adequate support, to grow up with his family. Even if it was not possible for him to return home, he could have been moved sooner to a more homely environment and even gone to school. We are also concerned that Jack's eventual placement with a host family by the HSE Disability Services was made without any legal or formal regulatory framework or proper authority. In addition, we found no indication that Jack's mother was made aware of these concerns, and that efforts do not seem to have been made to directly contact Jack's father in relation to his son's placement.

There was also a lack of adequate communication between the HSE Disability Service and the hospital following Jack's initial referral in August 2017, as well as an unsatisfactory four-month delay in the HSE response time to a complaint made by the multi-disciplinary team trying to get the matters resolved. Tusla should have completed an initial assessment on Jack and his family when they were informed by the medical social worker and medical team about their concerns and the potential risks and harm to him. They refused on the basis that these were issues for the HSE Disability Services, and that Jack did not meet their

threshold for care. It is our view that this decision was unduly informed by Jack having a disability.

The HSE told us there were a further 356 children with disabilities in need of a residential placement. They were also aware of the need for increased funding for early intervention support and services for families to support children to be cared for at home.

This investigation highlights the need for Tusla to review the management of referrals they receive about children with a disability and how they engage with the HSE in providing this support. We believe that every child should have the right to grow up with their families and no child should lose that opportunity due to a lack of resources, services and/ or coordination of state services.

### **Outcome:**

The OCO made a number of recommendations to both the HSE and Tusla relating to Jack's case and also changes needed to provide supports to the 356 other children with disabilities who need a residential placement. At the core of all of these recommendations is the need for a high level of inter-agency cooperation.

In response to these recommendations the CEOs of the HSE and Tusla issued a joint response to the Ombudsman for Children, fully accepting our recommendations.

Since then, Jack's care plan has been reviewed and all agencies are now working together with Jack's mother and host family to meet his needs. Jack has also been provided with a range of services, medical equipment and an



individualised budget to meet any emerging needs. Tusla have assigned a liaison person to Jack's case through their family support Meitheal service. The HSE and Tusla have also agreed to arrange an assessment of whether Jack's current host family arrangement complies with all safeguarding requirements (as per Children First: National Guidance for the Protection and Welfare of Children 2017).

Jack is enrolled in school and has two classmates.

The Service Director of Tusla and HSE Chief Officer in the area where Jack was from have agreed to meet quarterly due to the high volume of complex cases of interest to both agencies in the area.

The OCO will review the progress of the HSE and Tusla in implementing the recommendations of this investigation to ensure children like Jack with disabilities who are unable to live with their parents receive the services and supports they require.

### **Unmet Needs: A Report on the Challenges Faced by Children in Ireland Who Require an Assessment of Their Needs**

For many years the OCO has been receiving complaints about access to an Assessment of Needs (AON) and the recommended services for children with disabilities. We are very concerned about the serious negative impact that the AON system has been having on children's health and wellbeing as well as their future development. In 2020 we published Unmet Needs, an examination of AON from a children's rights perspective.

### **Recommendations:**

- The Disability Act 2005 needs to be reviewed to ensure that provisions made which affect children are rights-based, child-centred and aligned with Ireland's international human rights obligations under the UNCRC and the UNCRPD.
- Coordination between relevant Government departments, State agencies and service providers needs to be strengthened to provide a clear, coherent approach to assessment and intervention for children with disabilities.
- Adequate financial, technical, and human resources must be provided on a sustained basis to ensure that assessments and interventions are provided in a timely manner.
- The State needs to ensure that a functional and accessible complaints mechanism is in place for children to seek and obtain effective and timely remedies.
- In the interests of supporting effective planning, the HSE should collect and create a central database of AON data, which is accessible to all therapists, clinicians and administrators involved in the AON process and which allows access to information on a real-time basis in relation to the waiting times for appointments and the availability of services detailed in the Service Statement. Statistics in relation to the commencement and completion of assessments, and the finalisation of Service Statements, should be published in the quarterly reports along with targeted solutions for any shortcomings.

- The HSE needs to improve its communication and engagement with children and families.
- Following publication of Unmet Needs we were invited to meet with the Joint Committee on Children, Equality, Disability, Integration and Youth on 1 December 2020. We welcome the Committee's decision to examine issues raised through our Unmet Needs report in detail with key stakeholders, including the Minister of State with responsibility for Disability and the HSE.

## Research about the rights of children with disabilities in Ireland

We know from our work that children with disabilities can face multiple barriers to enjoyment of their rights.

