

OMBUDSMAN FOR CHILDREN / DO LEANAÍ

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Ombudsman for Children Annual Report 2011



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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 2011, pursuant to Section 13 (7) of the Ombudsman for Children Act, 2002.

Advancing children's rights is about putting in place the necessary conditions for children to live with dignity and respect. While some progress has been made since the establishment of the Ombudsman for Children's Office in 2004, the fact remains that many children and young people in Ireland face barriers and sometimes multiple barriers and challenges in the realisation of their rights and in accessing a range of basic services. We see the obstacles that children and families face

in trying to achieve this in the course of investigating complaints brought to our Office and in direct work with children and young people. By highlighting these practical difficulties, I aim to communicate to decision-makers and society more generally of concerns about children that might otherwise remain unnoticed or unaddressed.

In April 2011, I published an analysis of our casework, which I believe provides evidence of the need for public sector reform. There are some very fundamental principles of good public administration that require attention when dealing with policies that affect children and families. It is a dominant feature of our investigations that, with few exceptions, they highlight a lack of awareness about the impact of civil and public administrative decision-making on the lives of children and families. In this respect, we continue to see more concern for the system than for the best interests of the child and family. We continue to see a reluctance to engage with parents about new policy decisions resulting in a lack of communication with parents. For parents it is often a lack of communication that leads to unnecessary concern and upset about their children. Often at the heart of this is a fear by the public body of parents' expectations and this lack of communication is a genuine concern expressed by parents to this Office.

I would encourage the government to consider carefully how it determines policy in this extraordinary and difficult time. In relation to children there has been an absence of child impact analysis evident in much of public decision-making regarding children; one of the consequences of this is that the operation of policies does not always meet the needs of the public generally, and children in particular. While adequate resources are of great

importance to guaranteeing that children’s rights are respected, the attitude and culture that underpin how we engage with and provide for children is arguably more fundamental.

After eight years of investigating the actions of public bodies, it is abundantly clear to me that the core principles of best interests and respect for the views of the child are not being respected systematically in Ireland. I have consistently highlighted this in my annual reports to the Oireachtas, across areas of health, education and justice.

Much of the debate about constitutional change is centred – quite rightly – on the impact any proposed amendment might have on judicial proceedings. Arguably much more likely to affect larger numbers of children and families is decision-making by civil and public administration.

I have never been a proponent of an over-interventionist state.

To date, we have not examined a case where there was a conflict between parent’s rights and children’s rights. If there is one thing that has been confirmed by our eight years of work, it is that parents are by far the strongest and most tenacious advocates for children. This is why the children that I continue to be most concerned about are children without parental care, the children who do not have that tenacious parent fighting their corner.

At the start of the 2011, it was encouraging to see the presence of children in the programme for government, in particular a commitment to hold a referendum on children’s rights and a commitment to end the detention of young people in St. Patrick’s Institution.

Building a new culture of respect for children in Ireland will take time and effort. Amending the Constitution alone cannot achieve that goal; however it can certainly alter the legal and policy landscape to enable the cultural change we need to take place.

Our laws, policy and procedures include examples of good practice; they also include striking examples of failing to observe children’s rights principles. In light of this, it would be a powerful and strong affirmation to enshrine those principles in the most fundamental legal document in the state.

Holding a referendum on children’s rights provides Ireland with a chance to be a leader on children’s rights globally. Even if children’s rights are embedded in the Irish Constitution, there will continue to be challenges faced in the practical realisation of their rights on a daily basis by service providers. Accessibility to an independent mechanism of redress for people who cannot avail of redress in the courts is fundamental to a well functioning democracy. The role of my Office is even more important in providing a low cost, independent mechanism for parents and children through our complaints function. By identifying and recommending the resolution of systemic problems, this statutory function has and will continue to assist many children into the future. As Ombudsman for Children, I reiterate the commitment of my office to independently monitor children’s rights and welfare over the coming years.



Emily Logan

Ombudsman for Children

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OMBUDSMAN FOR CHILDREN'S OFFICE: STRATEGY 2011 – 2016

The document has been framed in accordance with the Office's stated purpose to work to create a culture in Ireland where there is strong public awareness of children's rights which are taken seriously and respected. It sets out three strategic goals to be pursued up to 2016. These are as follows:

1. *Enforcement of Children's Rights* – aims to foster constructive engagement on the issue with decision-makers;
2. *Systemic Change* – aims to effect large scale positive change in policies and practices relating to children and young people; and
3. *Capacity Building* – aims to build commitment and capacity to better engage with children's rights.

It sets out the general measures required to realise its stated goals and is available on www.oco.ie/publications

This Annual Report provides an overview of the significant actions taken by the Office during 2011 to advance its strategic goals by way of providing advices to Government; working with children/young people; engaging with key interests; and addressing systemic change through the investigation of complaints.

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ORGANISATIONAL DEVELOPMENT

Corporate Services

Financial Control

The 2011 financial allocation of the Ombudsman for Children's Office was €2.112m.

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 2010 accounts took place in June 2011. Once approved by the Office of the Comptroller and Auditor General, they are published and annual accounts for all years up to and including 2011 are available at www.oco.ie/publications.

CrowleysDFK continue to provide accountancy services to the Ombudsman for Children's Office since being awarded a three-year contract in 2011 following an open tender.

Human Resources

The Office has an approved complement of 15 members of 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.

A review of roles and functions of all staff in the Office was carried out in late 2010 and early 2011. This resulted in a re-balancing of resources in favour of the Office's function of complaints examination and investigation. In addition – as indicated in the 2010 Annual Report – the Office continues to rely upon an investigation panel due to the volume of complaints received.

Data System Update

A further measure taken during the year to expand capability in the area of complaints involved a significant redevelopment of the Office's complaints database. The key objectives of this significant piece of work included making the information more accessible, easier overall monitoring of progress on individual complaints and having increased reporting capability to further refine the complaints statistics all of which has resulted in a system which can process the significant volume of data that there is to manage as well as producing more up-to-date data.

Use of Premises

Along with running human rights education workshops for visiting groups of children and young people, the Ombudsman for Children continued to make the facilities in Millennium House available as a venue for appropriate events focused on the rights and welfare of children and young people. For example, consultations with young people by the National Children's Hospital Youth Forum, and by the Committee on Pluralism and Patronage were held in the Office's premises during 2011.

Training and Professional Development

During 2011, a number of senior staff members completed a programme of training in leadership. All staff participated in a Child Protection Workshop with a particular focus on the updated Children First Guidelines.

Legal Services

Ronan Daly Jermyn provided legal services to the Office during 2011. This contract ended in December 2011. An Invitation to Tender for the Provision of Legal Services was published in November 2011.

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's concerns about the ongoing detention of children in an adult prison received significant attention throughout the year, arising from the publication in February of a report on work the Office undertook with young people in St Patrick's Institution as well as the publication of OCO's review of ten sample investigations which received widespread coverage.

Due to the often sensitive nature of the investigations undertaken by the Office we do not publish all of our cases. In making the decision around whether or not to publish a case we consider whether the young person (or family) in question is vulnerable and how publication might effect them; is the case so specific as to render the complainant identifiable; and whether it is in the public interest. Media interest and assistance in generating understanding and awareness of the Office is vital. The media undoubtedly play a critical role in communicating the effects of public decision making on children and their respect for the sensitivities around those investigations that we have published is recognised and appreciated. The Office has, in the past, liaised with the Office of the Press Ombudsman in noting our concerns regarding sensitive investigations.

Public Affairs

The Ombudsman for Children reports directly to the Houses of 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 significant changes that occurred in the political landscape during 2011 required the Office to make early and intensive efforts to engage on its work and priorities with the relevant Government Ministers; Dáil and Seanad spokespeople, and the Chairs of Oireachtas Committees – Health and Children; Justice and Defence; Jobs, Social Protection & Education; and Investigations, Oversight and Petitions.

Website

The Office's website remains a key tool for communicating with the public. At a time when our staff resources were under pressure across different functions, the website proved a cost effective way of communicating on a large scale. It is also an invaluable tool in assisting potential complainants with understanding how and when we can help them, of ensuring that all of OCO's policy documents and education materials were available to download as well as making sure that news items, upcoming events and activities were readily accessible on the website's homepage. Consideration of how to enhance support to the public through this medium was a work in progress at the end of 2011, with a view to further significant development of the website including through use of social media during 2012.

Overview of Energy Usage in 2011

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 2011, the Ombudsman for Children's Office used 87.13 MWh of electricity compared to 99.49 MWh in 2010.

Actions undertaken in 2011

Corporate services continued to ensure that non essential electrical equipment was shut down at night.

A review of all electrical systems was carried out in 2011 resulting in the replacement of some electrical equipment with more energy efficient appliances.

In line with our efforts to reduce energy consumption the OCO continues to operate a comprehensive internal recycling system. Financial savings were made by reducing the kVA of the Office from 165kVA to 100kVA. This new figure will be kept under review in 2012 with a view to making a further reduction in the year.

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COMPLAINTS AND INVESTIGATIONS

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

Distinct Provisions

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

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

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

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

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

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 complaints handling provides valuable performance feedback and audit to the public service providers concerned. It serves to validate actions taken or present the case for change. Most importantly, it gives visibility to young people's actual experiences and voice to their concerns when they suffer, or are at risk of, adverse affect due to the actions of public service bodies.

There has been a continued increase in the number of complaints referred to the Office, and some of the key issues arising through these are set out below. The Office has reviewed its processes to look at how it can best respond to the increased demand. There is a continued emphasis on promoting local resolution and the Office is ever mindful of the importance of the relationships between children, families and local services.

Where appropriate, the Office has continued to make suggestions in relation to resolving difficulties at local level, which may not then require any further intervention by the Office. This approach recognises that redress is most quickly provided at the local level and that organisational learning that strengthens this dimension is to be facilitated. It is the practice of the Office, where the circumstances are deemed right, to make specific recommendations intended to assist local resolution for the specific child or to avoid similar situations recurring for children generally. The latter encouragements normally specify steps that can be taken to adjust policy, practice and procedure to achieve better experiences or outcomes for children in their dealings with the public body concerned.

Where appropriate, the Office has continued to make interventions to public bodies regarding steps that can be taken to improve and refine policy, practice and procedure so as to achieve the best outcomes for children. In considering the main areas in which complaints arise – education, health and housing – common factors identified are as follows:

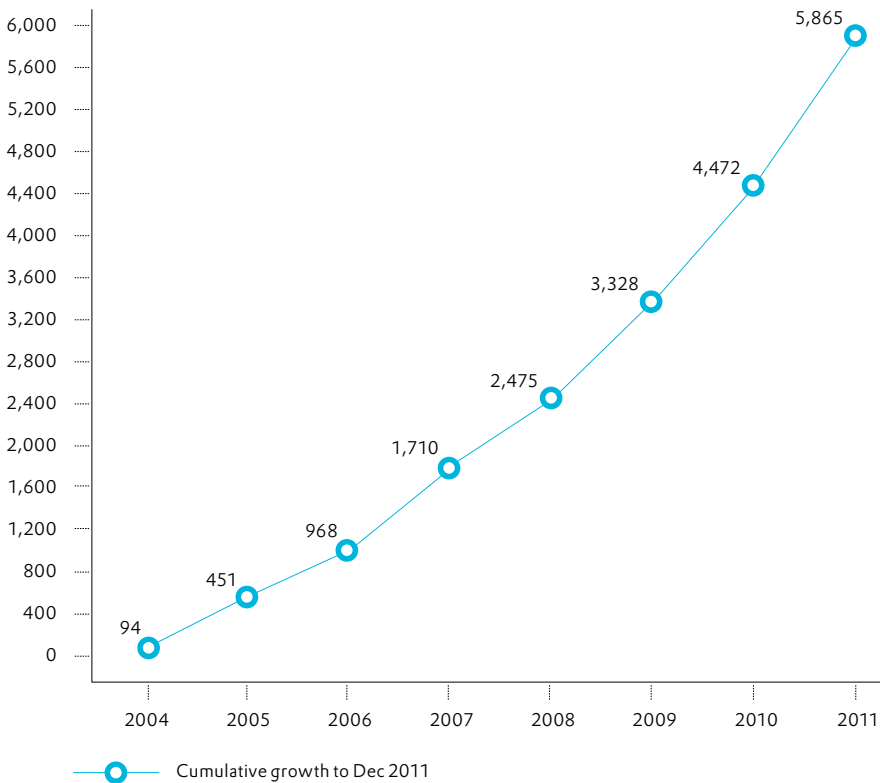
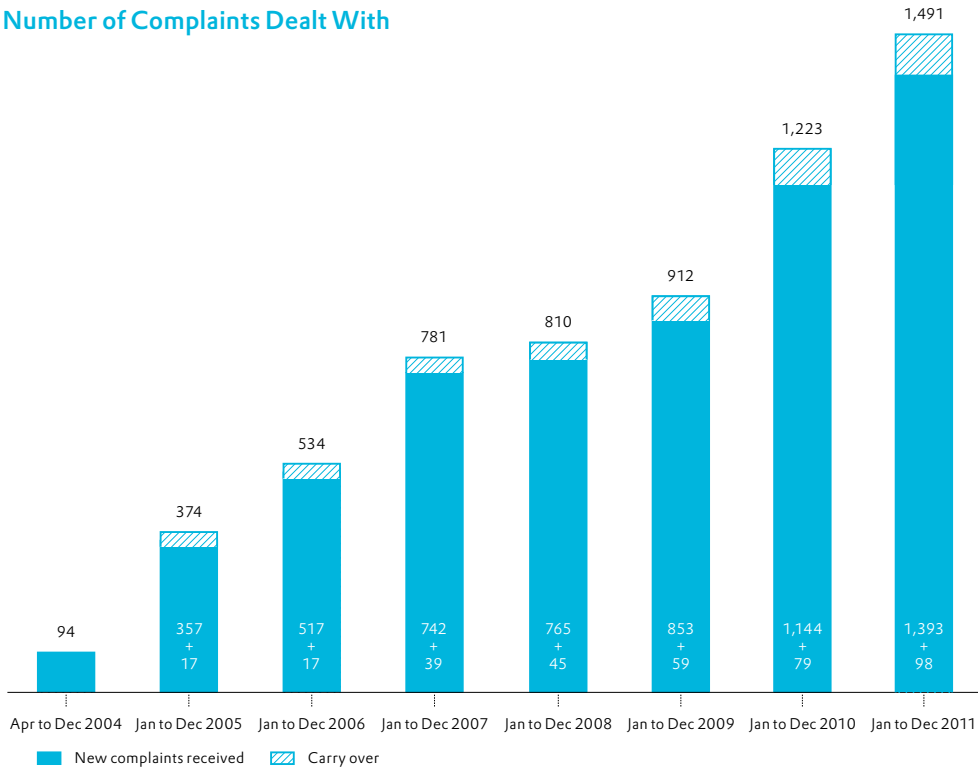
- continued/improved communication with families;
- liaison regarding the availability of local redress;
- need to ensure speedier response to concerns and resolution for the child;
- need to exercise a greater degree of flexibility with regard to the operation of a particular scheme in the best interests of the child;
- improved information regarding the eligibility requirements and/or process involved;
- more transparent complaints handling and appeals process;
- the clear communication and explanation of decisions; and
- review of cases for learning.

Where a complaint proceeds beyond preliminary examination to the completion of an investigation, the Office is obliged by law to produce a statement of the investigation. This sets out the results of the investigation, the measures proposed by the Ombudsman for Children in relation to same, and the response, if any, made by the public body, school or voluntary hospital to those measures. It is often the case that such recommendations are not only directed at providing a remedy to the individual child concerned, but identify necessary or desirable systemic change in the best interests of children in general. It is the practice of the Office to make follow-up enquiries of the relevant public bodies, usually within six months of the completion of an investigation, regarding progress on the implementation of recommendations made. This enables the Ombudsman for Children to determine, by reference to her duties under the 2002 Act, whether the measures taken, or proposed to be taken, on foot of her recommendations are satisfactory or not. A sample of systemic recommendations made arising from the complaints and investigations work during 2011 are set out in more detail later in this section of the Annual Report.

Complaints dealt with in 2011

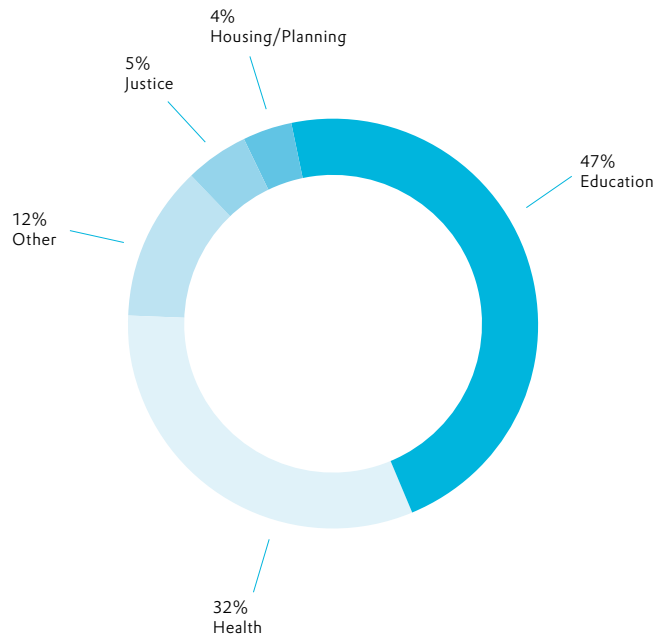
In keeping with previous years, 2011 saw a significant rise in the number of complaints received by the Office with 1,491 complaints dealt with over the course of the year representing 1,393 complaints received and 98 carried over from 2010. This represents a 22% increase in the number of complaints received in comparison to the previous year.

Number of Complaints Dealt With



The chart below shows the sectoral distribution of the total of the 1,393 new complaints received:

Complaint Category (January – December 2011)



Comparison between the categories of new complaints for 2010 and 2011 shows that:

- there has been an overall increase of 22% in new complaints;
- the overall proportion of complaints relating to education increased significantly from 38% to 47%;
- the overall proportion of complaints relating to health matters fell from 37% to 32%;
- the overall proportion of complaints related to the justice sector decreased from 8% to 5%; and
- the percentage of complaints relating to housing/planning and other issues each showed a decrease of 1%.

Justice

The admissibility of complaints received regarding the Department of Justice and Equality are examined in the first instance with respect to a number of provisions contained in the Ombudsman for Children Act, 2002 which exclude the investigation of actions such as naturalisation, citizenship, immigration and asylum decisions, or how children are treated in adult prisons such as St Patrick's Institution.

Throughout the year, the Office engaged with the Department of Justice and Equality with respect to a number of complaints and concerns. These concerned matters related to immigration or asylum. Although decisions on the administration of the law in these areas are outside the Office's remit, some led to administrative actions containing examinable issues, such as how the children concerned were treated with respect to health, education, housing, and provision for special needs.

The Office also received a small number of complaints on behalf of children residing in this country whose legal status is uncertain and noted how the difficulties and impediments to determining such a fundamental matter may adversely affect those children. Examples of cases involving hardship for children included those born through surrogacy arrangements, which raised concerns around establishing legal certainty for the child in areas such as the provision of consent to medical treatment on his/her behalf.

In relation to surrogacy arrangements the Office wrote to the Department of Justice in early September 2010 to seek clarification on a number of issues:

- advice and guidance on how children living here, born through surrogacy arrangements may have their advocates access the legal system on their behalf in order to secure issues such as parentage, guardianship, and citizenship;
- advice and guidance on how potential difficulties in accessing or affording legal representation may be addressed through the Legal Aid Board or otherwise;
- medical consent;
- advice on directing families who contact us;
- details of any proposed legislation of the Department in these circumstances which would address the issues raised; and
- details of any steps being taken or proposed to be taken by the Department which may effect or remedy the issues raised.

Other instances related to children in long term care without identifying documentation, raising concerns about far-reaching effects for their welfare. In all relevant complaints received, the Office sought to engage the Department to highlight the significance of the concerns and the importance of early resolution to the children concerned.

Further Analysis of Categories

Education

The table below shows the main categories of new complaints received in respect of education matters:

Breakdown of top five categories within Education complaints 2011	
Sub Category	Percentage of 2011 education complaints
Actions of Teacher/Principal	21%
School Transport	21%
Bullying	14%
Issues with Special Needs Resources	12%
Issues with actions of Board of Management	10%

Health

The table below shows the main categories of new complaints received in respect of health matters:

Breakdown of top five categories within Health complaints 2011	
Sub Category	Percentage of 2011 health complaints
Decisions re children in care	33%
Adequacy of and Access to HSE Services	23%
Actions of HSE	17%
Child Protection	12%
HSE and Hospital Policies / Procedures	4%

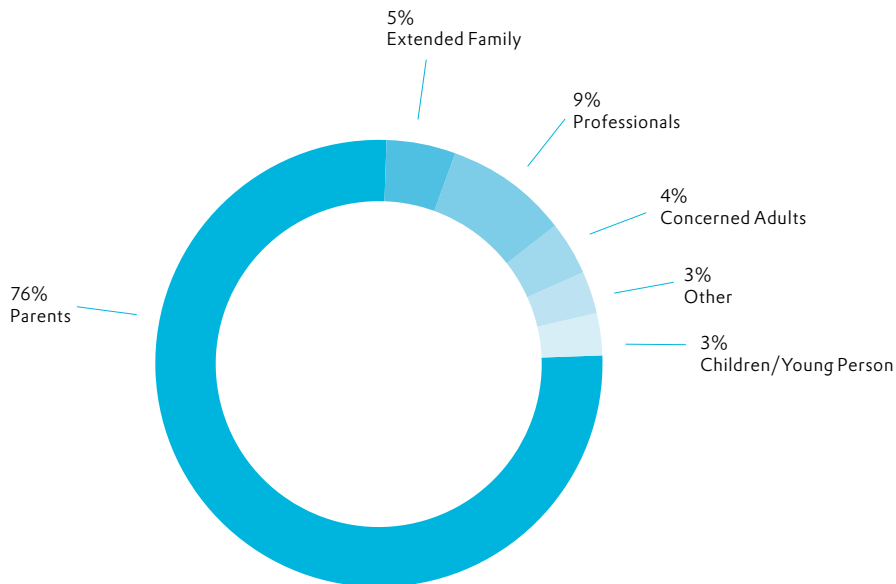
Housing

The majority of such complaints relate to children and families seeking to access housing from their local authority which would be suitable for a child or young person's particular needs.

Other

Almost 40% of complaints so categorised relate to issues connected to the system of Social Protection. Typically these concerned social welfare allowance/payments for children. As last year's annual report noted, a lack of resources effectively prevents the Ombudsman for Children from accepting complaints that relate solely to the payment of social protection allowances, grants, etc, in respect of children. Such complaints are currently directed to the general Ombudsman's Office. The Ombudsman for Children notes that while the payments in question are made to adults for obvious reasons, they are specifically for the care and maintenance of children. She notes that the adverse effect of any maladministration in the making of these payments impacts directly on the child concerned. Therefore, she considers that resourcing her Office to address such complaints would represent a more holistic approach to achieving a child-centred perspective in such cases and would be more congruent with the functions and duties of an office specifically established, inter alia, to examine and investigate complaints made by, or on behalf of, children.

Complainants



Parents continue to be the principal advocates for their children with an increase in the number of new complaints submitted by parents from 67% in 2010 to 76% in 2011.

Many of the children and young people contacting the Office in 2011 were children in the care of the HSE and concerned matters such as:

- delay in or appropriateness of care planning;
- shortcomings relating to aftercare planning and provision;
- proposed or actual changes of placements (including planning for same), seeking out and considering young people's views and communication of the decision.
- not having an allocated social worker;
- accommodation and supports available for young people who are homeless.

The list below gives a breakdown of the types of professionals who are contacting the Office to make a complaint on behalf of children.

Top 5 categories of professionals contacting the Office on behalf of children

1. School Principal
2. Social Work Practitioner
3. Community/Youth worker
4. Solicitor
5. Teacher

The Office views it as a matter of considerable importance that such a broad section of professionals continue to raise concerns about children's welfare. For a variety of reasons some parents may not have capacity to bring a complaint or professionals may be their key advocates. The Office continues to encourage professionals to make contact with it to highlight concerns affecting children and young people.

Emerging 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. This was the case during 2011 and some of the matters covered are set out in this section.

Special Needs

We continue to receive a significant volume of complaints relating to children with special needs across all categories. At present the National Council for Special Needs Education is outside the investigative remit of the Ombudsman for Children.

Education – Changes to School Transport Services

Decisions to change arrangements for school transport provision which were brought into effect during 2011 gave rise to a significant increase in contacts with the Office. The issues brought to us by parents from all over the country on behalf of their children include:

- the increased costs involved in using school transport
- the changes to the closed school rule
- changes to the minimum number requirement to establish a bus route
- the lack of alternative choices available and the cost implications of same
- health and safety issues
- the impact that this will have on family time and work balance
- the continued availability and viability of transport for siblings

The Ombudsman for Children's office has previously prepared a Submission to the Oireachtas Joint Committee on Education & Science regarding School Transport and in this instance, the Office engaged in a separate dialogue with the Department of Education and Skills on the matter in order to seek clarification on the Department's approach to the issues. In addition to investigating individual complaints on behalf of children we have also made recommendations intended to improve better administrative practise within the scheme for all children. While this Office has the power to investigate the administrative actions of a public body to see if they are sound and fair, we also have a statutory role in promoting issues that are of concern to children and their families.

We are conscious that the proposed changes to the scheme are fundamental and far reaching in nature. We have therefore initiated this engagement with the Department of Education and Skills to outline the concerns brought to us by families, our own concerns and to use the vast body of work done to date to through our complaint and investigation function to press for the implementation of recommendations from previous investigations which we believe would result in a more equitable system.

Information concerning these broader engagements with the Department was posted on the Office's website to inform parents, or others, with similar concerns about the approach taken.