In 2020, we commissioned researchers from the Centre Disability Law and Policy and the Institute for Lifecourse and Society at NUI Galway to conduct desk-based research to provide us with a more comprehensive understanding of the barriers that children with disabilities in Ireland can face to realising their rights.

The researchers worked to identify key barriers that mitigate against children with disabilities enjoying their rights under the UNCRC and the UNCRPD.

The researchers took into account general measures that the UN Committee on the Rights of the Child has identified as key to implementing children's rights. We also asked the researchers to identify measures that might usefully be taken to address these barriers. The findings and recommendations arising from this research will not only broaden and deepen understanding of the barriers

children with disabilities can face, but will also highlight actions that can be taken to overcome these barriers.

This research was completed in 2020 and we plan to publish a report documenting the findings and recommendations of the research in early 2021.

## 6. Direct Provision

### Direct Division: The views and experiences of children living in Direct Provision accommodation

*Direct Division: children's views and experiences of living in Direct Provision accommodation was published in July 2020.*

Between June and November 2019 we undertook a consultation with 73 children aged between 12 and 17 years in nine Direct Provision centres around Ireland. Using focus groups, interviews and two away days that allowed the children to work on creative expressions of their life in Ireland, the consultation explored the children's views on the achievement of their rights, their experiences of inclusion and exclusion in school, the local community and wider Irish society. Direct Division includes a review, from a children's rights perspective, of relevant national and international policy and priorities for action by the Irish government.

Within their accommodation centres, children cited lack of space and privacy as problems. Their sense of isolation was exacerbated by poor transport, which prevented them from taking part in afterschool or community based

activities. Difficulty in asking for lifts was often linked by the children to their sense of stigma and fear of being judged about where they live.

Many of the children felt discriminated against in school and reported experiences of racist slurs such as the “N Word” and taunts of being terrorists if identified as being of the Muslim faith. There were reports of bullying related to race, religion and nationality in school. Teachers were often seen by the children as not standing up for them when their peers were expressly or covertly racist or sectarian. Children also reported that some teachers expressed racist or discriminatory sentiments themselves, or were covertly racist. Teachers were reported as knowing little about what it meant to be an asylum seeker or what living in Direct Provision accommodation is like and the restrictions it placed on the children.

Some children also experienced discrimination in their local communities, feeling that the colour of their skin was how many Irish people judged them. These children wanted Irish people and communities to know about the hurt, pain and terror they experienced in their home countries so they would understand why they are seeking protection here.

Playing sports at school or representing their school in events like fashion shows, musicals and debating team helped some children to feel included. Where schools took steps to respect the children’s religion and culture, this was very much appreciated. This includes schools which permit the wearing of the hijab, provide prayer rooms, provide Halal food and hold international and multi-cultural days.

Many of the children wrote about loving Ireland, of feeling safe here, of being grateful for the protection they have received. Others, however, wrote challenging messages, asking to be treated as a person and not a colour, and seeking greater understanding.

The children made many suggestions for changes. Most prevalent among these were a faster process for determining their immigration status and action to counteract and stamp out racism. While living in Direct Provision accommodation, almost all of the children wanted more living space, more privacy and greater access to transport. Many wanted an end to centre-based, communal accommodation and a move to own door housing in the wider community. However, many of the changes sought were smaller and simpler. These included footpaths from the centre to the local town and more information about community events that they could get involved in.

### **Our recommendations:**

- Address delays in the asylum process, taking specific account of the experiences of children.
- Accommodation for people seeking international protection should fully reflect the provisions of the EU Recast Directive in terms of standards. Independent inspections should be carried out.
- Additional English as an Additional Language (EAL) teachers are needed. Make IT and internet resources available in every accommodation centre. Ensure access to the Pilot Free Fees Initiative.



- Deliver training and information to teachers, principals and Boards of Management. Consider more central location for future accommodation centres. Provide recreational facilities in all Direct Provision centres.

Direct Division was launched online and a number of the children who contributed attended this virtual event. This launch included a short film of interviews that the children gave during our consultation. This film, as well as the full report and the children's art are available on the OCO website.

### White Paper on international protection accommodation

In June 2020, the Government committed to ending Direct Provision and publishing a White Paper by the end of the year to replace Direct Provision with a new international protection accommodation policy.

The OCO was invited to make a submission to the Minister for Children, Equality, Disability, Integration and Youth to inform the development of the White Paper.

Our submission highlighted a number of areas that require particular consideration in the White Paper.