Education – The Need to Implement Statutory Procedures

In previous Annual Reports (2008 and 2010) attention was drawn to the need for statutory arrangements relating to parental concerns about the actions of schools (under section 28 of the Education Act 1998) and about the actions of teachers (under Part V of the Teaching Act 2001) to be brought into operation.

During 2011, the Ombudsman for Children continued to correspond with the Department of Education and Skills to expedite developments and will maintain her engagement in support of the establishment of statutory arrangements within the education sector where concerns arising can be addressed.

HSE – Homeless Service Provision for Children and Young People

Over recent years the Office has received complaints made by, or on behalf of, young people who were homeless and/or accessing crisis intervention and out-of-hours services. Attention was initially called to this issue in the 2009 Annual Report. It has also been raised by the Ombudsman for Children, at international level, with the UN Committee on the Rights of the Child and with the Human Rights Council. Her concerns were referenced in the stakeholder report published by the Office of the Human Rights Commissioner in Geneva, in connection with the State hearing in October, 2011.

While the Office has engaged with the HSE on an individual case-by-case basis, it was clear that the issues being raised were of a systemic nature. In March 2011 the Office intervened and commenced a preliminary examination of the systemic issues. In May 2011, the Office indicated to the HSE that it intended to carry out a systemic investigation into the management and governance of the policy and practice in the provision of services to homeless children.

As part of a process of discussion that ensued from the proposal to investigate, the HSE has outlined a number of immediate policy directives and steps that it intends to advance in order to improve the services it provides to homeless children. Given the actions that are ongoing by the HSE to address key issues raised, a decision was made to hold open the matter of investigating and engagement with the HSE on the advances being made was ongoing at the time of preparing this Annual Report. Meanwhile, the Ombudsman for Children reserves the right to proceed to investigation at any time.

In tandem with its engagement with the HSE on the issue, the Ombudsman for Children made a decision to seek the views of homeless children in order to understand their experiences of homelessness and crisis intervention services. Further information on this consultation process is provided in the section of the Annual Report dealing with the Office's Participation and Education work in 2011.

In Camera Information

A specific problem that has been encountered by the Ombudsman for Children's Office in conducting statutory investigations into the situation of children in care is the provision of information by the HSE where related Court proceedings exist that are being held in camera. This has been raised in previous annual reports and continued to be problematic in 2011.

The majority of complaints to this Office do not progress to a full statutory investigation and are addressed at local level. For children in care, the effect of such a delay in providing information can serve not only to frustrate the complaint process but can deprive a child or young person of a speedier solution.

This Office acknowledges the importance of protecting the privacy of children and their families; however, the in camera rule should not operate in such a way as to frustrate statutory investigations that are carried out in the interests of children and undertaken otherwise than in public. In its advice on the Health (Amendment) Bill 2010, this Office called for a root and branch review of the operation of the in camera rule and it is therefore welcome that the Minister for Children and Youth Affairs has undertaken to consider this issue following the publication of the report of the Independent Child Death Review Group.

A Children's Rights Analysis of Investigation Statements

Section 7 of the Ombudsman for Children Act 2002 obliges the Ombudsman for Children's Office to promote awareness of matters relating to children's rights and welfare. This includes the principles and provisions of the UN Convention on the Rights of the Child (CRC). As such the Office frequently addresses the State's compliance with such international standards when exercising its policy functions, under section 7 of the 2002 Act, to advise Ministers of Government and the Houses of the Oireachtas on proposals for legislation and on the development and coordination of policy relating to children.

Sections 8 and 9 of the 2002 Act do not mandate the Ombudsman for Children's Office to consider whether the acts of a public body under investigation comply with international human rights instruments to which the State is party. Accordingly, assessment of a public body's compliance with the State's international obligations – such as contained in the principles and provisions of the CRC – does not form part of the investigative process which can lead to a finding of maladministration against it.

In order to gain a perspective on how bringing together these different strands of the 2002 Act would appear, the Office commissioned a report on a sample of cases which it had investigated. The report assessed the extent to which the actions of the public bodies concerned complied with the State's international human rights obligations. The investigations chosen for inclusion in the report covered a wide range of issues including school transport, the allocation of local authority housing, supports for children with special needs in foster care, special care, and the death of a child in the care of the State.

The report, A Children's Rights Analysis of Investigations, published by the Office in April 2011, highlighted the way in which the public bodies in question did, or did not, carry out their functions in a manner compatible with Ireland's international human rights obligations.

In addition to highlighting the broader human rights perspectives of the individual cases, the report set out a number of common themes which emerged, including:

- a lack of awareness about the impact of administrative decision-making on the lives and rights of children and their families;
- the failure to use the parameters of the child's best interests and the child's right to be heard to guide administrative actions or decision-making to any great extent;
- other considerations appeared to dominate over ensuring that the rights and interests of individual children are met;
- there appeared to be few checks and balances in administrative decision-making processes, and few mechanisms for challenging the decision being made or the position adopted;
- at least some, if not all, of the cases indicated a lack of awareness about the needs and rights of individual children as recognised by international instruments to which Ireland is a party;
- in many instances, the case for a potential breach of rights set out in the European Convention on Human Rights (ECHR) could be made out and the lack of awareness among administrative authorities, notably the HSE, of ECHR obligations was a matter of very serious concern;
- the absence from the decision-making process of an awareness of how quickly harm is done to children (by depriving them of education, separating them from parents, providing for their care, etc.) was stark, as was the apparent failure to appreciate the relationship between timely decision-making and good administration; and
- Children's rights training – both under the CRC and related instruments and the ECHR – should be a priority for all public bodies.

Towards the end of 2011, work commenced on preparing a further audit of investigations and this will be completed and published during the course of 2012.

Case Studies

The case studies represent a sample of the work carried out by the Office over the year.

Education Case Studies

Case Study 1

The complaint was submitted to the Office by a mother on behalf of her son, then aged nine, who attended a mainstream national school. The child concerned has a number of medical difficulties which have been identified by professionals working with him. These difficulties included bone age delay, low muscle tone, hyper mobility, dyspraxia and cleft palate. Although the child had these medical difficulties, no specific diagnosis had been identified. The complaint made to the OCO related to the decision of the Department of Education and Skills to refuse an application of Assistive Technology made on behalf of the child. The projected cost of the Assistive Technology (lap top and appropriate software) was in the region of €1000. The application was made with supporting documentation from a range of medical professionals. The grant was refused on the basis that there was no specific diagnosis in respect of the child. The complainant contended that these issues were causing her son difficulties in school with hand writing, fatigue, fine motor coordination and concentration levels. The Department stated that the Scheme is designed to provide technology to support children with a disability and distinguished between an assessed disability and a medical condition.

Following an investigation by the Office the OCO found that there appeared a lack of clarity between the bodies concerned – the National Council for Special Education (NCSE) on the one hand and the Department of Education and Skills on the other – with respect to responsibility for decision-making under the relevant scheme each considering that the other was the decision-maker. There is no clear appeals process to challenge decisions made. The Department did not appear to be monitoring the implementation of its policy by the NCSE. This lack of clarity adversely affected the child concerned. In this particular case the young person was not considered eligible for assistive technology on the basis that, while the Department understood that there was a strong indication that he had a physical disability, he did not have a definitive diagnosis of a disability.

As a result the Office recommended, among other things, that the Department provide for:

- the reasonable inclusion in the Scheme of children for whom a specific medical diagnosis cannot be readily determined but whose education may be impeded by significant medical difficulties;
- Provide for an appeals process under the Scheme that is clearly communicated to schools and families, and
- Provide for effective mechanisms for monitoring the operation of the Scheme.

The Department should also ensure that clear and comprehensive information about the Scheme and its eligibility criteria is communicated to schools and parents.

While these issues are being determined, the Ombudsman for Children recommended that the child concerned be provided with the necessary assistive technology.

Following the intervention of the Office the Department asked the NCSE Special Needs Organiser to review the support currently available for this child and to advise as to whether any additional support is required. The Department also confirmed that a review of the assistive technology scheme is underway and a new Circular on the scheme will be forthcoming. It is intended that this new Circular will provide for instances such as those above where there is no diagnosis but the child clearly has education needs.

Case Study 2

A number of complaints were submitted to the Office by parents on behalf of their children who were pupils in, or were due to start in, a Special School in September 2011. The complaints related to the decision made by the National Council for Special Education (NCSE) to reduce the Special Needs Assistant (SNA) allocation to the school. The school determined it could not meet the educational needs of these children and as a result contacted parents ahead of the upcoming school year, significantly reducing the timetable for some pupils and advising that they were not in a position to provide any hours to others.

While the actions of the NCSE are not currently within its investigative remit, this Office was concerned with respect to the impact that this would have on the children's education and also the background planning and preparation that is invariably required by families in those circumstances. The Office was concerned that children and their families were getting caught up in a resource issue which was clearly not of their making, but affecting them directly.

The Office engaged with the school to ascertain how it had managed the SNA reductions, the discussions which had taken place with the NCSE, and the Department of Education and Skills regarding the matter. This intervention reflected the Office's key emphasis on promoting the local resolution of any complaint or concern where possible and appropriate.

Following the intervention of this Office local discussion occurred between the relevant parties and an increased SNA allocation was granted by the NCSE. Consequent to this development, it is the Office's understanding that all the children in question were enrolled without restriction on school hours. The Office is currently taking steps to have the Ombudsman for Children Act 2002 extended to include NCSE in its remit. Further work will be carried out on this in early 2012.

Case Study 3

A complaint was received from a mother on behalf of her daughter who is diagnosed with Down Syndrome, an intellectual disability and is visually impaired. She raised concerns that under Department of Education and Skills practice her daughter would not be able to complete her two-year Leavers Programme in the special school she was attending on the basis that she had recently turned eighteen. The mother contended that the Department's procedure was unfair to young people with special needs since if her daughter did

not have additional needs, the fact that she had turned 18 would not hinder her from completing her education. She advised that the second year of the programme would assist her daughter in transitioning to a training centre. The professional team in the school was of the view that a removal from the school would have been disruptive to the girl and her mother was also concerned about the lack of transitional support to her daughter, ordinarily covered in the second year of the programme.

The Office contacted the Department of Education and Skills which advised that education is provided for children in special schools up to the age of 18. However, the Department's policy is to facilitate the ongoing attendance at a special school for children for a further year following a student's birthday under certain circumstances. Subject to an application to the Department, schools are permitted to retain pupils over the age of 18 who are pursuing courses leading to accreditation at level 3 or above of the National Qualifications Framework (NQF) for one additional year, where they are progressing to the final year of the course and having started the course prior to their 18th birthday. In this case the parents advised that their daughter had not reached a stage where she is in a position to follow a course leading to level 3 or above of the NQF.

Following the Office's intervention the Department of Education and Skills reviewed an application from the school on behalf of the girl. As a result the Department advised that it had decided to allow her to enrol for the 2011/12 school-year in order to facilitate and complete her transition to adult services. The Office encouraged the Department to ensure that all applications are assessed in a prompt manner and that parents are kept informed in that regard. The Office also noted that while the young person in this instance had reached the age of majority, the decision to allow her to enrol in a two-year programme was made prior to this and therefore the Department was giving appropriate consideration to the young person's best interest in this instance by allowing her to pursue the second year of her programme.

Case Study 4

A parent of a child with a diagnosis of autism and an uncontrolled seizure pattern contacted the Office regarding the lack of school transport for the child. The parent stated that both the school and the Department of Education and Skills shared the view that the child was eligible for school transport but the child was not availing of the service due to issues regarding the ongoing responsibility and resources involved regarding the bus escort.

On examination of the case, the Office found that the child was part of a group of children with special needs who had been referred to the school by the NCSE. Difficulties arose further to this referral concerning school transport provided to these children as this service was historically provided in the particular school by Enable Ireland.

In its response, the school advised it had agreed to take on the bus escort services from Enable Ireland and that steps had been taken in this regard to provide redress to the children affected.

The Department acknowledged the issue which had arisen regarding the employment of an escort by the school for the transport service sanctioned.

Further to the Office's intervention, the Department provided a transport grant to the child's parent pending resolution of the matter for the days the child had attended school from the commencement of the 2010/2011 school-year.

Case Study 5

The complaint submitted to the Office concerned the refusal of a post primary school to enrol a young person. The complainant, her mother, contended that the refusal was based initially on the fact that the girl was pregnant and subsequently on the grounds that she was a single young mother.

The young person had attended two previous post-primary schools changing from one after her Junior Certificate and the other because she did not settle there. When she became aware that she was pregnant and she decided then to return to school. She approached the school and she was provided with an enrolment form and information about subject choices and the uniform. She understood that she had been accepted. At the same time, her mother contacted the school to let her know that she was pregnant. The young person was then informed by the School Principal that they would not accept her as she was pregnant.

The young person enrolled in another school for the duration of her pregnancy and after her baby was born she sought to enrol in the school again to complete her Leaving Certificate. Again the young person was informed that they the school does not accept single mothers.

Having decided to investigate the matter the Ombudsman for Children's Office wrote to the School to request information relevant to the matter under investigation including its enrolment policy, its complaints procedure, details of the management structure and copies of relevant correspondence. None of the information sought was provided by the School. A meeting sought with the school's representatives was not forthcoming.

Following its investigation the Office found that the School does not have a written enrolment policy; its decision to refuse to enrol the young person in this instance was based on the school's ethos; the school's refusal to enrol the young person because she was pregnant and then a single mother has resulted in her being treated unfavourably and suffering discrimination on the ground of her family status.

The School does not have a Board of Management and a single person acts as the school's owner, manager and patron. As a result, there is no scope for a complaint from the decision to refuse admission to the school to be independently determined meaning that there is a lack of fair and impartial process for addressing any complaint.

The Department of Education and Skills provides funding and policy direction for schools but it has no legal powers to instruct individuals to follow a particular course of action with regard to individual complaints. No procedures have been prescribed under section 28 of the Education Act 1998 resulting in no standardised complaints process in schools.

The Office has established that there is work ongoing in the Department of Education and Skills to provide a statutory basis that can better ensure that school's enrolment policies are non-discriminatory. It is clear from this investigation that such improved regulatory procedures are necessary.

This Office made recommendations directly to the school in relation to its enrolment and admissions policy, and it also recommended that the school should write to the young person involved to acknowledge her experience of its actions and to apologise for how she has been treated.

The Office also recommended that the Department of Education and Skills should carry out an inspection of the School in order to evaluate school policies, specifically enrolment/admissions and complaints procedures and to review the management structure including issues of accountability and governance with respect to complaints and appeals. The Department should also consider the matters raised by this investigation in its consideration of the proposed regulatory framework for school enrolment.

Further to the Office's intervention the Department of Education and Skills committed to bringing forward firm and clear guidelines in relation to admissions policies. They also committed to submitting the school in question to an additional inspection as soon as possible.

At the time of publication the school had not issued an apology to the young person in question. However, the Minister for Education has committed publicly to introducing enrolment legislation. In addition the Inspectorate of the Department of Education has carried out two unannounced inspections of the school.

Health Case Studies

Case Study 1

This complaint was brought to the Office by the parents of a four year old girl with significant motor problems resulting in a diagnosis consistent with Cerebral Palsy. An application for a powered wheelchair was made to the HSE but was refused. The Local Health Office of the HSE informed the parents of their policy of not providing powered wheelchairs to children under the age of seven.

Over the course of the investigation, the Ombudsman for Children's Office found that there are no national policies or guidelines for the provision of occupational therapy equipment including the provision of powered wheelchairs for children. Each Local Health Office develops its own procedures or guidelines, has its own budget and assesses applications according to the needs of the area or its own priorities. However, in correspondence with OCO, the HSE indicated that the Irish Posture and Mobility Network – a group of professionals working in the area – formed a subgroup in February 2010 to develop best practice guidelines on powered mobility.

Following the initial decision to refuse the child a powered wheelchair, reviews of this subsequently took place. However this was poorly documented. Advice was sought from three professionals two of whom did not have sight of the specifics of the case.

Further to its investigation the Office recommended that the HSE carry out an early and entirely fresh review of the case based on complete information including the research evidence in the area and an assessment of the child's ability including the identification of steps that can be taken to strengthen her competencies. The Office also recommended that:

- HSE policies and decisions should accord due recognition to waiting periods that may arise in the actual provision or supports depending on the level of priority in any particular case;
- The HSE expedite the work initiated in consultation with the Irish Posture and Mobility Network, to develop national guidelines for the provision of powered wheelchairs for children;
- The HSE take all necessary steps to establish clear criteria and guidance in order to achieve consistency on the part of Local Health Offices in relation to the processing of applications, and appeals in cases relating to the availability of powered wheelchairs for children.

Following consideration of the OCO's findings and recommendations including communicating directly with the child involved, the HSE undertook a review of this child's individual circumstances, met with the child and the family and, subsequently, a powered wheelchair was provided. In addition the HSE advised that a National Committee had been established with the aim of agreeing national policies for powered wheelchair use which would ensure equity between all service users. The National Committee hoped to issue a report on this matter by spring 2012 and the OCO remains in correspondence with the HSE in this regard.

Case Study 2

The Office received a complaint from a mother regarding an alleged failure by the HSE to provide services to two children diagnosed with Attention Deficit and Hyperactivity Disorder and Oppositional Defiant Disorder. The complainant advised that she had written to the local Department of Child and Adolescent Psychiatry seeking therapeutic services on several occasions and had not received a satisfactory response.

Through its investigation the Office identified that a service was first offered to the eldest child 27 months following referral. This was declined as, given the length of the period of time waiting for a service, the mother had sought private services. Some months later the two children were re-referred by the private practitioner at which time the HSE advised that the routine waiting list for assessments was suspended in March 2008 and that the older child was not able to avail of a service through the Child and Adolescent Psychiatry as she had reached 16 years of age.

HSE advised that the decision to suspend the waiting list was due to increased referrals and a lack of resources to respond. The HSE also advised that due to a lack of inpatient facilities for children, intensive input is offered to those with emergency presentations to prevent admission of children to adult wards. The waiting list for routine assessments remained closed for almost 3 years with only limited alternative services available with the psychology service able to provide some input.

During the course of the investigation the family were offered referral to local community psychology services and steps were taken to re-open the waiting list. A decision was made to employ a locum psychiatrist to offer assessment to all children, regardless of age, who had been referred but were unable to avail of a service whilst the waiting list was closed. Both young people were offered a service through this initiative.

The Office wrote to HSE National to highlight the serious concerns regarding the closure of the waiting list in the area concerned and also highlighted that a similar complaint had been referred to the Office from another area but this was subsequently resolved when the waiting list was re-opened. In that area the waiting list had been closed for a period of more than 2 years.

Following receipt of the Office's recommendations HSE national responded that as staffing issues are below those recommended by Vision for Change it "inevitably limits service provision or delays access". Additional resources would be required in order to improve the service.

In relation to adequacy of services for 16/17 year olds – National Mental Health engaged with the National Director for Children and Families Services and is seeking a statement from each region/extended catchment area on how young people aged 16/17 are provided with a service.

As issues raised through this investigation related to operational issues for services in that area – it has been referred to the Regional Director of Operations for that area.

Case Study 3

A complaint was received from a mother on behalf of her one-year-old son who has considerable medical needs and had been residing in hospital for a significant period of his life. The complaint related to an application for a home care package which had been refused by the HSE, although the parents advised that the child had been fit for discharge from hospital for a number of months.

Following the Office's intervention, it was informed by the HSE that a Home Care Package had been agreed and that the relevant staff were being trained to meet the child's specific home care needs. The child was able to return home shortly after the Office's intervention.

Case Study 4

The Office was contacted by a 17 year old girl who was homeless, without family support and being provided supports by the HSE under Section 5 of the Child Care Act, 1991.

The circumstances for this young person were that she was struggling to attend school along with the demands of maintaining employment to support herself. As the HSE had determined that this was not a young person who required to be taken into Care, she was not entitled to the supports provided to young people in the care of the HSE. However,

following court proceedings initiated on behalf of the young person, the HSE committed to providing financial supports until she reached the age of 18.

The concerns raised related to the provision of supports once the young person reached 18 years of age, specifically whilst she completed her Leaving Certificate examinations. The Office contacted the HSE who advised that the extension of supports would be agreed, on a once-off basis, until the young person completed her examinations.

There was a delay of several months in receipt of the financial supports for the young person. This was resolved following contact from the Office. In addition, the young person had raised concerns that the HSE did not provide the required information to support her application for the Higher Education Access Route scheme (HEAR) which allows young people with certain disadvantaged backgrounds to gain entry to 3rd level education on a reduced points basis in light of their acknowledged circumstances. Following representations by the young person, her solicitor, and contact from the Office, the HSE provided the required information.

While following the intervention of the Office, redress had been achieved for the young person in relation to the individual difficulties encountered; the Office identified a number of concerns in relation to the handling of the case which were communicated to the HSE along with a number of proposals.

In response the HSE restated that the young person was not in the care of the HSE and had agreed to provide accommodation up until her 18th birthday and a financial package of support to allow her to complete her secondary school education and their view that these actions demonstrate the HSE's interest in being flexible and considerate of the needs and best interests of this young person.

Local Authority Housing Case Study

A mother contacted the Office on behalf of her two sons, who have been diagnosed with Autistic Spectrum Disorder and Attention Deficit and Hyperactivity Disorder. The complaint related to a lack of response by the Local Authority in relation to an application requesting priority status for a housing transfer, which was supported by recommendations from medical professionals.

The Office contacted the Local Authority which advised that, in accordance with the Council's Scheme of Letting Priorities, the tenant was not eligible to apply for a transfer to alternative accommodation because the family had not resided in their current dwelling for at least 2 years.

In view of the Office's intervention, however, the Local Authority advised that the medical documentation submitted by the complainant would be considered by the Chief Medical Officer. On review of this case the Local Authority granted the mother's application priority for three-bedroom accommodation in a specified area.

Department of Children & Youth Affairs Case Study

The Office received a complaint from the mother of a child who is profoundly deaf who had received direct information from the Office of the Minister for Children and Youth Affairs (now the Department of Children and Youth Affairs (DCYA)) that led her to believe that due to her special needs her child may have the opportunity to avail of a second year of the Early Childhood Care and Education scheme. The mother stated she had planned her daughter's education on the basis of this communication and expectation. However she was subsequently informed by the DCYA that this aspect of the scheme was no longer available.

In their response to the Office, the DCYA advised that the availability of a second year of the scheme was intended for a limited group of children – with severe needs and who had availed of the scheme for a shorter time during the first year of operation of the Early Childhood Care and Education Scheme, which lasted approximately 6 months starting from January 2010. The DCYA accepted that the information provided to the mother could be misconstrued and that it had led in this case to her forming an expectation that her child could avail of second year of free pre-school. Following this Office's intervention, the DCYA agreed to provide a second year of support under the scheme to the child on a pro-rata basis – for 2 or 3 days per week.

The DCYA also amended its public communications to improve and clarify its position on this aspect of the scheme with respect to future applicants. This Office also encouraged the DCYA to reasonably consider and address any further similar cases which may present themselves as a result of the level of communication which had previously occurred during that time period.

Promoting Systemic Change

As indicated earlier, the work of the Office in the investigation of complaints often has implications far beyond the individual case that occasioned the Office's intervention. Findings and recommendations arising from investigating the experience of a single child or family can identify the necessity for change that can serve the interests of very many children into the future.

An indication of the important nature and scope of the Office's interventions in 2011, directed at achieving far-reaching improvements in the provision of services to children by public bodies, can be seen through examples of the Ombudsman for Children's recommendations made for systemic change.

(i) Recommendations for Systemic Change

Department of Education and Skills – School Transport applications for children with special needs

The following recommendations were made to the Department to bring greater clarity and transparency to existing arrangements:

- The Department should look at how a more comprehensive and transparent system regarding school transport applications can be put in place, including the role of the National Council for Special Education (NCSE) and its Special Education Needs Organisers (SENO) and the remit of the School Transport Appeals Board. In particular consideration should be given to:
 - demonstrating how the best interests of the child are considered in the decision making process;
 - review of the application form to allow inclusion of all matters of material significance for the child's ability to engage in his/her education;
 - reviewing the guidance available to the NCSE on the factors to be considered in an application; and
 - looking at how a more comprehensive appeals process could be achieved that goes beyond simply looking at the matter of compliance with the technical requirements but rather facilitates a review of the particular merits of an appeal.
- Work to enhance coordination and cooperation between the health and education sectors when planning for a child's education, including provision of school transport for children with special educational needs, should be expedited by the Inter Departmental Group established; and
- Consideration should be given to the planning cycle and the timing of decisions in relation to school transport in order to facilitate adequate time for education planning for children regarding their school placement including the planning for special education supports.

Department of Education and Skills – Applications for Assistive Technology

The following recommendations were made to bring greater clarity, and some appropriate additional flexibility, to an existing scheme of support:

- The Department in its role of setting policy for the administration of the Assistive Technology Scheme should develop clear and conclusive guidance and policy documents. The Department should arrange for the completion and issue of its proposed new circular at an early date with a view to providing for:
 - clarity regarding the decision-making process and the respective responsibilities of the Department and the NCSE in this regard;
 - reasonable inclusion of those children for whom a specific medical diagnosis cannot be readily determined, but whose education may be impeded by significant medical difficulties;
 - an appeals process; and
 - effective mechanisms for monitoring the operation of the scheme.

- The Department should take steps, as appropriate, to ensure that school authorities and parents who may wish to apply for assistive technology can access clear and complete information on the eligibility criteria for the granting of support under the Assistive Technology Scheme.

HSE – Children in care who themselves are parents

The following were the main recommendations made to address particular needs in such circumstances:

- HSE National should undertake a review of service provision available for young people in the care of the HSE who have their own child, including an assessment of the services available, what is required, and the statement of purpose and aim;
- National guidance should be developed in relation to the assessment process to be followed by the HSE; including the assessment framework to be used, clear timelines for completion of same, and written assessment reports to be completed; and
- Consideration should be given at HSE National level to policy and procedure when a child in care has their own baby in order to ensure that the individual needs of each child are met, including services available, policy and procedures relating to assessment of their needs and to support visitation at a level where bonding is promoted with a view to reunification.

HSE – Care planning

The following were among recommendations made to strengthen practice in this area:

- When a particular service (e.g. foster care) has been identified as the most appropriate to meet the needs of a young person, consideration of availability of the service should not be confined to the Community Care Area in which the young person resides;
- When recommended that a placement is designed to prepare a young person for another placement, this should be explicitly stated in the Care Plan and Placement Plan, and activities undertaken to facilitate this;
- All Placement Plans and Individual Crisis Management Plans should be submitted to, and reviewed by, the young person's social worker to ensure that they are appropriate to the young person's needs;
- All young persons in residential care should have a social worker allocated to them on a full-time basis in order to fulfil the professional and statutory duties; and
- All complaints of children in care should be dealt with through the appropriate complaints procedures which should be fully explained to the young person, a record maintained that this has been done and the child fully informed about the outcome. Where a child is not satisfied about the outcome of a complaint he/she should be advised about other avenues of obtaining a satisfactory resolution of the complaint.

HSE and the Minister for Children & Youth Affairs – Child Protection issues in organisations funded by HSE to provide services to children

The following were among recommendations made to improve the HSE's response to issues that arose in this area and to ensure that the best interests of children are considered appropriately:

- Where initial child protection issues had been dealt with, the HSE to revise the practice of awaiting the outcome of internal employee disciplinary process in instances of alleged physical abuse in organisations providing care for children with intellectual disabilities before determining its role in the matter;
- To consider whether a concurrent approach to an internal investigation is warranted to ensure a timely and effective involvement; and
- To ensure that such organisations providing services to children are fully compliant with any HSE initial child protection assessments and decisions made.

In the same context, the following measure was recommended to expedite necessary action outstanding in this area:

- The Minister for Children and Youth Affairs to take all necessary steps to ensure the independent inspection of all residential institutions for children with intellectual disabilities in accordance with the provisions of the Ryan Report Implementation Plan. The measures taken should ensure that respite services for children within residential centres are also subjected to independent inspection.

HSE – Applications for Specialist Equipment (powered wheelchair)

The following recommendations were made to better ground decision-making and consistency of service provision in this area:

- HSE policies and decisions in the case of such applications should accord due recognition to waiting periods that may arise in the actual provision of supports, depending on the assessed level of priority in any particular case; any such periods should be kept to an absolute minimum in the case of children, having regard to the need to provide optimum support for their development;
- HSE to expedite the work to develop national guidelines for the provision of powered wheelchairs for children; and
- HSE to take all necessary steps to establish clear criteria and guidance in order to achieve consistency on the part of Local Health Offices in relation to the processing of applications, and appeals, in cases relating to the availability of powered wheelchairs for children.

HSE – Mental Health

The following were among recommendations made to address concerns about service availability:

- HSE should review the Child and Adolescent Psychiatry waiting list difficulties in the Local Health Office area concerned and identify a strategy to address same;
- The role and responsibility of Child and Adolescent Psychiatry and Community Psychology Service in relation to ADHD and ODD referrals should be clarified in view of the different understandings between these two services and communication improved between them regarding referrals;
- Communication with families in relation to decisions made regarding services and alternative service provision available should be improved; and
- HSE should clarify and assess the adequacy of services available for young people aged 16-17 with a diagnosis of ADHD and ensure that information is available for families and referring doctors on how services can be accessed.

HSE – Treatment Abroad

The following recommendations were made to achieve greater consistency and clarity around the provision of support in this area:

- Development of an agreed national standardised approach to the administration of the Treatment Abroad Scheme including clear written guidance for HSE staff regarding the process to be followed when considering applications for treatment abroad that is consistent nationally;
- Improved Communication by the HSE about the Treatment Abroad Scheme involving easily accessible information for patients/families which details eligibility criteria, the process followed in relation to the application, and the appeals process. This should address in particular the specific issues related to paediatric health care; and
- Clear information for referring Medical Consultants about the eligibility criteria and the procedural steps involved in determining such applications by the HSE.

(ii) Follow up to responses to systemic recommendations

Children in Special Care

During 2011 the Office engaged with the HSE, through meeting and seeking documentation, in relation to the progress on implementing recommendations made for systemic change in the provision of special care. The HSE advised that:

- a new model for special care and high support was being developed;
- work was ongoing in relation to the accommodation provision available and upgrading of this; as well as reviewing and improving capacity requirements; and
- special care admissions criteria, and processes, and the terms of reference for the relevant appeals committee, were being reviewed.

The Office obtained data from the HSE on the numbers of young people referred for special care who were unable to access this due to pending criminal proceedings. On foot of this information, the Ombudsman for Children wrote to the Minister for Children and Youth Affairs regarding the need for urgent commencement of the Child Care Amendment Bill. This was subsequently enacted in August 2011.

Children in Foster Care with Special Needs

Following the investigation of a complaint received on behalf of a child in foster care with profound special needs, this Office made a number of recommendations seeking to address the systemic issues which were also identified in the investigation. They related to the difficulties faced by families and social workers in the planning, resourcing and advocacy required to ensure that the foreseeable and identifiable needs of these children are addressed and prioritised. Through 2011, the Office engaged with the HSE on the matter, particularly how the HSE's response would translate into meaningful change for families and social workers advocating and caring for those children.

The HSE set out a number of proposed steps to be taken to address the systemic issues which were raised, along with providing the time line for same. The HSE advised that:

- It has prioritised the reconfiguration of existing therapy resources to geographic based teams;
- The implementation of a Resources Allocation Model based on the development of Service Level Agreements and Assessment of Need is being prioritised under the HSE Service Plan 2011; and
- The establishment of an Alternative Care Working Group consisting of the National Office for Children and Families and HSE practitioners working with Children in Care to develop and disseminate a standardised national policy for the provision of foster care services for children with special needs by the end of 2011.

This Office will continue to follow-up on the progress of these measures in 2012.

(iii) Follow up to Children First Investigation

In April 2010 the Office completed the first systemic investigation undertaken into the state of implementation of Children First: National Guidelines for the Protection and Welfare of Children, focusing on the administrative actions of the HSE in terms of implementation and the Department of Health and Children because of its remit to monitor the implementation of the guidelines.

The investigation made 11 findings of unsound administration, which gave rise to 22 recommendations. On conclusion of the investigation the Office set a one year period for follow up on the measures taken and progress made in relation to the recommendations. The review was initiated in May 2011 and involved:

- Seeking a written update from the HSE, OMCYA (subsequently the Department of Children and Youth Affairs) and An Garda Síochána in relation to the measures taken to progress the recommendations addressed to them, respectively.
- Meetings were held with representatives of the:
 - HSE
 - Department of Children and Youth Affairs (DCYA)
 - An Garda Síochána
 - IMPACT Trade Union
- Further documentation was requested on foot of a number of the meetings.

A report outlining the outcome of the review was completed in January 2012 with a view to early publication.

5

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 the year under review, the Ombudsman for Children's Office provided advice in relation to proposed legislation in the areas of criminal justice and child protection. It also continued its engagement at international level with human rights monitoring mechanisms and with its counterparts in other jurisdictions.

In addition to the above, the Office made a submission to the Forum on Pluralism and Patronage in the Primary Sector and to the Department of Education and Skills' consultation on the regulatory framework for school enrolment.

Criminal Justice (Spent Convictions) Bill 2011

In June 2011, the Department of Justice and Equality sought the views of the Ombudsman for Children's Office in relation to the Criminal Justice (Spent Convictions) Bill.

The Office had on two previous occasions commented on earlier drafts of the Bill. As was the case with its earlier advice, the Office's comments regarding the 2011 draft of the Bill focused on the following areas:

- the definition of sexual offences within the meaning of the Bill;
- categories of excluded employment (those that would not be able to benefit from the provisions of the Bill due to their sensitive nature);
- disclosure of convictions and court proceedings; and
- vetting by An Garda Síochána.

In the case of the previous drafts of the Bill, the Office had pointed out that the categories of excluded employment were not broad enough. This was addressed and the categories of employment subject to the provisions of the 2011 Bill were expanded.

Criminal Justice (Withholding Information on Crimes Against Children and Vulnerable Adults) Bill 2011

In July 2011, the Minister for Justice, Equality and Defence published legislative proposals to create a criminal offence of withholding information relating to the commission of arrestable offences, including sexual offences, against a child or a vulnerable adult.

In its advice on the proposals, the Ombudsman for Children's Office drew attention to the need for consistency between the proposed legislation and the Children First: National Guidance for the Protection and Welfare of Children. The Office also made a number of recommendations for clarifying and amending the provisions of the proposed new legislation.

The Office agreed with the general approach of the proposals but highlighted the importance of putting in place the necessary resources to ensure that social work departments can respond effectively to any increase in reporting consequent upon the enactment of the Bill and the placing of Children First on a statutory basis. In addition, the Office recommended that an effective system of monitoring be put in place to examine the effects of the new legal provisions and that an independent review of the effect of the legislation on child protection practice be undertaken no later than three years after its implementation.

Another aspect of the proposed legislation that warranted further consideration was the question of what will constitute a reasonable excuse for not reporting an arrestable offence. The Office recommended that the proposals be revised to clarify that in the case of children, a reasonable excuse should not include circumstances where the person in respect of whom the offence concerned was committed makes it known that he or she does not want that offence, or information relating to that offence, to be reported.

The Office also advised that the interaction between the proposals and different forms of legal privilege should be considered further in order to ensure that the scope of the Bill would not be unduly constrained.

National Vetting Bureau Bill 2011

In July 2011, the Minister for Justice, Equality and Defence published proposals for the National Vetting Bureau Bill. The aim of the Bill is to give effect to the recommendation made by the Joint Oireachtas Committee on the Constitutional Amendment on Children to introduce legislation to regulate and control the manner in which records of criminal convictions and information (including soft information) can be stored and disclosed by An Garda Síochána and other agencies for the purpose of child protection.

The Ombudsman for Children's Office has on a number of occasions provided advice to Government and to the Houses of the Oireachtas on proposals to amend the Constitution; in these submissions, the Office advised that such an amendment explicitly enable the Oireachtas to legislate for the collection and exchange of information pertinent to the potential endangerment of children.

In its advice on the Bill, the Office welcomed the proposal to put in place a statutory framework to govern this aspect of child protection. Notwithstanding the significant and essential work already carried out by the Garda Central Vetting Unit (GCVU), the absence

of such a statutory framework represents a serious gap in existing legislation aimed at shielding children from harm. However, this Office highlighted that vetting is but one component of a larger child protection system and that it cannot guarantee children's safety in isolation; a strong vetting mechanism is not a replacement for sound recruitment and management processes.

The advice of the Office addressed the employment positions that should be subject to vetting, the establishment and operation of the National Vetting Bureau, vetting disclosure procedures, and offences under the Bill.

Forum on Patronage and Pluralism in the Primary Sector – August 2011

In April 2011 the Minister for Education and Skills launched the Forum on Patronage and Pluralism in the Primary Sector which is a national forum on school patronage. It includes an extensive consultation process in order to enable greater pluralism in the governance of schools. Professor John Coolahan (Chair), Dr Caroline Hussey and Ms Fionnuala Kilfeather were announced as members of the independent Advisory Group to the Forum. The Ombudsman for Children met with the Chair of the Advisory Group in July 2011.

In August 2011, the Ombudsman for Children made a formal submission to the Forum on Patronage and Pluralism. This submission noted that, while the issue of parental choice is clearly a central consideration for the Forum, it is equally important to bear in mind the children's rights dimension and the direct effect that any changes arising from the work of the Forum will have on children. In this context, the Office drew attention to Ireland's international obligations in relation to children's rights, with particular reference to the UN Convention on the Rights of the Child.

The Ombudsman for Children recommended that a change process underpinned by a demonstrable commitment to children's rights, welfare and best interests will limit the nature and extent of concerns that may be generated by proposed changes emerging from the work of the Forum. The objective of this approach was to ensure that grievances which may arise will be appropriately handled if local policies and procedures are informed by this same commitment.

It was the view of the Advisory Group to the Forum that the Office would be an appropriate appeals mechanism for complaints relating to enrolment and other matters that may arise from changes instituted by the Forum. The Office was pleased to note this view and the references made by the Advisory Group to the views expressed by children and young people the Advisory Group had consulted on issues involved.

All of OCO's policy documents are available to download at www.oco.ie/publications/policy

Access to therapeutic notes

In early 2011, concerns were raised with the Ombudsman for Children's Office regarding the issue of access to therapy notes relating to children who have been sexually abused and the use of information contained in them in the context of criminal prosecutions. Senior medical professionals providing assessment and therapeutic services to children who have been sexually abused expressed the view that the release of notes made during the course of therapeutic work – as distinct from the assessment process – for the purposes of assisting with the prosecution was problematic. In particular, there was a concern that if clinicians cannot establish a sense of privacy, trust and confidentiality in the therapeutic relationship, then the children involved cannot take the risk and engage in the therapy.

The Ombudsman for Children raised these concerns with the Director of Public Prosecutions (DPP), while acknowledging the importance of maintaining the integrity of criminal prosecutions. Following engagement with the Office of the DPP, the Ombudsman for Children wrote to the Minister for Justice and Law Reform, highlighting the absence of a statutory framework governing this area and recommending that consideration be given to addressing the issue in primary legislation. The Minister responded, saying that the Department of Justice and Equality had initiated a consultation with the DPP, An Garda Síochána and the DCYA to ascertain their views on the recommendations of the Special Rapporteur on Child Protection in this regard, and that when the consultation was complete and more information was to hand, further consideration would be given to the need for legislative action in this area.

United Nations Committee Against Torture (UNCAT)

Ireland was examined by the UNCAT in May 2011. Although the Office did not make a formal submission in connection with this process, the Committee made reference, during its discussion with the State delegation, to the report published by the Office on the views of young people detained in St. Patrick's Institution. The Committee called for the Office's investigatory remit to be extended to include 16 and 17 year olds detained in St. Patrick's Institution.

United Nations Human Rights Council Universal Periodic Review (UPR)

In October 2011, Ireland was examined by the UN Human Rights Council for the first time as part of its UPR process.

As the national statutory human rights body for children in Ireland the Ombudsman for Children's Office prepared a submission for the Council setting out some of the principal concerns in the area of children's rights in Ireland. These included constitutional reform, child protection, enhancing the inspection and monitoring of children's services, child poverty, mental health, youth justice, separated children seeking asylum, and the education of children with special needs.

Many of the recommendations made by the Ombudsman for Children were reflected by the Office of the UN High Commissioner for Human Rights (OHCHR) in the information it provided to other States regarding the current situation of human rights in Ireland. During the discussion between the Council and the Irish delegation, children's issues raised by this Office and taken on board by the OHCHR featured prominently, including those relating to the extension of the Ombudsman for Children's investigatory remit.

While the Irish State accepted a number of the Council's recommendations relevant to children's rights, there was also a range of issues which the State undertook to consider further before replying to the Council. During the course of 2012, this Office will continue to monitor progress on these and other issues raised by the Council.

Review of the Ombudsman for Children Act 2002

Section 7(1)(h) of the 2002 Act provides that the Ombudsman for Children shall monitor and review the operation of the 2002 Act and, whenever she thinks it necessary, make recommendations to the Minister for Children and Youth Affairs or to the Oireachtas, or both, regarding amendment of the Act. Although the Ombudsman for Children's Office has on many occasions drawn attention to certain shortcomings of the 2002 Act – particularly with respect to the scope of the Office's investigatory remit – no such review has to date been prepared and submitted to the Government and the Oireachtas for consideration.

In light of the experience gained by the Office over the first 7 years of its operation, the Ombudsman for Children decided in 2011 to undertake a review of the 2002 Act. A significant amount of preparatory work was carried out over the course of the year and it is intended that the review of the 2002 Act will be completed and published during the course of 2012.

Engagement with international networks and organisations

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

The Ombudsman for Children was the Chairperson of the working group established by the General Assembly of ENOC to consider the Network's statutes and the standards which independent children's rights institutions must meet in order to qualify for membership of ENOC.

The Ombudsman for Children's Office also engaged with a range of key international bodies charged with the promotion and protection of human rights, including:

- The mission of the UN Independent Expert on Human Rights & Extreme Poverty, Magdalena Sepúlveda, to Ireland in January 2011;
- The Council of Europe Commissioner for Human Rights, Mr. Thomas Hammarberg, as part of his country visit to Ireland in June 2011; and
- The Chair of the UN Committee on the Rights of the Child, Mr. Jean Zermatten, to discuss the operation of the third optional protocol to the UN Convention on the Rights of the Child providing for an international complaints mechanism in October 2011.

In addition, the Ombudsman for Children also addressed significant international children's rights conferences, including:

- A Council of Europe seminar on the human rights dimension of migration in Europe in Istanbul in February 2011. The Ombudsman for Children was invited by the Council of Europe Commissioner for Human Rights, Thomas Hammarberg in conjunction with the Turkish Chairmanship of the Council of Europe Committee of Ministers to address the seminar focusing on OCO's work with separated young people in Ireland; and
- A UNICEF conference on the monitoring of torture and ill-treatment in the context of juvenile justice in Kiev in October 2011. The main focus of this conference was to assist countries such as Armenia, Georgia, Kazakhstan, Moldova and the Ukraine in building the capacity of human rights NGOs and Ombudsman offices to monitor places of detention and to conduct research. The Ombudsman for Children was asked to address the conference as a result of the work undertaken by this Office on children in detention in St Patrick's Institution.

6

PARTICIPATION AND EDUCATION

Section 7 of the 2002 Act 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 the age of eighteen. Among the Office's obligations under Section 7 are:

- 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;
- to establish structures to consult with children; and
- to highlight issues relating to children's rights and welfare that are of concern to children themselves.

Broadly speaking, the Office's participation and education work comprises two strands. The first strand, including initiatives such as its visits programme and the development of resource materials on children's rights, aims to engage with the general population of children and to promote awareness of matters relating to children's rights that are relevant to many thousands of children. The second strand involves linking directly with vulnerable groups of children who are harder to reach and whose voices are seldom heard. The Office's work in 2011 under this strand included activities that built on its work with young people under 18 detained in St. Patrick's Institution in 2009/2010 and an initiative to hear directly from young people with experience of homelessness.

Children's Rights Education Programme

Delivered to groups of children and young people visiting the Office, the rights education programme is a vital part of the Office's participation and education work, providing as it does a valuable opportunity to engage directly, and on an ongoing basis, with children and young people of different ages, living in different parts of the country and in diverse circumstances. During 2011, 750 children and young people from schools, youth projects and other children's services in Dublin, Kildare, Mayo, Donegal, Waterford, Meath, Westmeath and Monaghan, visited the Office to take part in activity-based workshops. In addition to developing children's and young people's understanding of children's rights, these workshops enable the Office to hear and learn directly from children and young people about issues that affect and concern them.

In 2011, many children and young people also took part in one of the following consultations conducted by the Office through this Programme:

Child-friendly Health Care

Between May and June 2011, the OCO facilitated five groups of children to contribute their views to the Council of Europe's consultation with children on child-friendly healthcare. This consultation enabled children to contribute to a European-wide consultation initiated by the Council of Europe in the context of developing new Guidelines on Child-friendly Health Care.

OCO staff designed the consultations around broad themes included in the Council of Europe's questionnaire. The 125 children who took part in this consultation shared views on the physical environment of healthcare settings used by children; the roles of parents and other family members in child healthcare; information for, and communications with, children in relation to treatments they are receiving; having opportunities to express their views and concerns to healthcare professionals; and health professionals' attitudes and behaviours towards children.

Some of the issues that arose included:

- The waiting times and areas – most of the children felt that the time they spent in waiting areas in advance of being seen by a healthcare professional was too long.
- The physical environment – participants felt that healthcare settings used by children should be bright and colourful and include places to relax and have comfortable and clean beds, as well as enabling family members to stay with children.
- The role of parents and family – The children felt that it is important to have family members with them as this helps them to feel safe and secure in healthcare settings. One child recalled her experience of feeling scared and lonely on an occasion when she had to wait by herself for treatment as the waiting area was in a part of a hospital that her parents were not allowed into.
- Information and communications – the majority of participating children expressed the view that healthcare professionals often speak too quickly and use words children do not understand. Children described experiences of not being sure what was happening after seeing a health professional. They also felt that healthcare professionals needed to communicate directly with children in child-friendly language and in a child-friendly way (words like "gentle", "warm" and "patient" were used in this regard). The vast majority of the children felt that parents should be present and part of any discussions relating to their child's medical treatment.
- Listening to children – most participating children felt that, in general, children are not listened to by health professionals and are not given adequate opportunities by them to ask questions.

Their perspectives were well represented in a report on the European-wide consultation, which informed the Council of Europe's adoption of the new Guidelines in September 2011.

Bullying

As part of this Programme, between September and November 2011, the OCO met with groups of children from 10 schools (approximately 200 children) and carried out a consultation regarding their views and opinions in relation to what schools can do to prevent and combat incidents of bullying. The 10 groups who participated were a mix of primary and secondary school students from a number of counties and a mix of urban and rural settings. The youngest group was from 5th class while the oldest were third year students. In addition one group of young people from a mental health support group participated in the consultation.

Among the main messages communicated by children and young people in this regard were:

- Schools should take a proactive approach to talking about and raising awareness of bullying;
- Children and young people should be given guidance on what to do if they experience or witness bullying and should have a clear and shared understanding of how their school deals with incidents of bullying;
- Schools' policies for handling bullying should be readily available in child-friendly language and formats so that they are easy to understand;

As it affects them directly, children and young people should be afforded opportunities to input their views and suggestions into the development, monitoring, and updating of their school's bullying policy;

There should be one 'go-to' person in the school for children and young people to report incidents of bullying. This person needs to be someone who is trusted by children and young people, listens respectfully, takes them seriously, and who can be relied upon to take appropriate follow-up action; and

Children and young people need to feel confident that bullying incidents are handled by school authorities in a manner that is fair to all concerned.

The information collected from this consultation will be factored into future work we do on the issue of bullying.

Children and Media

The Office also consulted with visiting children and young people about their use of media so that their views might inform its ongoing work to develop and diversify its approach to communicating with children.

The main objective of this was to facilitate a discussion around children and young people's use of and interaction with media and social media including finding out more information on what types of media they are using, what pros and cons they felt existed when using these various media, how they would like to see media become more accessible to young people and finally how they felt the Office could use media to communicate its message.

With regards to media usage, as expected all groups had regular contact with radio, television, newspapers and the internet. Internet was unanimously the most used media by the groups and was the preferred choice. In general all the groups stated that they would not or rarely read newspapers.

The groups did all state that they were interested in learning about current affairs but did not feel that news was communicated in a child friendly way and as such they did not pay attention.

When discussing the internet and social media in particular, young people felt that it was a great way to keep in touch with friends and family. All of the young people taking part that had regular access to the internet stated that they would use it to find out about things, research projects and check news. However, whereas the children all identified facebook, YouTube and twitter as the main social media sites they were less definitive about where they would go for information or news.

They also spoke about access; the internet allowed access to what the young people wanted at their own leisure and when they wanted it without ads or programs that aren't focused at them.

Finally they discussed safety; two of the groups spoke openly about safety concerns in relation to being online and most of these children were aware of someone who had a bad experience online or mentioned that they had one themselves. The main negative experiences were: online bullying, inappropriate material online, and the dangers of inappropriate people/adults approaching them online.

This subsequently informed how OCO engages with the media across a variety of issues.

Educational Materials on Children's Rights

During 2010, the Office developed educational resource materials on children's rights and lives in Ireland titled *What do you Say?* for teachers to use in primary schools, post-primary schools and Youthreach centres. Due to the positive response to the materials from teachers working at primary and post-primary level, in early 2011, the Office issued a copy of these materials to every primary school, postprimary school and Youthreach centre in the country.

These materials are available in English and Irish and comprise teacher manuals, posters and a DVD that can be used for work with children from the age of 4 upwards. The issues presented for activity-based learning are: having a voice and being heard; family and care; health and wealth; education; play, leisure and recreation; inclusion; and children and the law. The Office has also made the materials available for downloading from its website.

Highlighting the Concerns of Young People in St. Patrick's Institution

In February 2011, the Office published a report documenting the findings of its consultation with 16 and 17 year olds detained in St. Patrick's Institution, a closed, medium-security prison run by the Irish Prison Service (IPS).

The overall purpose of this consultation was to hear directly from young people about their experiences of detention with a view to highlighting their perspectives on the regime and conditions in the prison. The goal was to have due consideration given to their views by the management of St. Patrick's Institution, the IPS and policy-makers at national level and, more broadly, to progress respect for young people's rights and welfare in and through the policies, procedures and practices operated for under 18s in the prison.

The Office's report and an accompanying DVD (Views from the Inside) present participating young people's experiences of, and perspectives on, different aspects of the regime operated in St. Patrick's Institution. From the viewpoints they shared, it was clear that, while they have good relationships with many categories of staff, they are fearful of others and apprehensive about several aspects of the prison's regime. In addition, it was evident that the young people themselves do not consider time detained in St. Patrick's as an effective route to rehabilitation or future reintegration into their communities and society.

Building on the Office's work in St. Patrick's, the Ombudsman for Children continued to emphasise publicly and at Ministerial level the need to identify and progress, without delay, appropriate alternative arrangements to radically curtail, and begin to cease, the use of St. Patrick's Institution as a place of detention for children under 18.

The Ombudsman for Children also underscored the importance of continuing to implement measures to improve provision in St. Patrick's for as long as young people under 18 continue to be detained there. Furthermore, she highlighted that the situation whereby the Ombudsman for Children's Office is precluded by the 2002 Act from investigating complaints made by or on behalf of young people under 18 detained in St. Patrick's must be addressed.