Emphasising that the development of, and transition to, the new system must have children's rights and best interests at its core and must consider the views of children living in Direct Provision, our submission recommended that:

- Families should be provided with own-door accommodation that is suitable for children's physical, mental, spiritual, moral and social development.

- The use of emergency accommodation should be halted as soon as possible and a contingency planning framework developed to effectively respond to capacity pressures.
- Oversight of the new system should be based on a permanently resourced, whole of Government approach, with a detailed framework of responsibility and accountability.
- Accommodation centres should be subject to independent inspections.
- All children should have an individualised vulnerability assessment in line with the child's best interests within 30 days of arrival and a mechanism should be put in place to regularly identify and respond to ongoing and new vulnerabilities experienced by children.
- A multi-service approach to provision of supports should be adopted throughout the international protection process and for a period of time after a person is granted protection status or permission to remain.
- Measures should be taken to combat acts of racism, racial discrimination, xenophobia, and related intolerance directed towards asylum-seekers and to enhance harmonious relationships with local communities.
- School staff should be provided with additional support to increase knowledge and understanding of the international protection system, the impact of trauma and the promotion of integration among pupils.
- Unaccompanied children should be supported in making timely applications for international protection or appropriate residence permissions.
- Unaccompanied children turning 18 should remain in the care of Tusla and should have access to the same standard of aftercare planning and supports as other children leaving care.

The DCEDIY published the White Paper in February 2021. Children's rights, integration from day one, dignity, respect and privacy will be among the principles underpinning the new model, in line with recommendations made in our submission. We will continue to monitor actions taken to reform the international protection accommodation system and implementation of the White Paper, to ensure these actions uphold the rights of children seeking international protection.

## 7. Nationality

### **Pathways to Irish Citizenship: Separated, Stateless, Asylum Seeking and Undocumented Children**

Through the OCO's work in participation and rights education, the issue of nationality and identity is often raised by children and their families. In the work that we do with children all over Ireland, particularly those living in Direct Provision, this is a very real issue and one we decided to explore further through research.

Under the UNCRC every child has the right to acquire a nationality. In Ireland, as in many other countries, this is inextricably linked with acquiring citizenship. Many non-national children in Ireland and their parents wish to acquire Irish nationality and citizenship. However, for many of the most vulnerable children, acquiring citizenship through the naturalisation process is far from straightforward. These include separated children seeking asylum, stateless children, children who have come through the asylum process and undocumented children.

In seeking to understand the ways in which these children can acquire Irish citizenship and their needs, we commissioned Dr Samantha Arnold to undertake research into the avenues available for accessing citizenship in Ireland for non-EEA children and to share with us some of the changes that she believes would help improve non-national children's access to Irish citizenship. In doing so we hoped to learn more about the current position and to inform our engagement with the children affected by these issues, as well as our contribution to policy and legislative debates. What this research clearly highlights is that, for these vulnerable groups of children and their families, the path to Irish citizenship and the rights and entitlements this gives them is long, complex and expensive. Dr Arnold points to a number of issues that, in her view, require attention including the delays that often occur in these processes, the lack of clarity that exists between relevant agencies, the absence of a clear and formal process for stateless adults and children, the need for greater attention to be paid to the specific vulnerabilities and needs of children, and the limits on the legal aid available to applicants.

While many of the tangible benefits of having Irish citizenship arise when children reach adulthood (e.g. ability to vote in General Elections, eligibility for some Government jobs), a grant of Irish citizenship, in particular for undocumented children, means some additional freedoms and rights, such as greater access to family reunification in some cases, freedom to travel within the EU and overseas including with family

or indeed foster families, and, generally speaking, protection against deportation. Importantly, however, citizenship brings with it intangible benefits. These include a sense of belonging, stability and security that many of the children with whom this research is concerned have not had for long periods of time. While allowing for proper checks to be undertaken by the national authorities, affording children this security is sufficient reason to consider how we make pathways to citizenship for them as accessible and transparent as possible.

Dr Arnolds report, Pathways to Irish Citizenship Separated, Stateless, Asylum Seeking and Undocumented Children, was launched by the office in June 2020 and is available on the OCO website.

paying particular attention to the provisions that have been made about online safety and the proposed establishment of an Online Safety Commissioner as part of a wider Media Commission.

While we recognise that the scope of the General Scheme extends beyond online safety, the proposals set out in the General Scheme to establish a regulatory framework for online safety to address the spread and amplification of certain harmful online content represent a significant opportunity to strengthen the protection of children from harmful content online. The importance of measures to improve the protection of children from such content has been highlighted further during 2020, with the impact of Covid-19 in Ireland heightening concerns about children being at increased risk of exposure to harmful material and behaviours online, including cyberbullying, violence and hate speech, and grooming for sexual exploitation.