Outcomes

The Office recognises that some changes in keeping with several recommendations made in its report were initiated during 2011.

- Reflecting a recommendation made by young people who participated in its consultation, the Office assisted the development of new youth-friendly information materials that aim to improve young people's awareness and understanding of the prison's rules, procedures and services.
- The Office also contributed to a training programme on young people in society for prison officers working with young people under 18 in St. Patrick's. In November 2011, the Office's staff delivered a training workshop on children's rights to prison officers in St. Patrick's. However, responsibility for improving provision across a wide range of services, and for such interventions, properly rests with the Departments of Children and Justice and services under their aegis, including the Irish Youth Justice Service and the Irish Prison Service. It is essential that they collaborate effectively in the design and delivery of training and other interventions that safeguard the rights and welfare needs of young people under 18 detained in St. Patrick's.

In June 2011 the Ombudsman for Children outlined to the Thornton Hall Prison Review Group her concerns about the continued detention of children in St. Patrick's Institution, proposing interim arrangements to facilitate the transfer of children out of St. Patrick's Institution and expressed her concern that ongoing industrial relations issues should not be allowed to be a barrier to children's rights.

In October 2011 the Ombudsman for Children wrote to the Minister for Children and Youth Affairs, expressing her serious concern about the continued detention of children in St. Patrick's and formally calling on the Minister to ensure that urgent action was taken to end this practice.

The Ombudsman for Children expressed her concern not only for the physical environment but for the culture that existed within St. Patrick's Institution and the treatment of children in their care.

The letter highlighted the Ombudsman for Children's main concerns, inter alia, a lack of adherence to child protection guidelines, the use of punitive practices, practices that generate fear for these children, complaints by children about their treatment in St. Patrick's without any redress to this Office and some children who had reported that they do not feel safe in St. Patrick's Institution.

Hearing from young people with experience of homelessness

In September 2011, the Office initiated a consultation with young people with experience of homelessness and of accessing out-of-hours, crisis intervention and emergency accommodation services.

This consultation is part of a wider piece of work involving engagement by the Office with the HSE on the issue. The Office's consultation sought to gain an insight into young people's first-hand experiences of accessing and using homelessness services and, based on these experiences, what they think should be done to improve existing provision for children who need to avail of these services.

Between September and December 2011, the Office conducted face-to-face interviews with young people currently using, or with recent past experience of using such services in Dublin and Cork – the two places in Ireland where hostel-style accommodation is currently being used for young people.

A report documenting the young people's experiences and perspectives to be finalised in early 2012, will inform the Office's ongoing engagement with the HSE on improving this crucial element of services to very vulnerable children and young people.

Research for and with Children

Education for Children in Care

During 2011, the Economic and Social Research Institute and the Children's Research Centre, Trinity College Dublin, progressed research for the Office on education for children in care. The research was commissioned in 2010 in light of concerns and complaints received by the Office in relation to challenges that children in foster care and residential care face as regards accessing and/or participating in education. This exploratory research project aims to identify concrete, practicable measures for implementation by relevant services within the education and health/social care systems that can support attendance and participation in education by children living in the care of the State. The research includes interviews with children and young people currently in care, as well as care leavers. A report documenting the findings of this research and making recommendations will be published by the Office in 2012.

Children and the Health Services

Recognising that the issue of healthcare provision for children is one that affects every child and family in Ireland, the Office embarked on an initiative in this area consonant with the earlier-mentioned steps being taken at the wider European level. The particular initiative reflected the fact that each year, health services for children, and administrative actions and decision-making on matters relating to child health, make up a significant number of the complaints received by the Office. Accordingly, it commissioned research to identify measures to promote and progress child-friendly healthcare and a culture of respect for children's rights in healthcare settings. Undertaken by University College Cork, this research has looked at guidelines, policies, standards and good practices that can promote child-friendly healthcare. The findings of the research will be published in due course and will inform subsequent phases in the Office's child health initiative.

Ombudsman do Leanáí Tuarascáil Bhliantúil 2011



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1

TEACHTAIREACHT ÓN OMBUDSMAN DO LEANAÍ



Táim sásta mo thuarascáil bhliantúil le haghaidh na tréimhse dar críoch 1 Eanáir go dtí 31 Nollaig 2011 a chur faoi bhráid an Oireachtais, de bhun Alt 13 (7) den Acht um Ombudsman do Leanaí, 2002.

Is éard atá i gceist le cearta leanaí a chur chun cinn na dálaí riachtanacha faoina mbeidh leanaí ábalta maireachtáil le dinít agus meas a chur i bhfeidhm. Cé go bhfuil roinnt dul chun cinn déanta ó bunaíodh Oifig an Ombudsman do Leanaí in 2004, tá a lán leanaí agus daoine óga in Éirinn a bhfuil bacainní agus ilbhacainní fós os a gcomhair maidir lena gcearta a réadú agus maidir le rochtain a fháil ar raon seirbhísí bunúsacha. Feicimid na baic atá le sárú ag leanaí agus teaghlaigh chun é sin a bhaint amach agus imscrúdú á

dhéanamh againn ar na gearáin a dhéantar lenár nOifig agus san obair dhíreach le leanaí agus daoine óga. Trí na deacrachtaí praiticiúla sin a thabhairt chun suntais, tá sé d'aidhm agam na buarthaí faoi leanaí nach dtabharfaí aird orthu nó nach dtabharfaí aghaidh orthu ar chuma eile a chur in iúl do lucht déanta cinntí agus don tsochaí go ginearálta.

I mí Aibreáin 2011, d'fhoilsigh mé anailís ar ár gcásobair, agus creidim go gcuirtear fianaise ar fáil inti maidir leis an ngá atá leis an earnáil phoiblí a leasú. Tá roinnt prionsabal bunúsach um dhea-riarachán poiblí ann a bhfuil gá aird a thabhairt orthu agus beartais a théann i gcion ar leanaí agus ar theaghlaigh á bplé. Is príomhghné é dár n-imscrúduithe, le beagán eisceachtaí, go dtugtar easpa feasachta chun suntais iontu maidir leis an iarmhairt a bhíonn ag cinnteoireacht riaracháin shibhialta agus phoiblí ar shaolta leanaí agus a dteaghlach. Maidir leis sin, leanaimid ag feiceáil go bhfuil níos mó buartha ann faoin gcóras ná atá ar mhaithe leis an leanbh nó an teaghlach. Leanaimid de dhroghall a fheiceáil teagmháil a dhéanamh le tuismitheoirí faoi chinntí beartais úra agus dá bharr sin bíonn easpa cumarsáide le tuismitheoirí ann. Maidir le tuismitheoirí is de bharr easpa cumarsáide a mbíonn buairt agus suaiteadh neamhriachtanach orthu faoina leanaí. Go minic is é a bhíonn i gcoirílár an cháis sin go mbíonn eagla ar an gcomhlacht poiblí roimh ionchais tuismitheoirí agus is é an easpa cumarsáide sin an fhíorbhuairt atá curtha in iúl ag tuismitheoirí don Oifig seo.

Spreagfainn an Rialtas breathnú go cúramach ar an dóigh a gcinneann sé beartas san am neamhghnáth agus deacair seo. I dtaca le leanaí bhí easnamh anailís tionchair leanaí follasach i gcuid mhaith den chinnteoireacht maidir le leanaí; is é ceann de na hiarmhairtí mar thoradh air sin nach gcomhlíonann oibriú na mbeartas riachtanais an phobail i gcoitinne i gcónaí, agus leanaí go háirithe. Cé go bhfuil tábhacht ollmhór ag baint le hacmhainní imleora lena chinntiú go dtugtar meas do chearta leana, is féidir a rá go bhfuil an dearcadh agus an cultúr a chuireann taca faoin dóigh a ndéanaimid teagmháil le leanaí agus an dóigh a soláthraímid do leanaí níos bunúsaí.

I ndiaidh ocht mbliana d'imscrúdú a dhéanamh ar ghníomhartha comhaltaí poiblí, tá sé an-soiléir ar fad dom nach bhfuil urramú á thabhairt de réir an chórais in Éirinn do na príomhphrionsabail um leas agus meas maidir le dearcthaí an linbh. Tá sé sin tugtha chun suntais agam go comhsheasmhach i mo chuid tuarascálacha bliantúla don Oireachtas, ar fud na réimsí sláinte, oideachais agus ceartais.

Tá a lán den díospóireacht maidir le hathrú bunreachtá dírithe – mar ba cheart dó a bheith – ar iarmhairt a d'fhéadfadh leasú molta ar bith a bheith aige ar imeachtaí breithiúnacha. Is féidir a rá go bhfuil sé i bhfad níos dóchúlú go rachadh cinnteoireacht a dhéanann riarachán sibhialta agus poiblí i gcion ar líonta níos mó leanaí agus teaghlach.

Ní raibh mé riamh i mo thacadóir de stát ró-crioscaíolach.

Go dtí seo, ní dhearnamar scrúdú ar chás i gcás go raibh coinbhleacht idir cearta an tuismitheora agus cearta an linbh. Má tá rud amháin atá dearbhaithe trínár gcuid oibre d'ocht mbliana, is é sin gurb iad tuismitheoirí na habhcóidí is láidre agus is greamúsaí ar fad ar son leanaí. Is é sin an chúis gurb iad na leanaí atáim fós buartha fúthú na leanaí nach bhfuil cúram tuismitheoirí acu, na leanaí siúd nach bhfuil an tuismitheoir greamúsach acu ag troid ar a son.

Ag tús na bliana 2011, bhí sé spreagúil láithreach leanaí a fheiceáil sa chlár don rialtas, go háirithe tiomantas do reifreann a thionól maidir le cearta leanaí agus tiomantas maidir le deireadh a chur le coimeád daoine óga i bhForas Naomh Pádraig.

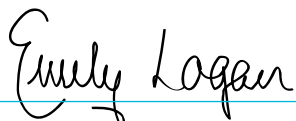
Glacfaidh sé am agus iarracht chun cultúr úr measa a fhorbairt do leanaí in Éirinn. Ní bhainfear an sprioc sin amach tríd an mBunreacht a leasú amháin; mar sin féin, is cinnte go n-athrófar an tírdhreach dlíthiúil agus beartais tríd ionas go dtarlóidh an t-athrú cultúrtha atá de dhíth.

Áirítear samplaí de dhea-chleachtas inár ndlíthe, beartas agus nósanna imeachta; áirítear samplaí suntasacha iontu chomh maith maidir leis an gcliseadh prionsabail cearta linbh a bhreithniú. Ina bhfianaise sin, bheadh sé ina dhearbhu cumhachtach agus láidir na prionsabail sin a chuimsiú sa doiciméad dlíthiúil is bunúsaí sa stát.

Trí reifreann maidir le cearta leanaí a thionól cuirtear deis ar fáil d'Éirinn a bheith ina ceannaire ar chearta leanaí ar fud an domhain. Fiú má tá cearta leanaí neadaithe i mBunreacht na hÉireann, beidh dúshlán le sárú an t-am ar fad maidir le réadú praiticiúil a gceart ar bhonn laethúil

ag soláthraithe seirbhíse. Tá inrochtaineacht ar mheicníocht neamhspleách um shásamh do dhaoine nach féidir leo sásamh a fháil sna cúirteanna bunúsach i gcomhair daonlathais atá ag feidhmiú go maith. Tá an ról atá ag m’Oifig fiú níos tábhachtaí maidir le meicníocht neamhspleách ar chostas íseal a chur ar fáil do thuismitheoirí agus do leanaí trínár bhfeidhm gearán. Trí réiteach na bhfadhbanna córasacha a shainnithint agus a mholadh, chuidigh agus cuideoidh an fheidhm reachtúil sin lena lán leanaí amach anseo.

Mar Ombudsman do leanaí, athshonraím tiomantas m’oifige do mhonatóireacht neamhspleách a dhéanamh ar chearta agus leas leanaí thar na blianta atá le teacht.

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

Emily Logan

An tOmbudsman do Leanaí

2

OIFIG AN OMBUDSMAN DO LEANAÍ: STRAITÉIS 2011 – 2016

I mBealtaine 2011, d’fhoilsigh an Oifig a dara Straitéis ó bunaíodh í. Beidh an Straitéis reatha ag treorú pleananna agus gníomhaíochtaí na hOifige thar an tréimhse sé bliana go dtí 2016.

Ceapadh an doiciméad i gcomhréir le cuspóirí luaite na hOifige a bheith ag obair chun cultúr a chruthú in Éirinn ina bhfuil feasacht láidir an phobail ar chearta leanaí a nglactar dáiríre leo agus a bhfuil meas an phobail orthu. Leagtar amach trí sprioc straitéiseacha ann atá le leanúint suas go dtí 2016. Is iad seo mar a leanas:

1. *Forfheidhmiú Cearta Leanáí* – tá sé mar aidhm leis rannpháirtíocht chuiditheach a chothú ar an saincheist leis an lucht déanta cinntí;
2. *Athrú Córasach* – tá sé mar aidhm leis athrú mórscála dearfach a chur i bhfeidhm ar bheartais agus cleachtais a bhaineann le leanaí agus le daoine óga; agus
3. *Forbairt Acmhainne* – tá sé mar aidhm leis tiomantas agus cumas a fhorbairt chun dul i ngleic le cearta leanaí ar bhealach níos fearr.

Leagtar amach na bearta ginearálta ann atá riachtanach lena spriocanna luaite a bhaint amach agus é ar fáil ar www.oco.ie/publications

Soláthraítear forléargas sa Tuarascáil Bhliantúil seo ar na gníomhaíochtaí suntasacha a rinne an Oifig i rith 2011 lena cuid spriocanna straitéiseacha a chur chun cinn trí chomhairle a sholáthar don Rialtas; trí obair le leanaí/daoine óga; trí dhul i ngleic le príomhpháirtithe leasmhara, agus trí aghaidh a thabhairt ar athrú córasach trí ghearáin a imscrúdú.

3

FORBAIRT EAGRAÍOCHTÚIL

Seirbhísí Corparáideacha

Rialú Airgeadais

Ba é €2.112m leithdháileadh airgeadais 2011 Oifig an Ombudsman do Leanaí.

Mar atá leagtha amach in Ailt 17 (1) agus (2) d'Acht an Ombudsman do Leanaí, 2002, tá an tOmbudsman do Leanaí freagrach as Ráitis Airgeadais a ullmhú agus as rialtacht idirbhearta na hOifige a chinntiú. Áirítear leis na feidhmeanna a chuireann taca faoi na freagrachtaí seo íocaíochtaí d'earraí agus do sheirbhísí a údarú agus a mhonatóiriú, próisis tairisceana, oibriú an phárolla, agus tuairisceáin mhíosúla a thiomsú.

Tá na Ráitis Airgeadais faoi réir ag iniúchadh ag Oifig an Ard-Reachtaire Cuntas agus Ciste. Rinneadh iniúchadh ar chuntais 2010 i Meitheamh 2011. Nuair a bheidh siad faofa ag Oifig an Ard-Reachtaire Cuntas agus Ciste, foilsítear iad, agus tá cuntais bhliantúla le haghaidh gach bliana suas go dtí 2011 ar fáil ag www.oco.ie/publications.

Leanann CrowleysDFK de sheirbhísí cuntasafóchta a sholáthar don Ombudsman do Leanaí ó tugadh conradh trí bliana dó in 2011 tar éis tairisceana oscailte.

Acmhainní Daonna

Tá 15 ball foirne a ceadaíodh ag an Oifig. Is dúshlán leanúnach é úsáid a bhaint as an acmhainn lárnach seo chun freastal ar éilimh atá fós ag méadú bliain i ndiaidh bliana, maidir le toirt agus castacht.

Rinneadh athbhreithniú ar ról agus feidhmeanna na foirne go léir san Oifig go déanach in 2010 agus go luath in 2011. Mar thoradh air seo, bhí athchothromú na n-acmhainní i bhfabhar fheidhm na hOifige maidir le gearáin a scrúdú agus a imscrúdú. Ina theannta sin – mar atá léirithe i dTuarascáil Bhliantúil 2010 – leanann an Oifig de bheith ag brath ar phainéal imscrúdaithe, mar gheall ar líon na ngearán a fhaightear.

Nuashonrú an Chórais Sonraí

Beart eile a glacadh i rith na bliana le cumas a leathnú i réimse na ngearán ná athfhorbairt shuntasach a dhéanamh ar bhunachar sonraí gearán na hOifige. I measc phríomhchuspóirí an phíosa suntasach oibre seo ná an fhaisnéis a dhéanamh níos inrochtana, monatóireacht iomlán de dhul chun cinn faoi ghearáin aonair a dhéanamh níos éasca agus cumas tuairiscithe méadaithe a bheith ann le staitisticí gearáin a bheachtú tuilleadh. Mar thoradh air sin uile tá córas ann anois atá in ann líon suntasach sonraí atá le bainistiú a phróiseáil, chomh maith le sonraí atá cothrom le dáta a tháirgeadh.

Úsáid Áitreabh

Chomh maith le ceardlanna oideachais ar chearta daonna a réachtáil do ghrúpaí leanaí agus daoine óga ar cuairt, lean an tOmbudsman do Leanaí ar aghaidh leis na háiseanna i dTeach na Mílaoise a chur ar fáil mar ionad le haghaidh imeachtaí cuí a bhí dírithe ar chearta agus leasanna leanaí agus daoine óga. Mar shampla, tionóladh comhairliúcháin le daoine óga ag Fóram Óige Ospidéal Náisiúnta na Leanaí agus ag an gCoiste um Iolrachas agus Pátrúnacht in áitribh na hOifige le linn 2011.

Oiliúint agus Forbairt Ghairmiúil

Le linn 2011, rinne roinnt baill foirne shinsearacha clár oiliúna i gceannaireacht. Ghlac gach ball foirne páirt i gCeardlann um Chosaint Leanaí le fócas ar leith ar na Treoirlínte 'Children First' nuashonraithe.

Seirbhísí Dlí

Sholáthair Ronan Daly Jermyn seirbhísí dlí don Oifig le linn 2011. Críochnaíodh an conradh seo i Nollaig 2011. Foilsíodh Iarratas ar Thairiscintí do Sholáthar Seirbhísí Dlí i Samhain 2011.

Na Meáin

Mar a bhí i mblianta roimhe seo, bhí suim shuntasach ag na meáin in obair na hOifige, chomh maith le clúdach forleathan di. Go sonrach, bhí aird shuntasach ar imní an Ombudsman do Leanaí faoi choimeád leanúnach leanaí i bpríosún do dhaoine fásta i rith na bliana, ag eascairt as tuarascáil a foilsíodh i mí Feabhra ar obair a rinne an Oifig le daoine óga in Institiúid Naomh Pádraig, chomh maith le foilsiú athbhreithniú OCO maidir le deich imscrúdú samplacha ar a raibh clúdach forleathan.

Mar gheall ar nádúr íogair na n-imscrúduithe a dhéanann an Oifig go minic, ní fhoilsímid gach ceann dár gcásanna. Agus cinneadh á dhéanamh againn cibé an bhfoilseoidimid nó nach bhfoilseoidimid cás, measaimid an bhfuil an duine óg (nó an teaghlach) atá i gceist leochaileach agus conas a d'fhéadfadh tionchar a bheith orthu mar gheall ar fhoilsiú; cibé an bhfuil an cás chomh sonrach sin leis an ngearánach a dhéanamh inaitheanta; agus cibé an bhfuil an cás i leas an phobail. Tá spéis agus cúnaimh na meán ríthábhachtach chun tuiscint agus feasacht san Oifig a ghiniúint. Imríonn na meáin ról ríthábhachtach, gan amhras, maidir le héifeachtaí na cinnteoireachta poiblí ar leanaí a chur in iúl, agus tugtar aitheantas agus buíochas ar an meas atá acu ar na hÍogaireachtaí a bhaineann leis na himscrúduithe sin atá foilsithe againn. Bhí an Oifig, san am atá caite, i dteagmháil le hOifig Ombudsman an Phreasa i dtaca lenár mbuarthaí faoi imscrúduithe íogair a shonrú.

Gnóthaí Poiblí

Tuairiscíonn an tOmbudsman do Leanaí go díreach do Thithe an Oireachtais agus tá sainordú reachtúil aici comhairle a thabhairt d'Airí Rialtais ar dhlíthe agus ar bheartais a bhfuil tionchar acu ar leanaí. Ina fhianaise seo, de thairbhe na n-athruithe suntasacha a tharla sa tírdhreach polaitiúil i rith 2011, bhí ar an Oifig iarrachtaí luatha agus diana a dhéanamh chun dul i dteagmháil leis na hAirí Rialtais ábhartha ar a cuid oibre agus ar a tosaíochtaí; le hurlabhraithe Dála agus Seanaid, le Cathaoirligh Choistí an Oireachtais, amhail Sláinte agus Leanaí; Dlí agus Ceart agus Cosaint; Fostaíocht, Cosaint agus Oideachas Sóisialta; agus Imscrúduithe, Maoirseacht agus Achainíocha.

Láithreán Gréasáin

Tá láithreán Gréasáin na hOifige fós ina phríomhuirlis chun cumarsáid a dhéanamh leis an bpobal. Ag am nuair a bhí ár n-acmhainní foirne faoi bhrú ar fud na bhfeidhmeanna éagsúla, ba bhealach éifeachtach é ó thaobh costais de an láithreán Gréasáin chun cumarsáid a dhéanamh ar mhórsála. Tá sé ina uirlis thar a bheith luachmhar freisin chun cuidiú le gearánaithe féideartha tuiscint a fháil ar conas agus cá huair is féidir linn cabhrú leo, chun a chinntiú go raibh gach ceann de na doiciméid bheartais OCO agus de na hábhair oideachais ar fáil le híoslódáil, chomh maith le cinnte a dhéanamh de go raibh míreanna nuachta, imeachtaí agus gníomhaíochtaí ar fáil go héasca ar leathanach baile an láithreáin Ghréasáin. Bhí breithniú leanúnach ag deireadh 2011 ar conas tacaíocht don phobal tríd an mheán seo a fheabhsú, d'fhonn forbairt shuntasach bhreise a dhéanamh ar an láithreán Gréasáin, lena n-áirítear trí úsáid a bhaint as na meáin shóisialta le linn 2012.

Forbhreathnú ar Úsáid Fuinnimh in 2011

I Nollaig 2009, thug an tAire Cumarsáide, Fuinnimh agus Acmhainní Nádúrtha, éifeacht do Threoir 2006/32/CE ó Pharlaimint na hEorpa agus ón gComhairle an 5 Aibreán 2006, agus rinne sé Rialacháin na gComhphobal Eorpach (Éifeachtacht Úsáid Deiridh Fuinnimh agus Seibhísí Fuinnimh) 2009 (IR 542 de 2009) '. Ceanglaítear sna Rialacháin ar eagraíochtaí san earnáil phoiblí a thuairisciú go bliantúil, ó Eanáir 2011, ar a n-úsáid fuinnimh agus bearta a rinneadh le tomhaltas a laghdú.

In 2011, d'úsáid Oifig an Ombudsman do Leanaí 87.13 MWh de leictreachas, i gcomparáid le 99.49 MWh in 2010.

Bearta a rinneadh in 2011

Lean seirbhísí corparáideacha ar aghaidh le cinntiú gur múchadh trealamh leictreach neamhriachtanach san oíche.

Rinneadh athbhreithniú ar gach córas leictreach in 2011, agus mar thoradh air sin athsholáthraíodh roinnt trealamh leictrigh le fearais níos tíosaí ar fhuinneamh.

Ag teacht lenár n-iarrachtaí chun ídiú fuinnimh a laghdú, leanann an OCO ar aghaidh le córas athchúrsála cuimsitheach inmheánach a oibriú. Rinneadh coigiltis airgeadais trí kVA na hOifige a laghdú ó 165kVA go 100kVA. Beidh an figiúr nua á choimeád faoi athbhreithniú in 2012 d'fhonn laghdú breise a dhéanamh sa bhliain.

4

GEARÁIN AGUS IMSCRÚDUI THE

Is é an fheidhm ghearán agus imscrúdaithe croí-fheidhm agus feidhm ghnóthach na hOifige. Faoi Acht an Ombudsman do Leanaí 2002, is féidir leis an OCO imscrúdú a dhéanamh ar ghearáin a dhéanann leanaí agus daoine óga, nó a dhéanann daoine fásta thar a gceann, faoi eagraíochtaí poiblí, scoileanna nó ospidéal. Is seirbhís saor in aisce, neamhspleách agus neamhchlaonta í.

Forálacha Ar Leith

Foráiltear san Acht 2002 d'oibriú feidhmeanna gearán agus imscrúduithe ag an Ombudsman do Leanaí. Leagann na forálacha reachtúla amach foras caighdeán drochriaracháin maidir le hathbhreithniú ar ghearáin agus déanamh na n-imscrúduithe. Ós rud é go gcaithfidh an éifeacht ghnímh ar leanbh a bheith ina ábhar imscrúdaithe a rinne an tOmbudsman do Leanaí agus gur féidir le páistí iad féin gearáin a thabhairt chuig an Oifig, leagann an tAcht amach raon forálacha reachtúla sonracha a chuireann leochaileacht ar leith leanaí san áireamh.

1. Dualgas chun aird a thabhairt ar leas is fearr an linbh

Foráiltear san Acht go mbeidh aird an Ombudsman do Leanaí ar mhaithe le leas an linbh le linn a feidhmeanna gearán agus imscrúduithe á gcomhlíonadh.

2. Dualgas chun aird a thabhairt ar mhianta an linbh

Foráiltear san Acht go mbeidh aird chuí an Ombudsman do Leanaí i bhfeidhmiú a gearán agus imscrúdaithe, nuair is infheidhmithe, ar mhianta an linbh, agus aois agus tuiscint an linbh á gcur san áireamh aici.

Gosonrach, féachtar sa phróiseas scrúdaithe agus imscrúdaithe ar ábhar an drochthionchair ar an leanbh, chomh maith le cibé acu an raibh an gníomh, nó an bhféadfadh an gníomh a bheith:

- déanta gan údarás ceart;
- déanta ar fhorais neamhábhartha;
- mar thoradh ar fhaillí nó míchúram;
- bunaithe ar fhaisnéis earráideach nó neamhiomlán;
- idirdhealaitheach go míchuí;
- bunaithe ar chleachtas neamh-inmhianaithe riaracháin; nó
- ar shlí eile i gcodarsnacht le riarachán cothrom agus iontaoifa.

Leanann an t-eolas a fhaightear trí ghearáin a fháil, a scrúdú, agus a imscrúdú ag an Oifig le

léargas luachmhar a chur ar fáil maidir le taithí na leanaí agus na teaghlach agus iad ag déileáil le seirbhísí poiblí. Ag an am céanna, soláthraíonn imscrúdú ar láimhseáil gearán aiseolas agus iniúchadh luachmhar feidhmíochta do na soláthróirí seirbhíse poiblí bainteacha. Déanann sé bearta a rinneadh a bhailíochtú nó an cás maidir le hathrú a chur i láthair. Níos tábhachtaí fós, tugann sé infheictheacht do thaithí iarbhir na ndaoine óga agus guth lena mbuarthaí nuair a bhfuil siad, nó nuair a bhíonn siad i mbaol, de dhrochthionchar mar gheall ar ghníomhartha chomhlachtaí na seirbhíse poiblí.

Tháinig méadú leanúnach ar líon na ngearán a cuireadh chuig an Oifig, agus leagtar amach thíos cuid de na príomh-shaincheisteanna a thagann chun solais. Rinne an Oifig athbhreithniú ar a próisis chun breathnú ar conas is féidir freagairt ar an éileamh méadaithe ar an mbealach is fearr. Tá béim leanúnach ar réiteach áitiúil a chur chun cinn agus tá an Oifig i gcónaí aireach ar an tábhacht a bhaineann le caidrimh idir leanaí, teaghlaigh agus seirbhísí áitiúla.

Nuair ba chúig, lean an Oifig ar aghaidh le moltaí a dhéanamh maidir le deacrachtaí a réiteach ag an leibhéal áitiúil, agus seans nach mbeadh gá le haon idirghabháil bhreise ag an Oifig ina dhiaidh sin. Aithnítear leis an gcur chuige seo go bhfuil an sásamh is tapa ar fáil ag an leibhéal áitiúil agus nach mór an fhoghlaim eagrúcháin trína neartaítear an ghné seo a éascú. Is é cleachtas na hOifige, i gcás go meastar na himthosca a bheith ceart, moltaí sonracha a dhéanamh atá beartaithe chun cabhrú le réiteach áitiúil don leanbh ar leith nó le cásanna den chineál céanna a tharlaíonn do leanaí arís agus arís eile go ginearálta a sheachaint. Sonraítear bearta sna spreagthaí déanacha de ghnáth is féidir a ghlacadh chun beartas, cleachtas agus nós imeachta a choigeartú chun eispéiris nó torthaí níos fearr a bhaint amach do leanaí agus iad ag déileáil leis an gcomhlacht poiblí lena mbaineann.

Nuair ba chúig, lean an Oifig ar aghaidh le hidirghabhálacha a dhéanamh do chomhlachtaí poiblí maidir le céimeanna is féidir a ghlacadh chun feabhas a chur ar bheartas, cleachtas agus nós imeachta chun na torthaí is fearr do leanaí a bhaint amach. Agus na príomhréimsí ina n-eascraíonn gearáin á meas – oideachas, sláinte agus tithíocht – is iad seo a leanas na fachtóirí coitianta a aithníodh:

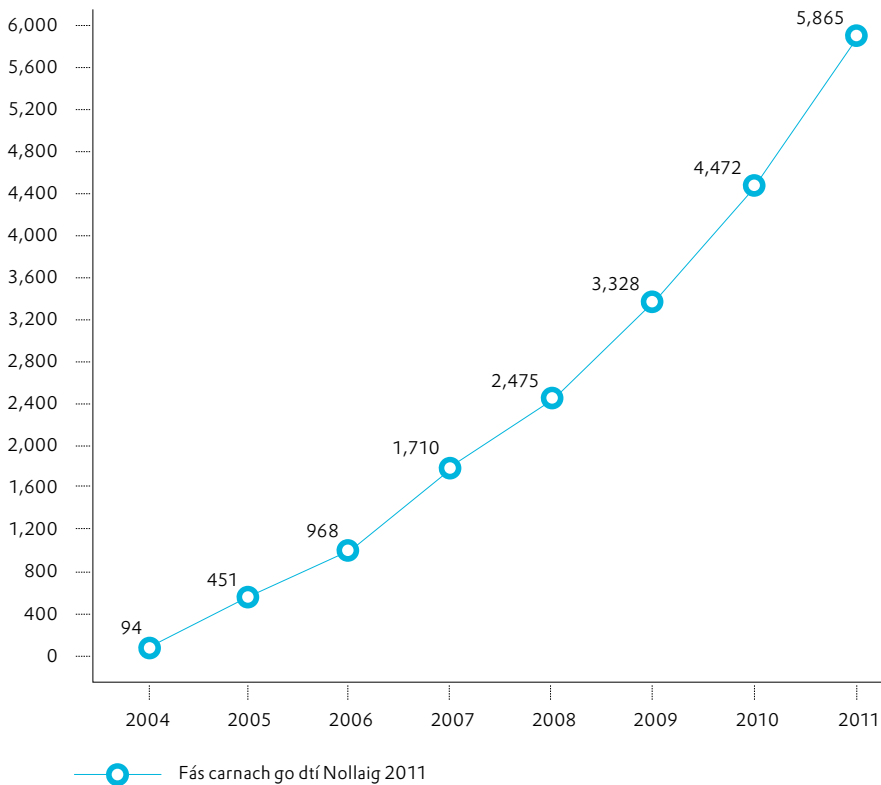
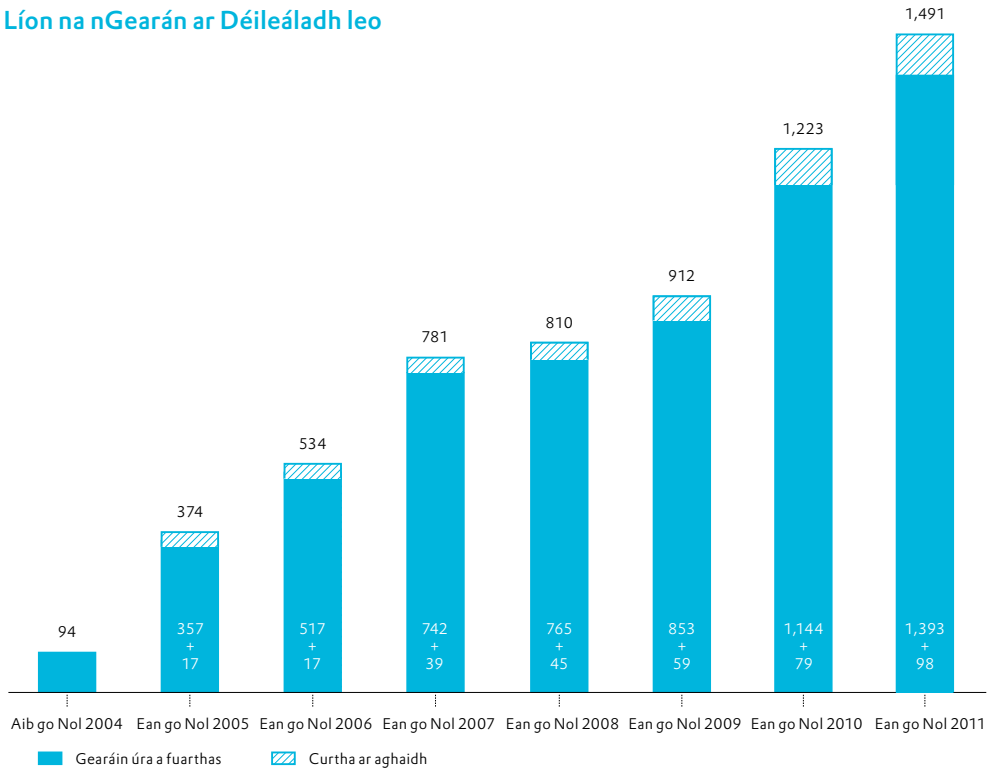
- cumarsáid leanúnach/feabhsaithe le teaghlaigh;
- idirchaidreamh i dtaca le hinfhaighteacht sásaimh áitiúil;
- an riachtanas freagra níos tapa ar bhuarthaí a chinntiú agus réiteach don leanbh;
- an riachtanas níos mó solúbthachta a fheidhmiú maidir le hoibriú scéime ar leith ar mhaithe le leas an linbh;
- faisnéis níos fearr maidir leis na riachtanais incháilitheachta agus/nó an próiseas atá i gceist;
- próiseas níos trédhearcaí um láimhseáil gearán agus achomhairc;
- cinntí a chur in iúl agus a mhíniú go soiléir, agus
- athbhreithniú ar chásanna le haghaidh foghlama.

I gcás go dtéann gearán thar réamhscrúdú go dtí imscrúdú a bheith críochnaithe, tá dualgas dlí ag an Oifig ráiteas ar an an imscrúdú a chur ar fáil. Leagann sé seo amach torthaí an imscrúdaithe, na bearta atá molta ag an Ombudsman do Leanaí maidir leis na torthaí sin, agus an freagra, más ann di, a rinne an comhlacht poiblí, an scoil, nó an t-ospidéal deonach ar na bearta sin. Is minic an cás nach mbíonn moltaí den sórt sin dírithe amháin ar réiteach a sholáthar don leanbh aonair lena mbaineann, ach sonraíonn siad athrú riachtanach nó inmhianaithe córasach ar mhaithe le leasanna leanaí i gcoitinne. Is é cleachtas na hOifige fiosrúcháin leantacha a dhéanamh ar na comhlachtaí poiblí ábhartha, de ghnáth laistigh de shé mhí ón imscrúdú a bheith críochnaithe, maidir le dul chun cinn ar chur i bhfeidhm na moltaí a rinneadh. Cuireann sé seo ar chumas an Ombudsman do Leanaí a chinneadh, trí thagairt dá cuid dualgas faoin Acht 2002, cibé acu an bhfuil na bearta a glacadh, nó a mholtar a bheith glactha, de bhun a moltaí, sásúil nó nach bhfuil. Tá sampla de na moltaí córasacha a rinneadh a éiríonn as an obair ghearán agus imscrúduithe le linn 2011 leagtha amach go mion níos déanaí sa chuid seo den Tuarascáil Bhliantúil.

Gearáin ar déileáladh leo in 2011.

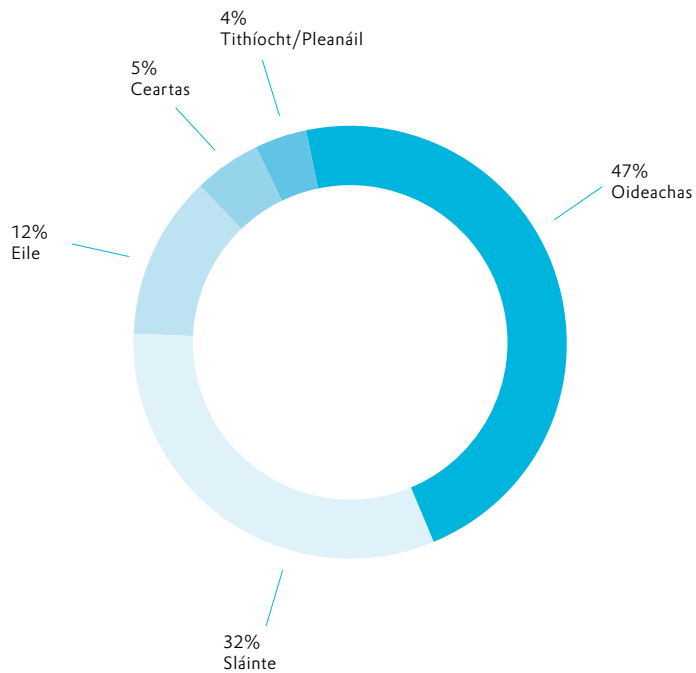
Ag teacht le blianta roimhe seo, bhí méadú suntasach in 2011 ar líon na ngearán a fuair an Oifig, agus 1,491 gearán ar déileáladh leo le linn na bliana, arbh ionann é sin agus 1,393 gearán a fuarthas agus 98 a tugadh ar aghaidh ó 2010. Léiríonn sé seo méadú de 22% ar líon na ngearán a fuarthas i gcomparáid leis an mbliain roimhe.

Líon na nGearán ar Déileáladh leo



Léiríonn an chart thíos an dáileadh earnála den iomlán de na 1,393 gearán nua a fuarthas:

Catagóir ghearán (Eanáir – Nollaig 2011)



Comparáid idir na catagóirí de ghearáin nua le haghaidh 2010 agus 2011:

- tháinig méadú foriomlán de 22% ar ghearáin nua;
- méadaíodh an céatadán iomlán de ghearáin a bhaineann le hoideachas go suntasach ó 38% go 47%;
- laghdaíodh an céatadán iomlán de ghearáin a bhaineann le cúrsaí sláinte ó 37% go 32%;
- laghdaíodh an méid iomlán de ghearáin a bhaineann le hearnáil an cheartais ó 8% go 5%, agus
- tháinig laghdú de 1% sa chéatadán de ghearáin a bhaineann le tithíocht/pleanáil agus le saincheisteanna eile.

Ceartas

Déantar inghlacthacht na ngearán a fuarthas i dtaca leis an Roinn Dlí agus Cirt agus Comhionannais a scrúdú sa chéad dulsíos maidir le roinnt forálacha atá in Acht an Ombudsman do Leanaí, 2002, nach gcuireann san áireamh imscrúdú ar ghníomhartha amhail cinntí eadóirseachta, saoránachta, inimirce agus tearmainn, nó conas a chaitear le leanaí i bpríosúin do dhaoine fásta, mar shampla in Institiúid Naomh Pádraig.

Le linn na bliana, bhí an Oifig i dteagmháil leis an Roinn Dlí agus Cirt agus Comhionannais maidir le roinnt gearán agus ábhar imní a bhain le saincheisteanna ar inimirce nó tearmann. Cé go bhfuil cinntí maidir le riaradh an dlí sna réimsí seo lasmuigh de théarmaí tagartha na hOifige, bhí gníomhartha riaracháin mar thoradh ar chuid acu ina raibh saincheisteanna inscrúdaithe, amhail conas a caitheadh leis na leanaí maidir le sláinte, oideachas, tithíocht, agus soláthar do riachtanais speisialta.

Fuair an Oifig líon beag gearán thar ceann leanaí atá ina gcónaí sa tír seo a bhfuil stádas dlíthiúil neamhchinnte acu fosta, agus thug sí faoi deara conas is féidir drochthionchar a bheith ar na leanaí sin mar gheall ar na deacrachtaí agus na baic i dtaca le hábhar bunúsach mar sin a shocrú. Áirítear i samplaí de chásanna a bhaineann le cruatan do leanaí, na leanaí siúd a rugadh trí shocruithe máthairionadaíochta, agus ábhar imní ann maidir le deimhneacht dhlíthiúil a bhunú don leanbh i réimsí amhail toiliú a sholáthar i dtaca le cóireáil leighis ar a son/shon.

I ndáil le socruithe máthairionadaíochta, scríobh an Oifig chuig an Roinn Dlí agus Cirt go luath i Meán Fómhair 2010 chun soiléiriú a lorg ar roinnt saincheisteanna:

- comhairle agus treoir maidir le conas is féidir le habhcóidí na leanaí atá ina gcónaí anseo a rugadh trí shocruithe máthairionadaíochta rochtain a fháil ar an gcóras dlí ar son an linbh chun saincheisteanna amhail tuismíocht, caomhnóireacht, agus saoránacht a dhaingniú;
- comhairle agus treoir ar conas dul i ngleic le deacrachtaí féideartha i dtaca le hionadaíocht dhlíthiúil a rochtain nó a íoc tríd an mBord um Chúnamh Dlíthiúil, nó ar shlí eile;
- toiliú leighis;
- comhairle ar theaghlaigh a théann i dteagmháil linn a threorú;
- sonraí maidir le haon reachtaíocht bheartaithe na Roinne sna cúinsí seo a rachadh i ngleic leis na saincheisteanna a ardaíodh; agus
- sonraí maidir le haon bhearta atá á ndéanamh nó atá beartaithe ag an Roinn a d'fhéadfadh tionchar a bheith acu ar na saincheisteanna a ardaíodh, nó a d'fhéadfadh iad a réiteach.

Bhain cásanna eile le leanaí faoi chúram fadtéarmach gan doiciméadú aitheanta, a d'ardaigh ábhair imní faoi éifeachtaí forleathana dá leas. I ngach gearán ábhartha a fuarthas, rinne an Oifig iarracht dul i dteagmháil leis an Roinn chun aird a tharraingt ar shuntasacht na mbuarthaí agus ar an tábhacht atá ag baint le réiteach luath do na leanaí i gceist.

Anailís Bhreise ar Chatagóirí

Oideachas

Léiríonn an tábla thíos na príomhchatagóirí de ghearáin nua a fuarthas maidir le cúrsaí oideachais:

Miondealú ar na cúig phríomhchatagóir laistigh de ghearáin Oideachais 2011	
Fochatagóir	Céatadán de ghearáin oideachais 2011
Gníomhartha an Mhúinteora/an Phríomhoide	21%
Iompar Scoile	21%
Bulaíocht	14%
Fadhbanna le hAcmhainní Riachtanais Speisialta	12%
Fadhbanna le gníomhaíochtaí an Bhoird Bhainistíochta	10%

Sláinte

Léiríonn an tábla thíos na príomhchatagóirí de ghearáin nua a fuarthas maidir le cúrsaí sláinte:

Miondealú ar na cúig phríomhchatagóir laistigh de ghearáin Sláinte 2011	
Fochatagóir	Céatadán de ghearáin sláinte 2011
Cinntí maidir le Leanaí faoi Chúram	33%
Leorgacht agus Rochtain maidir le Seirbhísí an FSS	23%
Gníomhartha an FSS	17%
Cosaint Leanaí	12%
Beartais/Nósanna Imeachta an FSS agus Ospidéal	4%

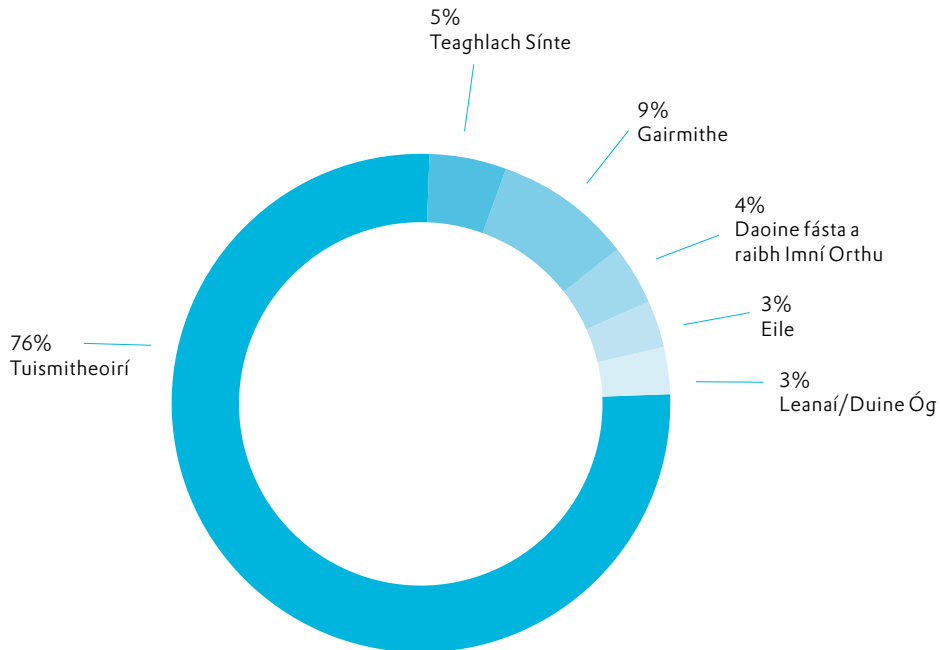
Tithíocht

Baineann formhór na gearáin sin le leanaí agus le teaghlaigh atá ag iarraidh tithíocht a fháil óna n-údarás áitiúil a bheadh oiriúnach do leanbh nó do riachtanais áirithe an duine óig.

Eile

Baineann beagnach 40% de na gearáin atá catagóirithe mar sin le saincheisteanna a bhaineann leis an gcóras Coimirce Sóisialaí. De ghnáth, bhain siad sin le híocaíochtaí/liúntais leasa shóisialta do leanaí. Mar a luadh i dtuarascáil bhliantúil na bliana seo caite, mar gheall ar easpa acmhainní bíonn cosc éifeachtach ar an Ombudsman do Leanaí glacadh le gearáin a bhaineann go díreach le híocaíocht liúntais, deontais Coimirce Sóisialaí, srl, maidir le leanaí. Cuirtear a leithéid sin de ghearáin chuig oifig an Ombudsman faoi láthair. Sonraíonn an tOmbudsman do Leanaí, cé go ndéantar na híocaíochtaí atá i gceist le daoine fásta ar chúiseanna soiléire, tá siad go sonrach le haghaidh cúram agus cothabháil leanaí. Sonraíonn sí go mbíonn drochthionchar díreach ar an leanbh lena mbaineann mar gheall ar aon drochriarachán i ndéanamh na n-íocaíochtaí seo. Dá bhrí sin, measann sí go mbeadh cur chuige níos iomláine ann dá rachadh a hoifig i ngleic lena leithéid sin de ghearáin le peirspictíocht leanaí-lárnach a bhaint amach i gcásanna den sórt sin agus go mbeadh sé níos iomchuí le feidhmeanna agus dualgais oifige a bunaíodh go sonrach, inter alia, chun gearáin a dhéanann leanaí nó a dhéantar thar a gceann a imscrúdú.

Gearánaigh



Tá tuismitheoirí go fóill mar phríomhabhcóidí ar son a gcuid leanaí, agus méadú i líon na ngearán nua a chuir tuismitheoirí isteach, ó 67% in 2010 go 76% in 2011.

Ba iad leanaí faoi chúram an FSS a lán de na leanaí agus na daoine óga a rinne teagmháil leis an Oifig in 2011 maidir le cúrsaí amhail:

- moill i bpleanáil chúraim, nó oiriúnacht de;
- easnaimh a bhaineann le pleanáil agus soláthar iarchúraim;
- athruithe beartaithe nó iarbhír de shocrúcháin (lena n-áirítear pleanáil), ag lorg agus ag breithniú tuairimí dhaoine óga agus an cinneadh a chur in iúl.
- gan oibrí sóisialta dáilte a bheith ann;
- cóiríocht agus tacaíochtaí ar fáil do dhaoine óga atá gan dídean.

Leagtar amach sa tábla thíos miondealú ar na cineálacha gairmithe a théann i dteagmháil leis an Oifig chun gearán a dhéanamh ar son leanaí.

Na 5 bharrchatagóir gairmithe a rinne teagmháil leis an oifig thar ceann leanaí

- 1.** Príomhoide Scoile
- 2.** Cleachtóir Oibre Sóisialta
- 3.** Oibrí Poiblí/Óige
- 4.** Aturnae
- 5.** Múinteoir'

Tá an Oifig den tuairim go bhfuil an-tábhacht ag baint leis go leanfaidh réimse leathan gairmithe ar aghaidh lena n-imní a ardú faoi leas leanaí. Ar chúiseanna éagsúla níl an cumas ag roinnt tuismitheoirí gearán a dhéanamh nó d'fhéadfadh gairmithe a bheith mar phríomhabhcóidí acu. Leanann an Oifig le gairmithe a spreagadh dul i dteagmháil léi chun aird a tharraingt ar ábhar imní a bhaineann le leanaí agus le daoine óga.

Saincheisteanna ag Teacht Chun Cinn

I bhfianaise na n-ábhar imní a thugtar chuici, nó thar ceann leanaí le linn bliana áirithe, is é cleachtas na hOifige tús a chur le rannpháirtíocht níos leithne ar na saincheisteanna leis an gcomhlacht poiblí cuí. Ba é seo an cás le linn 2011 agus leagtar amach cuid de na hábhair a cumhdaíodh san alt seo.

Riachtanais Speisialta

Tá toirt shuntasach gearán á fáil againn fós maidir le leanaí a bhfuil riachtanais speisialta acu ar fud gach catagóire.

Oideachas – Athruithe ar Sheirbhísí Iompar Scoile

Mar gheall ar chinntí socrúithe i dtaca le soláthar iompar scoile a athrú, a tugadh chun feidhme le linn 2011, bhí méadú suntasach i dteagmhálacha leis an Oifig. I measc na saincheisteanna a thug tuismitheoirí dúinn ó gach cearn den tír ar son a gcuid leanaí bhí:

- costais bhreise le hiompar scoile a úsáid
- athruithe i riail na scoile dúnta
- athruithe ar riachtanas an uaslín le bealach bus a chur ar bun
- easpa na roghanna malairte ar fáil agus na himpleachtaí costais bainteacha
- saincheisteanna sláinte agus sábháilteachta
- an tionchar a bheidh aige seo ar am teaghlaigh agus cothromaíocht oibre
- infhaighteacht leanúnach agus inmhharthanacht iompair do shíblíní

D'ullmhaigh oifig an Ombudsman do Leanaí Aighneacht chuig Comhchoiste an Oireachtais um Oideachas & Eolaíocht roimhe seo maidir le hIompar Scoile agus, sa chás seo, bhí an Oifig i mbun idirphlé ar leith leis an Roinn Oideachais agus Scileanna ar an ábhar d'fhonn cur chuige na Roinne ar na saincheisteanna a shoiléiriú. Chomh maith le gearáin aonair a imscrúdú ar son leanaí, rinneamar moltaí freisin, a bhí beartaithe chun feabhas a chur ar chleachtas riaracháin laistigh den scéim do gach leanbh. Cé go bhfuil cumhacht ag an Oifig seo imscrúdú a dhéanamh ar ghníomhartha riaracháin comhlachta phoiblí le fáil amach an bhfuil siad iontaofa agus cothrom, tá ról reachtúil againn freisin le saincheisteanna a chur chun cinn atá mar ábhair imní do leanaí agus dá dteaghlaigh.