## 8. Children's rights

### General Scheme of the Online Safety and Media Regulation Bill

As a member of the National Advisory Council for Online Safety (NACOS), we continued to engage with the General Scheme of the Online Safety and Media Regulation Bill. We participated in a briefing about the General Scheme held by the then Department of Communications, Climate Action and Environment (DCCAE) in February 2020 and in a subsequent webinar about the General Scheme hosted by the DCCAE in June 2020.

We welcome publication of the updated General Scheme in December 2020 and we will be examining proposals concerning children and their rights set out under this General Scheme in early 2021. We will be

### Research on children's right to be heard through social and digital media

During 2020 a research team from the Centre for Social and Educational Research at TU Dublin completed their research for the OCO about how social and digital media might be mobilised to progress children's right to be heard in public decision-making processes affecting them.

Following a desk-based review of relevant literature, primary research focused on hearing the views of children and young people was carried out. Stakeholders in the public sector, private sector, civil society and research were also consulted. While Covid-19 measures delayed completion of the primary research, an alternative approach was taken to facilitate children taking part.

We look forward to publishing this research in 2021.



## OCO Youth Advisory Panel

At the end of 2020 the OCO set up a new Youth Advisory Panel or YAP on a two year pilot basis. This YAP will inform and advise the OCO. The YAP, which is made up of children and young people between 13 and 17 years old, was recruited in November and December 2020 through a range of youth organisations and schools to ensure that it is inclusive and diverse. YAP members were not asked to be representatives of their communities or any organisation. They have an interest in children's rights and working with our office. Unfortunately, due to Covid restrictions we could not offer an in-person meeting to the YAP and members had to agree to conduct their first meetings in 2021 online.



## 9. International and European engagement

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### Monitoring of Ireland by the UN Committee on the Rights of the Child

Ireland is periodically reviewed by the UN Committee on the Rights of the Child (Committee) on the progress it is making to implement its obligations to children and their rights under the UN Convention on the Rights of the Child (UNCRC). In 2022, Ireland's progress will be examined by the Committee for a fourth time since the UNCRC was ratified, but this process started in 2020.

Ireland has opted into a new Simplified Reporting Procedure (SRP) under the UNCRC, meaning the monitoring and reporting process is somewhat different to previous occasions. Under the SRP, the Committee prepares a List of Issues Prior to Reporting (LOIPR) for a State Party (e.g. Ireland). The Committee's LOIPR requests specific information and statistical data from a given State Party about a wide range of matters relating to children's rights under the UNCRC. Non-State Party stakeholders such as the OCO can submit written reports to the Committee to inform the Committee's work to prepare an LOIPR. The State Party's replies to the LOIPR are the State Party's report to the Committee.

On 1 July 2020, the OCO made an initial submission to the Committee to inform the Committee's preparation of an LOIPR for Ireland. Our submission took several factors into account, including:

- the Committee's Concluding Observations in 2016 following its examination of the combined third and fourth periodic reports of Ireland

- the OCO's statutory remit under the Ombudsman for Children Act 2002 (as amended) and associated strategic priorities
- issues affecting children's rights in Ireland that the OCO has engaged with in recent years in the context of implementing our statutory duties.

Our submission provided the Committee with information about and an independent, child rights-based assessment of developments relating to cross-cutting measures that affect children's rights (e.g. law, public policy, allocation of resources and data collection) and developments relevant to core children's rights principles under the UNCRC. It also focused on issues affecting children and their rights in Ireland, including:

- children's access to information and protection from harmful information
- child abuse and neglect
- domestic violence
- bullying among children
- illicit transfer and non-return of children following Brexit
- alternative care, including out of State care
- aftercare
- healthcare, including mental health
- child poverty
- housing and homelessness
- education
- child justice

Our submission also highlighted issues affecting specific groups of children, including children in care, children with disabilities, refugee and asylum-seeking children, and Traveller and Roma children.

We brought both positive developments and areas of concern to the Committee's attention and proposed specific matters that we felt the

Committee might usefully ask the State about in its LOIPR.

The Committee published its LOIPR for Ireland in November 2020. Having reviewed this LOIPR, we are satisfied that the vast majority of the issues we focused on in our initial submission are reflected in the Committee's LOIPR.