Is eol dúinn go bhfuil na hathruithe atá beartaithe ar an scéim bunúsach agus forleathan de réir a nádúir. Dá bhrí sin, chuireamar tús leis an rannpháirtíocht seo leis an Roinn Oideachais agus Scileanna chun na hábhair imní a thug teaghlaigh dúinn a chur in iúl, mar aon lenár n-imní féin, agus leis an méid ollmhór oibre a rinneadh go dtí seo trínár bhfeidhm ghearán agus imscrúduithe a úsáid le cur chun feidhme moltaí ó imscrúduithe roimhe seo a chur chun cinn, as a dtiocfadh córas níos cothroime, dar linn.

Cuireadh faisnéis a bhaineann leis na rannpháirtíochtaí níos leithne leis an Roinn ar fáil ar láithreán Gréasáin na hOifige le tuismitheoirí nó daoine eile a bhfuil imní cosúil orthu a chur ar an eolas faoin gcur chuige a glacadh.

Oideachas – An Riachtanas Nósanna Imeachta Reachtúla a Chur i bhFeidhm

I dTuarascálacha Bliantúla roimhe seo (2008 agus 2010) tarraingíodh aird ar an ngá atá le socruithe reachtúla a bhaineann le hábhair imní tuismitheoirí maidir le gníomhartha na scoileanna (faoi alt 28 den Acht Oideachais 1998) agus faoi ghníomhartha múinteoirí (faoi Alt V d’Acht na Comhairle Múinteoireachta 2001) a chur i bhfeidhm.

Le linn 2011, lean an tOmbudsman do Leanaí i gcomhfhreagras leis an Roinn Oideachais agus Scileanna ar fhorbairtí a bhroastú agus coinneoidh sí a rannpháirtíocht i dtacaíocht le socruithe reachtúla laistigh den earnáil oideachais a bhunú, inar féidir aghaidh a thabhairt ar ábhair imní a thagann chun solais.

FSS – Soláthar Seirbhíse do Dhaoine gan Dídean do Leanaí agus Daoine Óga

Le blianta beaga anuas, fuair an Oifig gearáin a rinne daoine óga, nó a rinneadh thar a gceann, daoine a bhí gan dídean agus/nó a bhí ag úsáid idirghabháil ghéarchéime agus seirbhísí lasmuigh de na gnáthuaireanta gnó. Tarraingíodh aird ar an tsaincheist seo i dtosach i dTuarascáil Bhliantúil 2009. D’ardaigh an tOmbudsman do Leanaí é freisin, ar leibhéal idirnáisiúnta, le Coiste na Náisiún Aontaithe um Chearta an Linbh agus leis an gComhairle um Chearta an Duine. Rinneadh tagairt dá himní i dtuarascáil na bpáirtithe leasmhara a d’fhoilsigh Oifig an Choimisinéara um Chearta an Duine sa Ghinéiv, i dtaca leis an éisteacht Stáit i nDeireadh Fómhair, 2011.

Cé go raibh ag an Oifig i dteagmháil leis an FSS de réir an cháis aonair, bhí sé soiléir go raibh na ceisteanna á n-ardú de chineál córasach. I Márta 2011 rinne an Oifig idirghabháil agus cuireadh tús le réamhscrúdú ar na ceisteanna córasacha. I mBealtaine 2011, chuir an Oifig seo in iúl don FSS go raibh sé beartaithe aici imscrúdú córasach a dhéanamh i mbainistíocht agus i rialachas an bheartais agus an chleachtais i soláthar seirbhísí do leanaí gan dídean.

Mar chuid de phróiseas plé a tháinig as an togra chun imscrúdú a dhéanamh, leag an FSS amach roinnt treoracha beartais agus bearta láithreacha le cur chun cinn d’fhonn feabhas a chur ar na seirbhísí a sholáthraíonn sé do leanaí gan dídean. Mar gheall ar na gníomhartha atá ar siúl ag an FSS chun aghaidh a thabhairt ar na príomh-shaincheisteanna a ardaíodh, rinneadh cinneadh an t-ábhar imscrúdaithe agus rannpháirtíochta leis an FSS a choinneáil oscailte ar an dul chun cinn atá á dhéanamh fós agus a bhí ar siúl ag an am a ullmhaíodh an Tuarascáil Bhliantúil seo. Idir an dá linn, forchoimeádan an tOmbudsman do Leanaí an ceart aici féin chun dul ar aghaidh le himscrúdú ag am ar bith.

In éineacht lena rannpháirtíocht leis an FSS ar an gceist, rinne an tOmbudsman do Leanaí cinneadh tuairimí leanaí gan dídean a lorg d’fhonn tuiscint a fháil ar a gcuid eispéireas le seirbhísí idirghabhála dídine agus géarchéime. Tá tuilleadh eolais ar an bpróiseas comhairliúcháin seo ar fáil sa chuid den Tuarascáil Bhliantúil ina bpléitear obair Rannpháirtíochta agus Oideachais na hOifige in 2011.

Faisnéis Comhdhála Iata

Is fadhb ar leith í a bhíonn ag an Ombudsman do Leanaí agus í i mbun imscrúduithe reachtúla ar staid na leanaí faoi chúram soláthar faisnéise ag an FSS ina bhfuil imeachtaí cúirte bainteacha á reáchtáil i gcomhdháil iata. Ardaíodh é seo i dtuarascálacha bliantúla roimhe seo agus leanann sé de bheith fadhbach in 2011.

Ní théann formhór na ngearán chuig an Oifig seo ar aghaidh chuig imscrúdú iomlán reachtúil, ach tugtar aghaidh orthu ag an leibhéal áitiúil. Maidir le leanaí faoi chúram, d'fhéadfadh moill den sórt sin i soláthar eolais, ní hamháin cur isteach ar an bpróiseas gearán, ach an leanbh nó an duine óg a choinneáil ó réiteach níos tapa.

Aithníonn an Oifig seo an tábhacht a bhaineann le príobháideacht leanaí agus a dteaghlach a chosaint; ach níor chóir an rial comhdhála iata a oibriú ar bhealach a chuireann isteach ar imscrúduithe reachtúla a dhéantar ar mhaithe le leanaí agus ar shlí eile ná go poiblí. Ina comhairle ar an mBille Sláinte (Leasú) 2010, d'éiligh an Oifig seo athbhreithniú iomlán ar oibriú na rialach comhdhála iata agus, dá bhrí sin, is dea-scéal é gur chinn an tAire Leanaí agus Gnóthaí Óige an cheist seo a mheas ó foilsíodh tuarascáil an Ghrúpa Athbhreithnithe Neamhspleách ar Bhás Leanaí.

Anailís um Chearta Leanaí ar Ráitis Imscrúduithe

Tá dualgas ar an Ombudsman do Leanaí a éilítear in Alt 7 d'Acht an Ombudsman do Leanaí 2002 feacht ar chúinsí a bhaineann le cearta agus leas leanaí a chur chun cinn. Áirítear leis seo prionsabail agus forálacha Choinbhinsiúin na NA ar Chearta an Linbh (CRC). Dá bhrí sin, tugann an Oifig aghaidh go minic ar chomhlíonadh an Stáit i dtaca le caighdeáin idirnáisiúnta den sórt sin ina fheidhmeanna beartais a chur i gcrích, faoi alt 7 d'Acht 2002, chun comhairle a chur ar Airí Rialtais agus ar Thithe an Oireachtais maidir le tograí reachtaíochta agus ar fhorbairt agus comhordú de bheartais a bhaineann le leanaí.

Ní thugtar údarás in Ailt 8 agus 9 d'Acht 2002 don Ombudsman do Leanaí a bhreithniú cibé an gcomhlíonann gníomhartha de chuid chomhlachta phoiblí atá faoi imscrúdú ionstraimí idirnáisiúnta chearta an duine a bhfuil an Stát páirteach iontu. Dá réir sin, níl measúnacht ar chomhlíonadh an chomhlachtaí phoiblí maidir le dualgais idirnáisiúnta an Stáit – mar atá i bprionsabail agus forálacha an CRC – mar chuid den phróiseas imscrúdaithe, as a dtiocfadh toradh drochriaracháin ina choinne.

D'fhonn dearcadh a fháil ar an gcuma a bheadh ar thabhairt le chéile na snáitheanna éagsúla den Acht 2002, choimisiúnaigh an Oifig tuarascáil ar shampla de chásanna ar a rinné sí imscrúdú. Rinne an tuarascáil measúnú ar cé chomh fhad is a chomhlíon gníomhartha na gcomhlachtaí poiblí lena mbaineann dualgais idirnáisiúnta an Stáit um chearta an duine. Chlúdaigh na himscrúduithe a roghnaíodh le cur sa tuarascáil raon leathan saincheistean, lena n-áirítear iompar scoile, leithdháileadh tithíochta an údaráis áitiúil, tacaíocht do leanaí a bhfuil riachtanais speisialta acu i gcúram altrama, cúram speisialta, agus bás an linbh atá faoi chúram an Stáit.

Leag an tuarascáil, A Children's Rights Analysis of Investigations, a d'fhoilsigh an Oifig in Aibreán 2011, béim ar an mbealach a rinne, nó nach ndearna, na comhlachtaí poiblí atá i gceist, a gcuid feidhmeanna ar bhealach atá comhoiriúnach le dualgais idirnáisiúnta na hÉireann maidir le cearta an duine.

Chomh maith le béim a leagan ar pheirspictíochtaí cearta daonna níos leithne maidir leis na cásanna aonair, leag an tuarascáil roinnt comhthéamaí amach a tháinig chun solais, lena n-áirítear:

- easpa feasachta faoin thionchar na cinnteoireachta riaracháin ar shaol agus cearta na leanaí agus a dteaghlach;
- an teip paraiméadair de leas an linbh agus ceart an linbh guth a bheith acu a úsáid go mór chun treoir a thabhairt do ghníomhartha riaracháin nó cinnteoireacht;
- ba chosúil go raibh gnéithe eile chun tosaigh ar chinntiú go gcomhlíontar cearta agus leas na leanaí aonair;
- ba chosúil nach raibh mórán seiceálacha agus cothromaíochtaí bpróisis cinnteoireachta riaracháin, nó mórán meicníochtaí le dúshlán a chur faoin gcinneadh á dhéanamh nó an seasamh á ghlacadh
- léirigh cuid de na cásanna, nó fiú iad uile, easpa feasachta faoi riachtanais agus cearta leanaí aonair mar atá aitheanta ag ionstraimí idirnáisiúnta a bhfuil Éire páirteach iontu;
- i mórán cásanna, d'fhéadfadh an cás maidir le sárú féideartha ceart atá leagtha amach sa Choinbhinsiún Eorpach um Chearta an Duine (ECHR) a dhéanamh agus ba chúis imní thromchúiseach é an easpa feasachta i measc údaráis riaracháin, go háirithe an FSS, i dtaca le dualgais ECHR;
- bhí an easpa ón bpróiseas cinnteoireachta maidir le feasacht ar cé chomh tapa is a dhéantar dochar do leanaí (trí gan oideachas a chur ar fáil díobh, iad a scaradh ó thuismitheoirí, cúram a chur ar fáil dóibh, srl.) lom, mar a bhí an teip dealraitheach an gaol idir cinnteoireacht tráthúil agus dea-riaracháin a thuiscint,
- ba chóir go mbeadh oiliúint ar chearta leanaí mar thosaíocht ag na comhlachtaí poiblí – idir faoi na hionstraimí CRC agus ionstraimí gaolmhara agus an ECHR.

I dtreo dheireadh 2011, cuireadh tús le hobair ar ullmhú d'iniúchadh breise ar imscrúduithe agus críochnófar agus foilseofar é seo le linn 2012.

Cás-staidéir

Léiríonn na cás-staidéir sampla den obair a rinne an Oifig le linn na bliana.

Cás-staidéir Oideachais

Cás-staidéir 1

Chuir máthair an gearán chuig an Oifig ar son a mic, naoi mbliana d'aois ag an am sin, a d'fhreastail ar scoil náisiúnta phríomhshrutha. Tá roinnt deacrachtaí míochaine ag an leanbh i gceist a bhí aitheanta ag gairmithe a bhí ag obair leis. I measc na ndeacrachtaí bhí moill aois cnámha, teannas íseal matáin, hipear-shoghluasteacht, diospraicse agus carball scoilte. Cé go raibh na deacrachtaí leighis seo ag leanbh, níor aithníodh aon diagnóis ar leith. Bhain an gearán chuig an OCO le cinneadh na Roinne Oideachais agus Scileanna chun iarratas ar Theicneolaíocht Chúnta ar son an linbh a dhiúltú. Ba é thart ar €1000 an costas réamh-mheasta ar an Teicneolaíocht Chúnta (ríomhaire glúine agus bogearraí cuí). Rinneadh an t-iarratas le doiciméid tacaíochta ó réimse de ghairmithe leighis. Diúltaíodh an deontas ar an mbonn nach raibh aon diagnóis ar leith i leith an linbh. Mhaígh an gearánaí go raibh na saincheisteanna seo taobh thiar de dheacrachtaí a bhí ag a mac ar scoil, i dtaca le scríobh, tuirse, mion-chomhordú mótair agus leibhéil tiúchana. Dúirt an Roinn go bhfuil an Scéim deartha chun teicneolaíocht a chur ar fáil do leanaí a bhfuil míchumas orthu a thacú agus é idirdhealaithe idir míchumas measúnaithe agus a riocht leighis.

Tar éis imscrúdaithe ag an Oifig chinn an OCO gur chosúil go raibh easpa soiléireachta idir na comhlachtaí i gceist – An Chomhairle Náisiúnta um Oideachas Speisialta (NCSE) ar thaobh amháin agus an Roinn Oideachais agus Scileanna ar an taobh eile – maidir le freagracht as cinnteoireacht faoin scéim ábhartha, an bheirt acu ag creidiúint go raibh an comhlacht eile ina dhéantóir cinntí. Níl aon phróiseas soiléir achomhairc chun dúshlán a chur faoi chinntí a rinneadh. Ba chosúil nach raibh an Roinn ag déanamh monatóireachta ar chur i bhfeidhm a beartais ag an NCSE. Chuir an easpa soiléireachta seo isteach go mór ar an leanbh i gceist. Sa chás áirithe seo ní raibh an duine óg incháilithe le haghaidh teicneolaíochta cúnta ar an mbonn, cé gur thuig an Roinn go raibh comhartha láidir ann go raibh míchumas fisiciúil air, nach raibh diagnóis chinnte de mhíchumas aige.

Mar thoradh air sin, mhol an Oifig, i measc rudaí eile, go ndéanfadh an Roinn na nithe seo a leanas:

- Cuimsiú réasúnta sa Scéim leanaí nach féidir diagnóis leighis ar leith a chinneadh go héasca ina leith, ach d'fhéadfadh a gcuid oideachais a bheith bactha mar gheall ar dheacrachtaí suntasacha leighis;
- Próiseas achomhairc faoin Scéim a sholáthar a chuirtear in iúl go soiléir do scoileanna agus do theaghlaigh, agus
- Meicníochtaí éifeachtacha a sholáthar chun monatóireacht a dhéanamh ar oibriú na Scéime.

Ba chóir don Roinn a chinntiú go gcuirtear eolas soiléir agus cuimsitheach faoin Scéim agus faoina critéir incháilitheachta in iúl do scoileanna agus tuismitheoirí.

Agus na ceisteanna seo á chinneadh, mhol an tOmbudsman do Leanaí go soláthrófaí an teicneolaíocht riachtanach chúnta don leanbh i gceist.

Tar éis idirghabháil na hOifige d'iarr an Roinn ar Eagraí Riachtanas Speisialta an NCSE athbhreithniú a dhéanamh ar an tacaíocht atá ar fáil don leanbh faoi láthair agus comhairle a thabhairt maidir le cibé an bhfuil aon tacaíocht bhreise ag teastáil. Dheimhnigh an Roinn freisin go bhfuil athbhreithniú ar an scéim teicneolaíochta cúnta ar siúl agus go gcuirfear Ciorclán nua ar an scéim ar fáil. Tá sé beartaithe go soláthróidh an Imlitir nua le haghaidh cásanna mar iad siúd thuas nuair nach bhfuil aon diagnóis ann, ach gur léir go bhfuil riachtanais speisialta ag an leanbh.

Cás-staidéar 2

Chuir tuismitheoirí roinnt gearán chuig an Oifig ar son a leanaí a bhí ag freastal ar Scoil Speisialta, nó a bhí le tosú ar Scoil Speisialta i Meán Fómhair 2011. Bhain na gearáin leis an gcinneadh a rinne an Chomhairle Náisiúnta um Oideachas Speisialta (NCSE) chun leithdháileadh na gCúntóirí Riachtanas Speisialta (CRS) ar an scoil a laghdú. Chinn an scoil nach mbeadh sí in ann riachtanais oideachais na leanaí a chomhlíonadh agus, mar thoradh air sin, chuaigh siad i dteagmháil le tuismitheoirí roimh thús na scoilbhliana a bhí le teacht, ag laghdú an chláir ama go mór do roinnt daltaí agus ag cur in iúl nach raibh siad in ann aon uaireanta a chur ar fáil do dhaoine eile.

Cé nach bhfuil gníomhartha an NCSE laistigh dá théarmaí tagartha imscrúdaithe faoi láthair, bhí imní ar an Oifig seo maidir leis an tionchar a bheadh aige seo ar oideachas na leanaí agus chomh maith leis sin an phleanáil agus ullmhúchán cúlra a bhíonn le déanaí i gcónaí ag teaghlaigh sna himthosca sin. Bhí imní ar an Oifig go raibh na leanaí agus a dteaghlaigh i lár ceist acmhainní nach raibh baint acu leis, ach a raibh tionchar díreach aige orthu.

Chuaigh an Oifig i dteagmháil leis an scoil chun a fháil amach conas a rinne sí na laghduithe SNA, an plé leis an NCSE, agus an Roinn Oideachais agus Scileanna a bhainistiú maidir leis an ábhar seo. Léirigh an idirghabháil seo príomhbhéim na hOifige maidir le réiteach áitiúil ar aon ghearán nó imní a chur chun cinn nuair is féidir agus is cuí.

Tar éis idirghabháil na hOifige seo tharla plé áitiúil idir na páirtithe ábhartha, agus thug an NCSE leithdháileadh SNA méadaithe. Mar thoradh ar an bhforbairt seo, is é tuiscint na hOifige go raibh na leanaí go léir atá i gceist cláraithe gan srian ar uaireanta scoile. Tá an Oifig ag glacadh beart chun go mbeadh Acht an Ombudsman do Leanaí 2002 leathnaithe leis an NCSE a chur san áireamh ina shainchúram. Déanfar tuilleadh oibre air seo go luath in 2012.

Cás-staidéar 3

Fuarthas gearán ó mháthair thar ceann a iníne a bhfuil Siondróm Down uirthi, agus atá faoi mhíchumas intleachtúil agus lagamhairc freisin. D'ardaigh sí imní nach mbeadh a hiníon, faoi chleachtas na Roinne Oideachais agus Scileanna, in ann Clár Lucht Fágála Scoile dhá bhliain sa scoil speisialta a raibh sí ag freastal uirthi a dhéanamh ar an mbonn gur bhain sí ocht mbliana déag amach ar na mallaibh. Mhaígh an mháthair go raibh nós imeachta na Roinne míchothrom do dhaoine óga a bhfuil riachtanais speisialta acu de thairbhe go mbeadh a hiníon in ann a cuid oideachais a dhéanamh mura raibh riachtanais speisialta aici, fiú dá mbainfeadh sí ocht mbliana déag d'aois amach. Mhaígh sí go mbeadh an dara bliain den chlár cabhrach dá hiníon san aistriú chuig lárionad oiliúna. Bhí an fhoireann ghairmiúil sa scoil den tuairim go mbeadh tógáil amach as an scoil suaiteach don chailín agus bhí imní ar a máthair faoin easpa tacaíochta idirthréimhsí dá hiníon, a chlúdaítear de ghnáth sa dara bliain den chlár.

Chuaigh an Oifig i dteagmháil leis an Roinn Oideachais agus Scileanna, a thug comhairle go bhfuil oideachas ar fáil do pháistí i scoileanna speisialta suas go dtí 18 mbliana d'aois. Mar sin féin, is é beartas na Roinne freastal leantach ar scoil speisialta a éascú do leanaí go ceann bliana eile tar éis lá breithe an mhic léinn, i gcúinsí áirithe. Faoi réir iarratais chuig an Roinn, tá cead ag scoileanna daltaí a choinneáil atá os cionn 18 mbliana d'aois agus a bhfuil cúrsaí á ndéanamh acu as a dtagann creidiúnú ag an leibhéal 3 nó os a chionn ar an gCreat Náisiúnta na gCáilíochtaí (NQF) go ceann bliana breise, nuair a bhíonn siad ag dul ar aghaidh chuig bliain dheiridh an chúrsa agus nuair a thosaigh siad ar an gcúrsa sular bhain siad 18 mbliana d'aois amach. Sa chás seo, chuir na tuismitheoirí in iúl nach raibh a n-iníon chomh fada ar aghaidh le céim ina mbeadh sí in ann cúrsa a dhéanamh as a dtiocfadh leibhéal 3 nó os a chionn den NQF.

Tar éis idirghabháil na hOifige, rinne an Roinn Oideachais agus Scileanna athbhreithniú ar iarratas ón scoil ar son an chailín. Mar thoradh air sin, chuir an Roinn in iúl go raibh cinneadh déanta aici chun ligean di clárú le haghaidh scoilbhliana 2011/12 d'fhonn a haistriú go dtí seirbhísí do dhaoine fásta a éascú agus a chríochnú. Spreag an Oifig an Roinn chun a chinntiú go ndéantar gach iarratas a mheasúnú ar bhealach pras agus go gcuirtear tuismitheoirí ar an eolas maidir leis sin. Thug an Oifig faoi deara freisin, cé gur shlánaigh an duine óg sa chás seo an lán-aois, rinneadh an cinneadh chun ligean di clárú i gclár dhá bhliain roimhe seo agus, dá bhrí sin, tá an Roinn ag tabhairt breithnithe cuí ar leas an duine óig sa chás seo trí chead a thabhairt di dara bliain an chlár a dhéanamh.

Cás-staidéar 4

Chuaigh tuismitheoir linbh a bhfuil diagnóis huathachais agus patrún taoma neamhrialaithe aige i dteagmháil leis an Oifig maidir le heaspa iompar scoile don leanbh. Dúirt an tuismitheoir go raibh idir an scoil agus an Roinn Oideachais agus Scileanna den tuairim go raibh an leanbh incháilithe d'iompar scoile ach ní raibh an leanbh ag úsáid na seirbhíse mar gheall ar shaincheisteanna a bhaineann le freagracht leanúnach agus na hacmhainní atá i gceist maidir leis an gcoimhdeacht bus

Ar scrúdú ar an gcás, fuair an Oifig amach go raibh an leanbh mar chuid de ghrúpa leanaí a bhfuil riachtanais speisialta acu a bhí atreoraithe chuig an scoil ag an NCSE. Bhí deacrachtaí ann ina dhiaidh seo maidir leis an iompar scoile curtha ar fáil do na leanaí seo toisc gur sholáthair Enable Ireland an tseirbhís seo go stairiúil sa scoil faoi leith.

Ina freagra, dúirt an scoil gur aontaigh sí na seirbhísí coimhdeachta bus a ghlacadh ó Enable Ireland agus go raibh bearta déanta aici i dtaca leis seo chun sásamh a thabhairt do na leanaí lena i gceist.

D’admhaigh an Roinn an cheist a tháinig chun cinn maidir le fostaíocht choimhdeachta ag an scoil don tseirbhís iompair cheadaithe.

I ndiaidh idirghabháil na hOifige, thug an Roinn deontas iompair do thuismitheoir an linbh ar feitheamh réiteach na ceiste do na laethanta a d’fhreastail an páiste ar an scoil ó thús na scoilbliana 2010/2011.

Cás-staidéar 5

Bhain an gearán a cuireadh chuig an Oifig le diúltú iar-bhunscoile do dhuine óg a chlárú. Mhaígh an gearánach, a máthair, gur diúltaíodh í ar dtús de thairbhe go raibh an cailín ag iompar clainne agus ina dhiaidh sin de thairbhe go raibh sí ina máthair shingil.

D’fhreastail an duine óg ar dhá iar-bhunscoil roimhe seo, ag aistriú ó cheann amháin tar éis di an Teastas Sóisearach a dhéanamh, agus an ceann eile toisc nach raibh sí socraithe inti. Nuair a fuair sí amach go raibh sí ag iompar clainne shocraigh sí ansin filleadh ar scoil. Chuaigh sí i dteagmháil leis an scoil agus tugadh foirm chlárúithe di agus faisnéis maidir le rogha ábhar agus an éide. Ghlac sí leis gur glacadh í. Ag an am céanna, chuaigh a máthair i dteagmháil leis an scoil chun cur in iúl di go raibh an cailín ag iompar clainne. Chuir Príomhoide na scoile in iúl di ina dhiaidh sin nach nglacfaidís í de thairbhe go raibh sí ag iompar clainne.