The State is due to submit its response to the Committee's LOIPR in October 2021. During 2021, we will continue to engage with this important monitoring process by preparing a more extensive alternative report for the Committee and facilitating children and young people to prepare their own report for the Committee.

### **Work by ENOC on Child Rights Impact Assessment (CRIA)**

The OCO is a member of the European Network of Ombudspersons for Children (ENOC), which includes Ombudspersons and Commissioners for Children from over 40 countries across Europe.

ENOC's work in 2020 included a specific focus on child rights impact assessment (CRIA). The OCO actively contributed to ENOC's activities in this regard, including by participating in the Working Group for ENOC's work on CRIA, sharing information about relevant developments in Ireland with our ENOC colleagues and participating in a thematic seminar for ENOC members held in September 2020.

We also inputted to the preparation of a statement by ENOC on CRIA, which was adopted at ENOC's 24<sup>th</sup> General Assembly in November 2020. This statement calls upon States, the Council of Europe and European Union institutions to use CRIA and Child Rights Impact Evaluation (CRIE) processes to help embed children's rights in law, policy, budgetary allocation, and other administrative

decisions as well as to promote and support its use among public bodies. In addition to clarifying what CRIA and CRIE are and why they are important for the implementation of children's rights, the statement makes a number of recommendations concerning the introduction and mainstreaming of these processes.

In late 2020, we applied to take part in a joint project by ENOC and UNICEF to implement a CRIA focused on the impact of Covid-19 measures on children's rights. We will be undertaking this project during 2021 and it is our hope that one of the outcomes of this work will be a deeper understanding of the impact that Covid-19 measures has been having on specific groups of children.

## **10. Family and Care**

### **Review of the Child Care Act 1991**

In July 2020, the Department of Children, Equality, Disability, Integration and Youth (DCEDIY) published a consultation paper, which set out proposals for amending the Child Care Act 1991.

The observations we submitted in 2020 built on our previous submission in 2018 and subsequent engagement with the DCEDIY in relation to the review. We focused on proposals concerning:

- the introduction of a new part in the 1991 Act setting out principles to guide implementation of the revised 1991 Act in its entirety
- the promotion of children's welfare
- interagency coordination and collaboration
- early intervention and family support
- voluntary care agreements



- unaccompanied children seeking asylum and taken into care
- accommodation for homeless children
- care proceedings and associated orders
- private foster care
- the voice of the child
- children in the care of Tusla
- corporate parenting

The OCO appreciates the very considerable work undertaken by the DCEDIY to date to review the 1991 Act and welcomes a number of the proposals set out in the consultation paper. However, as we highlighted to the DCEDIY in our written observations, we are concerned that some of the proposals do not have sufficient regard to children's rights and/or that they lack ambition as regards providing robust legislative underpinning for an approach that puts children first. We are particularly concerned about an apparent reticence to fully mandate relevant agencies and services to work together in discharging their respective responsibilities to children under the 1991 Act.

## 11. Child Justice

In June 2020, the OCO made a written submission to the then Department of Justice and Equality on the draft new Youth Justice Strategy. In our submission, we welcomed proposals, including those directed towards:

- strengthening the rights of children in contact with, or at risk of coming into contact with, the child justice system
- upholding the best interests of children and developing policies, programmes and systems that are informed by children's views

- diverting children away from the formal youth justice system to the greatest extent possible and using detention as a measure of last resort.

The Youth Justice Strategy 2021 – 2027 was published on 15 April 2021. We welcome many of the objectives contained in the strategy as well as the principle that young people in conflict with the law will be treated as children first, with due respect for their rights. We also welcome the vision of collaboration across all sectors of government and society in the development and delivery of opportunities for children and young people, including support in their families and communities, in order to strengthen their capacities to live free from crime and harm.

However, while some of the recommendations made in our submission on the draft Strategy have been addressed, others have not. Some Departments were omitted from certain sections of the draft Strategy. We recommended that the Department of Education should be included as a relevant agency in relation to Oberstown in the interest of ensuring that the educational needs of children in detention are fully considered and note that this has not been included in the Strategy.

However, we welcome the inclusion of the Department of Housing, Planning and Local Government as a relevant agency in relation to post detention so that the housing needs of children leaving detention will now be more fully considered.

We welcomed the proposed improvements to the justice system for cases involving children were included in the draft Strategy but recommended that further improvements could be made.

We welcome the objectives which will provide for specific training for professionals involved in the criminal justice system, the review the facilities and procedures in Garda Stations and Courts, the provision of effective specialised representation and appropriate information services to assist young persons throughout the Courts process as well as the prioritising of cases involving children and young adults to minimise delays.