Chláraigh an duine óg i scoil eile ar feadh ré a toirchis agus nuair a rugadh a leanbh rinne sí iarracht clárú sa scoil arís lena hArdteist a dhéanamh. Cuireadh in iúl di arís nach nglacann an scoil máithreacha singil.

Tar éis cinneadh a dhéanamh an scéal a fhiosrú, scríobh an tOmbudsman do Leanaí chuig an Scoil le faisnéis ábhartha a iarraidh ar an ábhar faoi imscrúdú, lena n-áirítear a beartas clárúcháin, a nós imeachta gearán, sonraí maidir leis an struchtúr bainistíochta agus cóipeanna de chomhfhreagras ábhartha. Níor chuir an scoil aon fhaisnéis a d’iarradh ar fáil. Níor tharla cruinniú a d’iarradh le hionadaithe na scoile.

Tar éis a imscrúdaithe, dhearbhaigh an Oifig nach bhfuil beartas clárúcháin scríofa ag an Scoil; bhí a cinneadh an duine óg a dhiúltú sa chás seo bunaithe ar éiteas na scoile; mar gheall ar dhiúltú na scoile an duine óg a chlárú toisc go raibh sí ag iompar clainne agus ansin toisc go raibh sí ina máthair shingil, caitheadh go neamhfhabhrach léi agus d’fhulaing sí idirdhealú ar fhoras a stádais teaghlaigh.

Níl Bord Bainistíochta ag an scoil agus feidhmíonn duine amháin mar úinéir, bainisteoir agus pátrún na scoile. Mar thoradh air sin, níl aon scóip do chinneadh neamhspleách maidir le

gearán ó chinneadh iontráil sa scoil a dhiúltú, rud a fhágann go bhfuil easpa de phróiseas cothrom agus neamhchlaonta chun aghaidh a thabhairt ar aon ghearán.

Cuireann an Roinn Oideachais agus Scileanna maoiniú agus treoir bheartais ar fáil do scoileanna, ach níl aon chumhachtaí dlíthiúla aici éileamh ar dhaoine aonair cúrsa áirithe a leanúint maidir le gearáin aonair. Níl aon nósanna imeachta forordaithe faoi alt 28 den Acht Oideachais 1998, agus mar thoradh air sin, níl aon phróiseas gearán caighdeánaithe i scoileanna.

Tásé dearbhaithe ag an Oifig go bhfuil obair leanúnach ag dul ar aghaidh sa Roinn Oideachais agus Scileanna chun bonn reachtúil a sholáthar trínar féidir a chinntiú níos fearr go bhfuil beartais chlárúcháin scoileanna neamh-idirdhealaitheach. Is léir ón imscrúdú seo go bhfuil nósanna imeachta rialúcháin feabhsaithe den sórt sin riachtanach.

Rinne an Oifig seo moltaí go díreach chuig an scoil i ndáil lena beartas clárúcháin agus iontrálacha, agus mhol sí freisin don scoil scríobh chuig an duine óg i gceist le haitheantas a thabhairt dá heispéireas dtaca le gníomhartha na scoile agus le leithscéal a ghabháil as an dóigh ar caitheadh léi.

Mhol an Oifig freisin gur chóir don Roinn Oideachais agus Scileanna iniúchadh ar an Scoil a chur i bhfeidhm chun meastóireacht a dhéanamh ar bheartais na scoile, go sonrach nósanna imeachta clárúcháin/iontrála agus gearán agus chun an struchtúr bainistíochta a athbhreithniú lena n-áirítear saincheistanna freagrachta agus rialachais maidir le gearáin agus achomhairc. Ba chóir don Roinn machnamh a dhéanamh ar na nithe a ardaíodh san imscrúdú seo ina breithniú ar an gcreat rialála atá beartaithe le haghaidh clárú scoile.

I ndiaidh idirghabháil na hOifige, gheall an Roinn Oideachais agus Scileanna treoirlínte daingne agus soiléire a thabhairt ar aghaidh i ndáil le beartais iontrálacha. Gheall siad freisin go ndéanfaí iniúchadh breise ar an scoil atá i gceist a luaithe is féidir.

Ag tráth an fhoilsithe ní raibh leithscéal eisithe ag an scoil chuig an duine óg lena mbaineann. Tá tiomantas poiblí déanta ag an Aire Oideachais, áfach, maidir le reachtaíocht um chlárú a thabhairt isteach. Ina theannta sin, rinne Cigireacht na Roinne Oideachais dhá chigireacht gan fhógra ar an scoil.

Cás-Staidéir Sláinte

Cás-staidéar 1

Rinne tuismitheoirí de chailín ceithre bliana d'aois a bhfuil fadhbanna suntasacha mótaí aice a bhfuil diagnóis i gcomhréir le Pairilis Cheirbreach mar thoradh air sin an gearán seo leis an Oifig. Rinneadh iarratas ar chathaoir rothaí cumhachta chuig an FSS, ach diúltaíodh é. Chuir Oifig Sláinte Áitiúil an FSS in iúl do na tuismitheoirí a mbeartas nach soláthraíonn siad cathaoireacha rothaí cumhachta do leanaí níos óige ná seacht mbliana d'aois.

Le linn an imscrúdaithe, dhearbhaigh an tOmbudsman do Leanaí nach bhfuil aon bheartas náisiúnta nó treoirlínte maidir le soláthar de threalamh teiripe saothair, lena n-áirítear cathaoireacha rothaí cumhachta do leanaí. Forbraíonn gach Oifig Sláinte Áitiúil a nósanna imeachta nó treoirlínte féin, tá a mbuiséad féin acu agus déanann siad measúnú ar iarratais de

réir riachtanais an cheantair nó a dtosaíochtaí féin. Mar sin féin, i gcomhfhreagras leis OCO, chuir an FSS in iúl gur bhunaigh Líonrá Éireann um Staidiúir agus Soghluaisteacht – grúpa de dhaoine gairmiúla ag obair sa réimse – foghrúpa i bhFeabhra 2010 chun treoirlínte deachleachtais ar shoghluaisteacht chumhtachta a fhorbairt.

Tar éis an chinnidh thosaigh i dtaca le cathaoir rothaí cumhachta a dhiúltú don leanbh, rinneadh athbhreithnithe air seo ina dhiaidh sin. Mar sin féin, bhí sé seo doiciméadaithe go dona. Lorgaíodh comhairle ó thriúr gairmithe, beirt acu nach raibh sonraí an cháis acu.

I ndiaidh a himscrúdaithe, mhol an Oifig go ndéanfadh an FSS athbhreithniú go luath agus go hiomlán úr ar an gcás bunaithe ar fhaisnéis iomlán lena n-áirítear an fhianaise thaighde sa réimse agus measúnú ar chumas an linbh lena n-áirítear aithint na mbeart is féidir a ghlacadh lena gcumais a neartú. Mhol an Oifig freisin:

- Gur chóir do bheartais agus cinntí FSS aitheantas cúfa thabhairt do thréimhsí feithimh a d'fhéadfadh a theacht chun cinn i soláthar iarbhír nó i dtacaíocht, ag brath ar an leibhéal tosaíochta in aon chás áirithe;
- Go mbrostaíonn an FSS an obair i gcomhar le Líonrá Éireann um Staidiúir agus Soghluaisteacht, chun treoirlínte náisiúnta a fhorbairt maidir le soláthar cathaoireacha rothaí cumhachta do leanaí;
- Go ndéanann an FSS gach beart is gá chun critéir shoiléir agus treoir shoiléir a bhunú chun comhsheasmhacht a bhaint amach ar thaobh Oifigí Sláinte Áitiúla i ndáil le próiseáil na n-iarratas agus na n-achomharc i gcásanna a bhaineann le hinfhaighteacht cathaoireacha rothaí cumhachta do leanaí.

Tar éis torthaí agus moltaí an OCO a mheas, lena n-áirítear cumarsáid dhíreach leis an leanbh i gceist, rinne an FSS athbhreithniú ar imthosca áirithe an linbh, bhuail siad leis an leanbh agus an teaghlach agus, ina dhiaidh sin, cuireadh cathaoir rothaí cumhachta ar fáil. Ina theannta sin, dúirt an FSS gur cuireadh Coiste Náisiúnta ar bun leis an aidhm beartais náisiúnta a chomhaontú i dtaca le húsáid cathaoireacha rothaí cumhachta, rud a chinnteodh cothromas idir gach úsáideoir seirbhíse. Bhí an Coiste Náisiúnta ag súil le tuarascáil ar an ábhar seo a eisiúint faoin earrach 2012, agus bíonn an OCO fós i gcomhfhreagras leis an FSS maidir leis seo.

Cás-staidéar 2

Fuair an Oifig gearán ó mháthair maidir le teip líomhnaithe ag an FSS maidir le seirbhísí a sholáthar do bheirt leanaí a diagnósíodh le Neamhord Hipirghníomhaíochta Easnamh Airde agus Neamhord Greannach Freasúraíoch. Chuir an gearánach in iúl gur scríobh sí chuig an Roinn áitiúil Síciatrachta Leanaí agus Ógánach ag lorg seirbhísí teiripeacha roinnt uaireanta agus ní bhfuair sí freagra sásúil.

Trína himscrúdú, shainnigh an Oifig gur tairgeadh seirbhís den chéad uair don leanbh is sine 27 mí tar éis tarchurtha. Diúltaíodh é seo mar, de thairbhe fhad na tréimhse feithimh le haghaidh seirbhíse, lorg an mháthair seirbhísí príobháideacha. Roinnt míonna ina dhiaidh sin, bhí an bheirt leanaí ath-tharchurtha ag an gcleachtóir príobháideach, agus ag an am dúirt

an FSS gur cuireadh ar fionraí an liosta feithimh maidir le measúnuithe rialta i Márta 2008, agus nach raibh an leanbh níos sine in ann leas a bhaint as seirbhís trí Shíciatracht Leanaí agus Ógánach mar go raibh 16 bliana d’aois slánaithe aici.

Thug an FSS le fios go raibh an cinneadh chun an liosta feithimh a chur ar fionraí mar gheall ar mhéadú ar chásanna tarchurtha agus easpa acmhainní chun freagra a thabhairt orthu. Thug an FSS le fios freisin gur mar gheall ar easpa áiseanna d’othair chónaithe do leanaí a chuirtear ionchur dian ar fáil dóibh siúd i gcúinsí éigeandála chun leanaí a chur isteach i mbardaí do dhaoine fásta a chosc. Bhí an liosta feithimh do mheasúnuithe rialta dúnta ar feadh beagnach 3 bliana, gan ach seirbhísí malartacha teoranta ar fáil agus an tseirbhís síceolaíochta in ann roinnt ionchur a sholáthar.

Le linn an imscrúdaithe tairgeadh tarchur chuig seirbhísí áitiúla pobail síceolaíochta don teaghlach, agus glacadh bearta chun an liosta feithimh a athoscailt. Rinneadh cinneadh síciatraí locum a fhostú chun measúnaithe a chur ar fáil do gach leanbh, beag beann ar aois, a bhí atreoraithe ach nach raibh in ann leas a bhaint as an tseirbhís nuair a bhí an liosta feithimh dúnta. Tairgeadh seirbhís don bheirt daoine óga tríd an tionscnamh seo.

Scríobh an Oifig chuig FSS Náisiúnta chun aird a tharraingt ar imní atá ann maidir le dúnadh an liosta feithimh sa limistéar lena mbaineann agus leagadh béim freisin gur cuireadh gearán den chineál céanna ar aghaidh chuig an Oifig ó réimse eile, ach réitíodh é ina dhiaidh sin nuair a athosclaíodh an liosta feithimh. Sa réimse sin, bhí an liosta feithimh dúnta ar feadh tréimhse de níos mó ná 2 bhliain.

Tar éis moltaí na hOifige a fháil d’fhreagair FSS náisiúnta mar go bhfuil ceisteanna foirne níos ísle ná iad atá molta ag Fís le haghaidh Athraithe “tá soláthar seirbhísí teorainneacha go dosheachata nó go bhfuil rochtain moillithe”. Bheadh acmhainní breise ag teastáil chun feabhas a chur ar an tseirbhís.

I ndáil le leorgacht na seirbhísí do dhaoine 16/17mbliana d’aois – tá Meabhairshláinte Náisiúnta i dteagmháil Leis an Stiúrthóir Náisiúnta do Leanaí agus Seirbhísí Teaghlaiigh agus tá ráiteas á lorg acu ó gach réigiún/dobharcheantar leathan ar an gcaoi a bhfuil seirbhísí á soláthar do dhaoine óga idir 16/17 mbliana d’aois.

De thairbhe gur bhain saincheisteanna a ardaíodh tríd an imscrúdú le saincheisteanna oibríochtúla maidir le seirbhísí sa réimse sin – cuireadh é chuig an Stiúrthóir Réigiúnach Oibríochtaí don cheantar sin.

Cás-staidéar 3

Fuarthas gearán ó mháthair thar ceann a mic atá bliain d’aois a bhfuil riachtanais leighis aige agus a bhí ina chónaí in ospidéal ar feadh tréimhse shuntasach dá shaoil. Bhain an gearán le hiarratas ar phacáiste cúram baile a bhí diúltaithe ag an FSS, cé gur chuir na tuismitheoirí in iúl go raibh an leanbh oiriúnach le haghaidh scaoilte amach ón ospidéal ar feadh roinnt míonna.

Tar éis idirghabháil na hOifige, chuir an FSS in iúl di go raibh Pacáiste Cúram Baile aontaithe agus go raibh an fhoireann ábhartha á hoiliúint chun freastal ar riachtanais shonracha baile an linbh. Bhí an leanbh in ann fillleadh abhaile go luath tar éis idirghabháil na hOifige.

Cás-staidéar 4

Chuaigh cailín 17 mbliana d’aois a bhí gan dídean i dteagmháil leis an Oifig, cailín a bhí gan tacaíocht teaghlaigh agus a raibh tacaíochtaí aici ón FSS faoi Alt 5 den Acht um Chúram Leanaí, 1991.

Ba iad cúinsí an duine óig seo go raibh sí ag streachailt le freastal ar scoil chomh maith leis na héilimh le fostaíocht a choinneáil le soláthar di féin. Ós rud é gur chinn an FSS nach raibh riachtanas ann an duine óig seo a bheith faoi Chúram, ní raibh sí i dteideal na tacaíochta atá ar fáil do dhaoine óga atá faoi chúram Fheidhmeannacht na Seirbhíse Sláinte. Mar sin féin, tar éis imeachtaí cúirte a rinneadh thar ceann an duine óig, gheall an FSS tacaíocht airgeadais a sholáthar go dtí go mbeadh sí 18 mbliana d’aois.

Bhain na hábhair a ardaíodh le soláthar de thacaíocht nuair a shlánaíonn an duine óig 18 mbliana d’aois, go sonrach agus í ag déanamh a scrúduithe Ardeistiméireachta. Chuaigh an Oifig i dteagmháil leis an FSS a thug comhairle go mbeadh an síneadh de thacaíocht comhaontaithe, ar bhonn aonuaire, go dtí go gcríochnódh an duine óig a scrúduithe.

Bhí moill de roinnt míonna i dtaca leis an tacaíocht airgeadais a fháil don duine óig. Réitíodh é seo tar éis teagmhála ón Oifig. Ina theannta sin, d’ardaigh an duine óig inní nach raibh an fhaisnéis is gá curtha ar fáil ag an FSS chun tacú lena hiarratas ar an scéim um Bealach Rochtana Ardoideachais (HEAR) a ligeann do dhaoine óga a bhfuil cúlraí faoi mhíbhuntáiste áirithe acu dul isteach in oideachas 3ú leibhéal ar bhonn na bpointí laghdaithe i bhfianaise a gcúinsí aitheanta. Tar éis uiríoll ag an duine óig, ag a dlíodóir, agus teagmháil ón Oifig, sholáthair an FSS an fhaisnéis riachtanach.

Tar éis idirghabháil na hOifige, cé gur baineadh sásamh amach don duine óig maidir leis na deacrachtaí ar leith a bhí aici, shainaithin an Oifig roinnt ábhair inní i dtaca le láimhseáil an cháis, agus cuireadh in iúl iad don FSS chomh maith le roinnt moltaí.

Ina freagra, dúirt an FSS athuair nach raibh an duine óig faoi chúram an FSS agus gur aontaigh an FSS cóiríocht a chur ar fáil di suas go mbeadh sí 18 mbliana d’aois chomh maith le pacáiste tacaíocht airgeadais chun ligean di a cuid oideachais mheánscoile a dhéanamh. Bhí an FSS den tuairim go léiríonn na gníomhartha seo leas an FSS a bheith solúbtha agus tuisceanach ar riachtanais an duine óig seo agus ar mhaithe léi.

Cás-Staidéar Thithíocht an Údarás Áitiúil

Rinne máthair teagmháil leis an Oifig thar ceann a beirt mhac, a aithníodh go bhfuil Neamhord de chuid Speictream an Uathachais agus Neamhord Hipirghníomhaíochta Easnamh Airde orthu. Bhain an gearán le heaspa freagartha ón Údarás Áitiúil maidir le hiarratas ar stádas tosaíochta i leith aistriú tithíochta, ar thacaigh moltaí ó ghairmithe míochaine leis.

Chuaigh an Oifig i dteagmháil leis an Údarás Áitiúil a chomhairligh, i gcomhréir le Scéim na Comhairle um Thosaíochtaí Ligin, nach raibh an tionónta incháilithe le hiarratas a dhéanamh ar aistriú go cóiríocht mhalartach toisc nár chónaigh an teaghlach ina theach cónaithe reatha ar feadh dhá bhliain ar a laghad.

Mar thoradh ar idirghabháil na hOifige, áfach, chomhairligh an tÚdarás Áitiúil go ndéanfadh an Príomh-Oifigeach Míochaine an doiciméadúchán míochaine a chuir an gearánach isteach a bhreithniú. Tar éis an cás seo a athbhreithniú, dheonaigh an tÚdarás Áitiúil iarratas na máthar ar thosaíocht ar chóiríocht trí sheomra leapa i gceantar sainithe.

Cás-Staidéar na Roinne Leanaí agus Gnóthaí Óige

Fuair an Oifig gearán ó mháthair linbh atá faoi ollbhodhaire agus a fuair faisnéis dhíreach ó Oifig an Aire Leanaí agus Gnóthaí Óige (an Roinn Leanaí agus Gnóthaí Óige anois) trínar cheap sí go mbeadh an deis ag a leanbh leas a bhaint as dara bliain na Scéime um Chúram agus Oideachas na Luath-Óige. Shonraigh an mháthair gur phleanáil sí oideachas a hiníne ar bhonn na cumarsáide agus an ionchais sin. Mar sin féin, chuir an Roinn Leanaí agus Gnóthaí Óige in iúl di ina dhiaidh sin nach raibh an ghné sin den scéim ar fáil a thuilleadh.

Ina bhfreagairt don Oifig, chomhairligh an Roinn Leanaí agus Gnóthaí Óige go raibh fáil ar an dara bliain den scéim beartaithe do ghrúpa teoranta leanaí – leanaí a bhfuil dianriachtanais acu agus a bhain leas as an scéim ar feadh tréimhse níos gairide le linn na chéad bhliana oibriúcháin den Scéim um Chúram agus Oideachas na Luath-Óige, a mhair timpeall ar 6 mhí ó mhí Eanáir 2010. Ghlac an Roinn Leanaí agus Gnóthaí Óige leis gurbh fhéidir míchiall a bhaint as an bhfaisnéis a cuireadh ar fáil don mháthair agus, dá bhrí sin, tháinig sí ar ionchas go bhféadfadh a leanbh leas a bhaint as an dara bliain de réamhscolaíocht shaor in aisce. Tar éis idirghabháil na hOifige seo, chomhaontaigh an Roinn Leanaí agus Gnóthaí Óige dara bliain tacaíochta a chur ar fáil faoin scéim don leanbh ar bhonn pro rata – ar feadh dhá lá nó trí lá sa tseachtain.

Leasaigh an Roinn Leanaí agus Gnóthaí Óige freisin a cumarsáidí poiblí lena seasamh ar an ngné seo den scéim a fheabhsú agus a shoiléiriú i ndáil le hiarratasóirí sa todhchaí. Chomh maith leis sin, thug an Oifig seo spreagadh don Roinn Leanaí agus Gnóthaí Óige plé a dhéanamh ar aon chásanna cosúla agus aghaidh a thabhairt orthu a d'fhéadfadh teacht i láthair mar thoradh ar leibhéal na cumarsáide a tharla roimhe sa tréimhse ama sin.

Athrú Córasach a Chur Chun Cinn

Mar a cuireadh in iúl ní ba luaithe, is minic a bhíonn impleachtaí ag obair na hOifige i bhfiosrú gearán a théann níos faide anonn ná an cás aonair lena raibh gá le hidirghabháil na hOifige. Is féidir le torthaí agus moltaí a thagann as eispéireas linbh aonair nó teaghlach aonair a fhiosrú an gá le hathrú a fhéadann freastal ar leasanna cuid mhór leanaí isteach sa todhchaí a shainaithint.

Is féidir tásca faoi nádúr agus raon feidhme tábhachtach idirghabhálacha na hOifige in 2011, dírithe ar fheabhsuithe forleathana a bhaint amach sa soláthar seirbhísí do leanaí agus comhlachtaí poiblí, a fheiceáil i samplaí de mholtaí a rinne an tOmbudsman do Leanaí maidir le hathrú córasach.

(i) Moltaí maidir le hAthrú Córasach

An Roinn Oideachais agus Scileanna – Iarratais ar Iompar Scoile do leanaí a bhfuil riachtanais speisialta acu

Rinneadh na moltaí seo a leanas don Roinn chun tuilleadh soiléireachta agus follasachta a chur leis na socruithe reatha:

- Ba cheart don Roinn féachaint ar an dóigh a bhféadfaí córas níos cuimsithí agus níos follasaí maidir le hiarratais ar iompar scoile a chur i bhfeidhm, lena n-áirítear ról na Comhairle Náisiúnta um Oideachas Speisialta agus a hEagraithe Riachtanas Speisialta Oideachais (SENO) agus sainchúram an Bhoird Achomhairc um Iompar Scoile. Ba cheart na nithe seo a leanas a bhreithniú go háirithe:
 - an dóigh a mbreithnítear leasanna is fearr an linbh sa phróiseas cinnteoireachta a thaispeáint;
 - athbhreithniú ar an bhfoirm iarratais le go gcuirfeadh san áireamh inti gach cúrsa a bhfuil tábhacht ábhartha aige i ndáil le cumas an linbh páirt a ghlacadh ina oideachas/ ina hoideachas;
 - athbhreithniú a dhéanamh ar an treoir atá ar fáil don Chomhairle Náisiúnta um Oideachas Speisialta ar na tosca a mheasfar in iarratas; agus
 - féachaint ar an dóigh a bhféadfaí próiseas achomhairc níos cuimsithí a bhaint amach a théann níos faide ná féachaint ar an gcúrsa a bhaineann le comhlíonadh na riachtanas teicniúil ach a éascaíonn athbhreithniú ar fhiúntais ar leith d'achomharc.
- Ba cheart don Ghrúpa Idir-Rannach a bunaíodh luathú a dhéanamh ar obair le feabhas a chur ar chomhordú agus ar chomhoibriú idir na hearnálacha sláinte agus oideachais le linn pleanála d'oideachas linbh, soláthar iompar scoile do leanaí a bhfuil riachtanais speisialta oideachais acu san áireamh; agus
- Ba cheart plé a dhéanamh ar an timthriall pleanála agus ar thráthúlacht na gcinntí i ndáil le hiompar scoile d'fhonn dóthain ama a éascú le haghaidh pleanáil oideachais do leanaí maidir lena socrúchán scoile, an phleanáil le haghaidh tacaíocht oideachais speisialta san áireamh.

An Roinn Oideachais agus Scileanna – Iarratais ar Theicneolaíocht Chúnta

Rinneadh na moltaí seo a leanas chun tuilleadh soiléireachta, agus roinnt solúbthachta breise iomchuí, a chur le scéim tacaíochta atá ann cheana:

- Ba cheart don Roinn, ina ról i mbeartas a shocrú le haghaidh riarachán na Scéime um Theicneolaíocht Chúnta, treoir agus doiciméid bheartais atá soiléir agus conclúideach a fhorbairt. Ba cheart don Roinn cur i gcrích agus eisiúint a ciorcláin bheartaithe nua a shocrú ag dáta luath d'fhonn foráil a dhéanamh do na nithe seo:
 - soiléireacht maidir leis an bpróiseas cinnteoireachta agus le freagrachtaí faoi seach na Roinne agus na Comhairle Náisiúnta um Oideachas Speisialta ina leith seo;

- cuimsiú réasúnta na leanaí sin nach féidir diagnóis mhíochaine shonrach a chinneadh go réidh ina leith, ach a bhféadfadh deacrachtaí suntasacha míochaine bac a chur ar a gcuid oideachais;
 - próiseas achomhairc; agus
 - meicníochtaí éifeachtacha le faireachán a dhéanamh ar oibriú na scéime.
- Ba cheart don Roinn bearta a dhéanamh, de réir mar is cuí, lena chinntiú go bhféadann údaráis scoile agus tuismitheoirí ar mian leo iarratas a dhéanamh ar theicneolaíocht chúnta teacht ar fhaisnéis shoiléir chomhlán maidir leis na critéir incháilitheachta le haghaidh tacaíocht a dheonú faoin Scéim um Theicneolaíocht Chúnta.