Through our work, we have been told by children in detention that they are not always aware of their rights and we also recommended that the Strategy should include commitments to providing information materials to children and their parents/ guardians at the different stages of the child justice process, as well as information on the rights of children in the child justice system overall. While we welcome the objective to ensure provision appropriate information services to assist young persons throughout the Courts process, we believe that this should be extended to cover all aspects of the services they access while in detention such as educational and social care services.

# Running the Office





## Budget

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The budget of the OCO is allocated through the Department of Children, Equality, Disability, Integration and Youth and drawn down on a regular basis throughout the year. In 2020, our budget was €2.87m (2019: 2.75m). The OCO budget allocation for 2021 is €2.96m. 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, for ensuring the regularity of the Office's transactions, and ensuring compliance with the Code of Practice for Governance of State Bodies.

The Financial Statements are subject to audit by the Comptroller and Auditor General. The audit of the 2020 accounts will take place in early Quarter 2 of 2021, and will be conducted by the Comptroller and Auditor General. In accordance with Section 17 (2) of the Ombudsman for Children Act 2002, the draft Financial Statements for the year ended 31st December 2020 were submitted for audit by the Office of the Comptroller and Auditor General by 31st March 2021.

Once approved by the Comptroller and Auditor General, the Financial Statements for 2020 will be published on the OCO's website, as has been done in previous years.

Mazars Chartered Accountants provided our internal audit function, and undertook a review of internal controls in 2020. They also conducted an audit of our risk management framework audit.

## Recruitment

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At the start of 2020, the OCO had 23 permanent staff members. By the end of 2020, there were 27 permanent staff members. A lot of workforce planning for 2020 and 2021 took place during 2019 and this was implemented throughout 2020.

A Head of Corporate Governance, Compliance and Services was recruited to the Management Team in August 2020.

Plans are in place to continue to grow the OCO team in 2021 with ten new roles to be recruited in 2021.

## Covid-19

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The onset of the Covid-19 pandemic in early 2020, and the resulting public health advice and safety measures rapidly changed the working practices of the Ombudsman for Children's Office.

The OCO has monitored the developments closely, looking to mitigate the risks that may affect the OCO's business operations, staff and stakeholders. Actions taken by the Office include:

- Initiated OCO's Business as Usual (BAU) model.
- Made necessary adaptations to the OCO's physical office environment.
- Established and implemented Return to Work protocols and control measures.
- Continual assessment of significant risks pertaining to the Covid-19 pandemic.
- Ensured robust segregation of duties remained and adequate cover is in place.
- Ensured all existing data protection and records management policies and procedures continued to be followed.

- Assessed potential for weaknesses in internal controls and ICT controls as a direct result of the pandemic and took measures to monitor and update controls where necessary. In the period March 2020 to August 2020, access to OCO's network was limited which had an impact on OCO staff ability to work remotely.

## OCO ICT Infrastructure

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At the start of remote working, the OCO knew that its ICT infrastructure could not support ongoing remote working. The Office commenced discussions with data security specialists and began procuring for ICT equipment for issue to staff to ensure that at no point in time did controls threaten the achievement of OCO's objectives. Staff members were physically present in office every week to undertake any essential work that could not be done remotely.

The Office took the decision to move its IT service provision from the Department of Health to the Office of the Government Chief Information Officer (OGCIO) to enable future ICT developments within the Office and seamless remote access. The migration project began in September 2020 and completed on March 8th 2021. The Office now has fully remote access and is supported by the OGCIO for all IT policies and disaster recovery. An ICT plan is being developed to support the needs of the Office for 2021-2025

## Energy

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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 2020, the OCO used 75,043kWh of electricity, an 6.4% decrease on 2019. This is in part attributable to less attendance at the Office due to Covid-19, however energy usage is monitored on an ongoing basis. The OCO continues to operate a comprehensive internal recycling system. We have been engaged with the OPW's Optimising Power @ Work campaign, and we are actively seeking ways to bring power usage down. We have also undertaken not to purchase any single use plastics, as per Government Decision S180/20/10/0434C of 3rd January 2019.

## Freedom of Information

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Under section 8 of the Freedom of Information Act 2014 (FOI Act), the OCO is obliged to prepare and publish a publication scheme. The purpose of this scheme is to allow the provision of information to the greatest extent possible, except for information exempted under or outside the FOI Act. In 2020 we received and processed seven FOI requests.









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