FSS – Leanáí faoi chúram ar tuismitheoirí iad féin

Is iad seo a leanas na príomh-mholtaí a rinneadh chun aghaidh a thabhairt ar riachtanais áirithe sna cásanna sin:

- Ba cheart do FSS Náisiúnta athbhreithniú a dhéanamh ar sholáthar seirbhísí atá ar fáil do dhaoine óga faoi chúram FSS a bhfuil a leanbh acu féin, lena n-áirítear measúnú ar na seirbhísí atá ar fáil, ar a bhfuil ag teastáil, agus ráiteas cuspóra agus aidhme;
- Ba cheart treoir náisiúnta a fhorbairt i ndáil leis an bpróiseas measúnaithe a leanfaidh FSS; lena n-áirítear an creat measúnaithe a úsáidfear, amlínte soiléire lena chur i gcrích, agus tuairiscí measúnaithe scríofa a chomhlánófar; agus
- Ba cheart plé a dhéanamh ag leibhéal FSS Náisiúnta ar bheartas agus ar nós imeachta i gcás ina bhfuil a bhabaí féin ag leanbh faoina cúram d’fhonn a áirithiú go gcomhlíonfar riachtanais aonair gach linbh, lena n-áirítear na seirbhísí atá ar fáil, beartas agus nósanna imeachta a bhaineann le measúnú ar a gcuid riachtanas agus chun tacú le cuairteanna ag leibhéal ina gcuirtear comrádaíocht chun cinn chun críche athaontaithe.

FSS – Pleanáil Chúraim

Bhí na nithe seo a leanas ar na moltaí a rinneadh le cleachtas sa réimse seo a neartú:

- I gcás ina sainithníodh go bhfuil seirbhís ar leith (e.g. cúram altrama) ar an tseirbhís is oiriúnaí chun riachtanais duine óig a chomhlíonadh, níor cheart machnamh ar fháil ar an tseirbhís a bheith teorannaithe leis an gCeantar Cúram Pobail ina gcónaíonn an duine óg;
- I gcás ina moltar go bhfuil socrúchán ceaptha le duine óg a ullmhú do shocrúchán eile; ba cheart é seo a shonrú go follasach sa Phlean Cúraim agus sa Phlean Socrúcháin, agus ba cheart gníomhaíochtaí a dhéanamh lena éascú;
- Ba cheart gach Plean Socrúcháin agus gach Plean Bainistíochta Géarchéime a chur chuig, agus a bheith á n-athbhreithniú ag oibrí sóisialta an duine óig chun a áirithiú go bhfuil siad oiriúnach do riachtanais an duine óig;
- Ba cheart oibrí sóisialta a dháileadh ar gach duine óg faoi chúram cónaithe ar bhonn lánaimseartha leis na dualgais ghairmiúla agus reachtúla a chomhlíonadh; agus

- Ba cheart déileáil le gach gearán ó na leanaí faoi chúram trí na nósanna imeachta maidir le déileáil le gearáin, rud ba cheart a mhíniú go hiomlán don duine óg, taifead a choinneáil go ndearnadh a leithéid agus eolas iomlán a thabhairt don leanbh faoin toradh. I gcás nach bhfuil leanbh sásta faoi thoradh an ghearáin, ba cheart comhairle a chur ar fáil dó/di maidir le bealaí eile a ngeofaí réiteach sásúil ar an ngearán.

FSS agus an tAire Leanaí agus Gnóthaí Óige – Saincheisteanna Cosanta Leanaí in eagraíochtaí atá maoinithe ag FSS chun seirbhísí a chur ar fáil do leanaí

Bhí na nithe seo a leanas i measc na moltaí a rinneadh chun feabhas chur ar fhreagairt an FSS do shaincheisteanna a tháinig aníos sa réimse seo agus chun a áirithiú go ndéantar leasanna is fearr na leanaí a mheas mar is iomchuí:

- I gcás inar déileáladh le saincheisteanna tosaigh cosanta leanaí, ba cheart don FSS athmheas a dhéanamh ar an gcleachtas maidir le feitheamh le toradh an phróisis inmheánaigh araíonachta fostaithe i gcásanna mí-úsáide corpartha líomhnaithe in eagraíochtaí a sholáthraíonn cúram do leanaí atá faoi mhíchumas intleachta sula gcinneann sí a ról sa tsaincheist;
- Machnamh a dhéanamh ar cé acu an ndlitear cur chuige comhthráthach maidir le himscrúdú inmheánach chun rannpháirteachas tráthúil éifeachtach a chinntiú nó nach ndlitear; agus
- A áirithiú go gcomhlíonann na heagraíochtaí sin a sholáthraíonn seirbhísí do leanaí aon mheasúnuithe tosaigh ar chosaint leanaí de chuid an FSS agus aon chinntí a dhéantar.

Sa chomhthéacs céanna, moladh an beart seo a leanas le gníomhaíocht riachtanach amuigh sa réimse seo a luathú:

- Ba cheart don Aire Leanaí agus Gnóthaí Óige gach beart is gá a dhéanamh le hiniúchadh neamhspleách gach institiúide cónaithe do leanaí faoi mhíchumais intleachta a chinntiú i gcomhréir leis na forálacha i bPlean Cur Chun Feidhme Thuarascáil Ryan. Ba cheart do na bearta a dhéantar a chinntiú go bhfuil seirbhísí faoisimh do leanaí laistigh de lárionaid chónaithe faoi réir iniúchadh neamhspleách freisin.

FSS – Iarratais ar Shaintrealamh (cathaoir rothaí cumhachta)

Rinneadh na moltaí seo a leanas le cinnteoireacht ar an talamh agus comhsheasmhacht soláthair sheirbhíse a fheabhsú sa réimse seo:

- Ba cheart aitheantas dlite a thabhairt i mbeartais agus i gcinntí an FSS i gcás na n-iarratas sin do thréimhsí feithimh a d'fhéadfadh teacht chun cinn sa soláthar iarbhrí tacaíochta, ag brath ar an leibhéal measúnaithe tosaíochta in aon chás ar leith; ba cheart na tréimhsí sin a choinneáil ar íosmhéid i gcás leanaí, ag féachaint don ghá le tacaíocht bharrmhaith a chur ar fáil dá bhforbairt;
- Ba cheart don FSS an obair a luathú le treoirlínte náisiúnta a fhorbairt le haghaidh cathaoireacha rothaí cumhachta a sholáthar do leanaí; agus

- Ba cheart don FSS gach beart is gá a dhéanamh chun critéir agus treoir atá soiléir a bhunú d'fhonn comhsheasmhacht a bhaint amach ar thaobh Oifige Sláinte Áitiúla i ndáil le hiarratais, agus le hachomhairc, a phróiseáil i gcásanna a bhaineann leis an bhfáil ar chathaoireacha rothaí cumhachta do leanaí.

FSS – Meabhairshláinte

Bhí na nithe seo a leanas i measc na moltaí a rinneadh chun aghaidh a thabhairt ar bhuarthaí faoin bhfáil ar sheirbhísí:

- Ba cheart don FSS athbhreithniú a dhéanamh ar dheacrachtaí maidir leis an liosta feithimh um Shíciatracht Leanaí agus Ógánach i gceantar na hOifige Sláinte Áitiúla lena mbaineann agus straitéis a shainnithint chun aghaidh a thabhairt orthu;
- Ba cheart ról agus freagracht na Seirbhíse Síciatrachta Leanaí agus Ógánach agus na Seirbhíse Síceolaíochta Pobail i ndáil le hatreoruithe um Neamhord Hipirghníomhaíochta Easnamh Airde (NHEA) agus um Neamhord Greannach Freasúraíoch a shoiléiriú mar thoradh ar na tuiscintí difriúla idir an dá sheirbhís seo agus cumarsáid eatarthu a fheabhsú maidir le hatreoruithe;
- Ba cheart feabhas a chur ar chumarsáid le teaghlaigh i ndáil le cinní a rinneadh ar sheirbhísí agus ar sholáthar seirbhísí malartacha atá ar fáil; agus
- Ba cheart don FSS leordhóthanacht na seirbhísí atá ar fáil do dhaoine atá 16 bliana d'aois nó 17 mbliana d'aois a bhfuil diagnóis NHEA orthu a shoiléiriú agus a mheasúnú agus a áirithiú go bhfuil faisnéis ar fáil do theaghlaigh agus do dhochtúirí atreoraithe maidir le conas seirbhísí a rochtain.

FSS – Cóir Leighis Thar Lear

Rinneadh na moltaí seo a leanas chun tuilleadh comhsheasmhachta agus soiléireachta a bhaint amach sa soláthar tacaíochta sa réimse seo:

- Forbairt cur chuige chaighdeánaithe náisiúnta chomhaontaithe maidir leis an Scéim um Chóir Leighis Thar Lear ina gcuimsítear treoir shoiléir scríofa d'fhoireann an FSS maidir leis an bpróiseas a gcloítear leis agus iarratais ar chóir leighis thar lear atá comhsheasmhach go náisiúnta á meas;
- Cumarsáid fheabhsaithe ag an FSS maidir leis an Scéim um Chóir Leighis Thar Lear ina bhfuil faisnéis so-rochtana do thuismitheoirí/do theaghlaigh ina mionsonraítear critéir incháilitheachta, an próiseas ar cloíodh leis i ndáil leis an iarratas, agus an próiseas achomhairc. Ba cheart go dtabharfadh sé seo aghaidh ar na saincheisteanna sainiúla a bhaineann le cúram sláinte péidiatraiceach go háirithe; agus
- Faisnéis shoiléir do Chomhairleoirí Leighis atreoraithe maidir leis na critéir incháilitheachta agus na bearta nós imeachta a bhaineann le cinneadh na n-iarratas sin ag an FSS.

(ii) Measúnú iar-iniúchta ar fhreagairtí do mholtaí córasacha

Leanaí faoi Shainchúram

Chuaigh an Oifig i dteagmháil leis an FSS i rith 2011 trí theacht le chéile agus trí dhoiciméadúchán a iarraidh maidir leis an dul chun cinn ar mholtaí a rinneadh le haghaidh athrú córasach ar an soláthar sainchúraim. Chuir an FSS in iúl:

- go raibh múnla nua le haghaidh sainchúraim agus ardtacaíochta á fhorbairt;
- go raibh obair ag leanúint ar aghaidh i ndáil leis an soláthar cóiríochta atá ar fáil agus lena uasghrádú, mar aon le riachtanais chumais a athbhreithniú agus a fheabhsú; agus
- go raibh critéir agus próisis iontrála sainchúraim, agus na téarmaí tagartha don choiste achomhairc lena mbaineann, á n-athbhreithniú.

Fuair an Oifig sonraí ón FSS maidir le líon na ndaoine óga a atreoraíodh le haghaidh sainchúraim nach raibh ábalta rochtain a fháil lair mar gheall ar imeachtaí coiriúla ar feitheamh. Mar thoradh ar an bhfaisnéis seo, scríobh an tOmbudsman do Leanaí chuig an Aire Leanaí agus Gnóthaí Óige maidir leis an ngá le tosú práinneach an Bhille um Chúram Leanaí (Leasú). Achtaíodh é seo ina dhiaidh sin i mí Lúnasa 2011.

Leanaí faoi Chúram Altrama a bhfuil Riachtanais Speisialta acu

Tar éis gearán a fuarthas thar ceann linbh faoi chúram altrama a bhfuil riachtanais speisialta throma aige a imscrúdú, rinne an Oifig seo roinnt moltaí ag féachaint le haghaidh a thabhairt ar na saincheistanna córasacha a aithníodh san imscrúdú freisin. Bhain siad leis na deacrachtaí atá os comhair teaghlach agus oibríthe sóisialta sa phleanáil, sa chur ar fáil acmhainní agus sa tacaíocht atá ag teastáil chun a áirithiú go dtugtar aghaidh ar riachtanais intuartha agus inaitheanta na leanaí sin agus go dtugtar tosaíocht dóibh. Ar feadh 2011, chuaigh an Oifig i dteagmháil leis an FSS ar an tsaincheist, go háirithe maidir le conas a thiocfadh athrú bríoch do theaghlaigh agus d'oibríthe sóisialta a thugann tacaíocht agus cúram do na leanaí sin as freagairt an FSS.

Leag an FSS roinnt beart molta a bheidh le glacadh chun aghaidh a thabhairt ar na saincheistanna córasacha a ardaíodh, mar aon le hamlíne ina leith seo a sholáthar. Chuir an FSS in iúl:

- Gur thug sí tosaíocht d'athchumraíocht na n-acmhainní teiripe reatha chuig foirne bunaithe go geografach;
- Go bhfuil tosaíocht á tabhairt do Mhúnla Leithdháilte Acmhainní a chur chun feidhme, bunaithe ar Chomhaontuithe Leibhéal Seirbhísí agus ar Mheasúnacht Riachtanas a fhorbairt faoi Phlean Seirbhíse an FSS, 2011; agus
- Gur cheart Grúpa Oibre do Chúram Malartach a bhunú ina bhfuil an Oifig Náisiúnta do Leanaí agus do Theaghlaigh agus dochtúirí an FSS ag obair le Leanaí faoi Chúram chun beartas caighdeánaithe náisiúnta a fhorbairt agus a scaipeadh maidir leis an soláthar seirbhísí cúram altrama do leanaí a bhfuil riachtanais speisialta acu faoi dheireadh 2011.

Leanfaidh an Oifig seo de mheasúnú iar-iniúchta a dhéanamh ar dhul chun cinn na mbeart seo in 2012.

(iii) Measúnú iar-íniúchta ar Imscrúdú ‘Tús Áite do Leanaí’

I mí Aibreáin 2010, chríochnaigh an Oifig an chéad imscrúdú córasach a rinneadh ar staid cur chun feidhme ‘Tús Áite do Leanaí: Treoirlínte Náisiúnta um Chosaint agus Leas Leanaí’, ag díriú ar ghníomhartha riaracháin an FSS ó thaobh cur chun feidhme de agus ar an Roinn Sláinte agus Leanaí mar gheall ar a téarmaí tagartha le faireachán a dhéanamh ar chur chun feidhme na dtreoirlínte seo.

Rinne an t-imscrúdú 11 aimsiú de riarachán lochtach, rud as ar tháinig 22 moladh. Ar chur i gcrích an imscrúdaithe, shocraigh an Oifig tréimhse bliana le haghaidh measúnú iar-íniúchta ar na bearta agus an dul chun cinn a rinneadh i ndáil leis na moltaí. Tosaíodh an t-athbhreithniú i mí na Bealtaine 2011 agus bhí na nithe seo a leanas i gceist:

- Nuashonrú scríofa a iarraidh ón FSS, ó Oifig an Aire Leanaí agus Gnóthaí Óige (an Roinn Leanaí agus Gnóthaí Óige ina dhiaidh sin) agus ón nGarda Síochána i ndáil leis na bearta a rinneadh le dul chun cinn a dhéanamh ar na moltaí a tugadh dóibh faoi seach.
- Tionóladh cruinnithe le hionadaithe:
 - ón FSS
 - ón Roinn Leanaí agus Gnóthaí Óige
 - ón nGarda Síochána
 - ó Cheardchumann IMPACT
- Iarradh tuilleadh doiciméadúcháin mar thoradh ar roinnt de na cruinnithe.

Cuireadh tuarascáil i gcrích ina leagtar amach toradh an athbhreithnithe i mí Eanáir 2012 d’fhonn í a fhoilsiú go luath.

5

BEARTAS AGUS REACHTAÍOCHT

Leagtar amach in Alt 7 san Acht um Ombudsman do Leanaí, 2002 (an tAcht 2002), feidhmeanna athbhreithnithe beartais, taighde agus reachtaíochta na hOifige. Déantar foráil ann go háirithe go ndéanfaidh an tOmbudsman do Leanaí:

- comhairle a chur ar Airí faoi fhorbairt agus chomhordú beartais a bhaineann le leanaí;
- comhairle a chur ar Airí faoi shaincheist ar bith a bhaineann le cearta agus leas leanaí, an éifeacht dhóchúil a bheadh ag moltaí ar reachtaíocht ar leanaí san áireamh;
- taighde a dhéanamh, a chur chun cinn agus a fhoilsiú faoi aon ábhar a bhaineann le cearta agus leas leanaí; agus
- faisnéis a mhalartú le hOmbudsmana Leanaí i stáit eile.

Sa bhliain faoi athbhreithniú, sholáthair Oifig an Ombudsman do Leanaí comhairle maidir le reachtaíocht bheartaithe i réimsí an cheartais choiriúil agus na cosanta leanaí. Chomh maith leis sin, lean sí ar aghaidh lena rannpháirteachas ag leibhéal idirnáisiúnta le meicníochtaí faireacháin um chearta an duine agus lena macsamhlacha i ndlínsí eile.

De bhreis ar a bhfuil thuas, rinne an Oifig aighneacht leis an bhFóram faoi Phátrúnacht agus Iolrachas san Earnáil Bhunoideachais agus le comhairliúchán na Roinne Oideachais agus Scileanna ar an gcreat rialála le haghaidh clárú scoile.

An Bille um Cheartas Coiriúil (Ciontuithe Caite), 2011

I mí an Mheithimh 2011, d'iarr an Roinn Dlí agus Cirt agus Comhionannais tuairimí Oifig an Ombudsman do Leanaí maidir leis an mBille um Cheartas Coiriúil (Ciontuithe Caite).

Thug an Oifig ráiteas ar dhréachtaí níos luaithe den Bhille dhá uair roimhe sin. Cosúil lena comhairle roimhe sin, dhírigh ráitis na hOifige maidir le dréacht 2011 an Bhille ar na réimsí seo a leanas:

- an sainmhíniú ar chionta gnéasacha laistigh de bhrí an Bhille;
- catagóirí d'fhostaíocht eisiata (iad siúd nach mbeadh ábalta leas a bhaint as forálacha an Bhille mar gheall ar a nádúr íogair);
- nochtadh ciontuithe agus imeachtaí cúirte; agus
- grinnfhiosrúchán ag an nGarda Síochána.

I gcás na ndréachtaí roimhe sin den Bhille, chuir an Oifig in iúl nach raibh na catagóirí d'fhostaíocht eisiata leathan go leor. Rinneadh é seo a cheartú agus fairsingíodh na catagóirí fostaíochta faoi réir an Bhille 2011.

An Bille um Cheartas Coiriúil (Faisnéis faoi Chionta in aghaidh Leanaí agus Aosaigh Shoghonta a Choimeád Siar), 2011

I mí Iúil 2011, d'fhoilsigh an tAire Dlí agus Cirt, Comhionannais agus Cosanta tograí reachtaíochta chun cion coiriúil a dhéanamh de choinneáil siar faisnéise faoi dhéanamh cionta inghabhála, cionta gnéasacha san áireamh, in aghaidh linbh nó aosach soghonta.

Ina comhairle faoi na tograí, tharraing Oifig an Ombudsman do Leanaí aird ar an ngá le comhsheasmhacht a bheith idir an reachtaíocht bheartaithe agus Tús Áite do Leanaí: Treoir Náisiúnta um Chosaint agus Leas Leanaí. Chomh maith leis sin, rinne an Oifig roinnt moltaí le haghaidh shoiléiríú agus leasú fhorálacha na reachtaíochta beartaithe nua.

Chomhaontaigh an Oifig le cur chuige ginearálta na dtograí ach chuir sí béim ar an tábhacht a bhaineann le cur i bhfeidhm na n-acmhainní riachtanacha chun a áirithiú gur féidir le ranna oibre sóisialta freagairt go héifeachtach d'aon mhéadú ar thuiriscíú mar thoradh ar achtú an Bhille agus ar chur i bhfeidhm Tús Áite do Leanaí ar bhonn reachtúil. Ina theannta sin, mhol an Oifig gur cheart córas éifeachtach faireacháin a chur i bhfeidhm le héifeachtaí na bhforálacha dlí nua a scrúdú agus gur cheart athbhreithniú neamhspleách ar éifeacht na reachtaíochta ar chleachtas cosanta leanaí a dhéanamh tráth nach moille ná trí bliana i ndiaidh a cur chun feidhme.

Gné eile den reachtaíocht bheartaithe a d'éiligh tuilleadh breithnithe ba ea an cheist ar cad é a bheadh ina leithscéal réasúnta maidir le mainneachtain cion inghabhála a thuiriscíú. Mhol an Oifig gur cheart na tograí a leasú chun soiléiríú nár cheart, i gcás leanaí, a chur san áireamh i leithscéal réasúnta tosca ina dtugann an duine a ndearnadh an cion ina leith le fios nár mhaith leis nó léi go dtuirisceofaí an cion sin, nó faisnéis a bhaineann leis an gcion sin.

Chuir an Oifig in iúl freisin gur cheart idirghníomhaíocht idir na tograí agus foirmeacha éagsúla de phribhléid dlíodóra a mheas tuilleadh d'fhonn a áirithiú nach mbeadh raon feidhme an Bhille srianta go míchuí.

An Bille um an mBiúró Náisiúnta Grinnfhiosrúcháin, 2011

I mí Iúil 2011, d'fhoilsigh an tAire Dlí agus Cirt, Comhionannais agus Cosanta tograí don Bhille um an mBiúró Náisiúnta Grinnfhiosrúcháin. Is é aidhm an Bhille éifeacht a thabhairt don mholadh a rinne Comhchoiste an Oireachtais um an Leasú Bunreacht maidir le Leanaí reachtaíochta a thabhairt isteach leis an modh a rialú inar féidir leis an nGarda Síochána agus le gníomhaireachtaí eile taifid de chiontuithé coiriúla agus faisnéis (faisnéis bhog san áireamh) a stóráil chun críche cosanta leanaí.

Chuir Oifig an Ombudsman do Leanaí comhairle ar fáil don Rialtas agus do Thithe an Oireachtais roinnt uaireanta faoi thograí leis an mBunreacht a leasú; sna haighneachtaí sin, chomhairligh an Oifig gur cheart don leasú sin cur ar chumas an Oireachtais go soiléir reachtú a dhéanamh le haghaidh an bhailithe agus an mhalartaithe faisnéise a bhaineann leis an gcur i mbaol féideartha leanaí.

Ina comhairle faoin mBille, chuir an Oifig fáilte roimh an togra creat reachtúil a chur i bhfeidhm leis an ngné seo de chosaint leanaí a rialú. D’ainneoin na hoibre suntasaí agus éigeantaí a rinne Lár-Aonad Grinnfhiosrúcháin an Gharda Síochána (GCVU) cheana féin, freagraíonn easnamh an chreata reachtúil sin do bharna thromchúiseach sa reachtaíocht atá ann a dhíríonn ar leanaí a chosaint ó dhochar. Mar sin féin, d’aibhsigh an Oifig seo nach bhfuil i ngrinnfhiosrúchán ach comhpháirt amháin de chóras cosanta leanaí atá níos mó agus nach féidir leis sábháilteacht leanaí a chinntiú ina aonar; níl meicníocht láidir ghrinnfhiosrúcháin ina hionadú ar phróisis láidre earcaíochta agus bainistíochta.

Thug comhairle na hOifige aghaidh ar na poist fostaíochta ba cheart a bheith faoi réir grinnfhiosrúcháin, faoi bhunú agus fheidhmiú an Bhiúró Náisiúnta Grinnfhiosrúcháin, faoi nósanna imeachta maidir le nochtadh grinnfhiosrúcháin, agus faoi chionta faoin mBille.

An Fóram faoi Phátrúnacht agus Iolrachas san Earnáil Bhunoideachais – Lúnasa 2011

I mí Aibreáin 2011, sheol an tAire Oideachais agus Scileanna an Fóram faoi Phátrúnacht agus Iolrachas san Earnáil Bhunoideachais, ar fóram náisiúnta faoi phátrúnacht scoile é. Cuimsíonn sé próiseas fairsing comhairliúcháin d’fhonn tuilleadh iolrachais sa rialú scoileanna a éascú. Fógraíodh an tOllamh John Coolahan (Cathaoirleach), an Dochtúir Caroline Hussey agus Fionnuala Kilfeather Uasal mar bhaill den Ghrúpa Comhairleach Neamhspleách leis an bhFóram. Bhuail an tOmbudsman do Leanaí le Cathaoirleach an Ghrúpa Chomhairligh i mí Iúil 2011.

I mí Lúnasa 2011, rinne an tOmbudsman do Leanaí aighneacht fhoirmiúil leis an bhFóram faoi Phátrúnacht agus Iolrachas. Tugadh faoi deara san aighneacht sin go bhfuil an tsaincheist a bhaineann le rogha na dtuismitheoirí ina príomhcheist don Fhóram ach go bhfuil sé chomh tábhachtach céanna cuimhneamh ar ghné chearta na leanaí agus an tionchar a imreoidh aon athruithe a thagann as obair an Fhórait ar leanaí. Sa chomhthéacs sin, tharraing an Oifig aird ar oibleagáidí idirnáisiúnta na hÉireann i ndáil le cearta na leanaí, le tagairt ar leith do Choinbhinsiún na Náisiún Aontaithe ar Chearta an Linbh.

Mhol an tOmbudsman do Leanaí go ndéanfaidh próiseas athraithe a bhfuil tiomantas léirithe do chearta, leas agus leasanna is fearr leanaí mar bhonn agus taca aige teorainn a chur le nádúr agus fad na mbuarthaí a d’fhéadfadh athruithe beartaithe a thagann as obair an Fhórait a chruthú. Ba é cuspóir an chur chuige seo a áirithiú go láimhseálfaí go hiomchuí gearáin a d’fhéadfadh teacht chun cinn má bhíonn an tiomantas céanna seo ina bhonneolas maidir le beartais agus nósanna imeachta áitiúla.

Ba é tuairim an Ghrúpa Chomhairligh leis an bhFóram go mbeadh an Oifig ina meicníocht oiriúnach achomhairc maidir le gearáin a bhaineann le clárú agus le saincheisteanna eile a d’fhéadfadh teacht as athruithe a chuireann an Fóram i bhfeidhm. Bhí an Oifig sásta an tuairim seo a shonrú, mar aon leis na tagairtí a rinne an Grúpa Comhairleach do na tuairimí a bhí curtha in iúl ag leanaí agus daoine óga a ndeachaigh an Grúpa Comhairleach i gcomhairle leo i dtaobh na saincheisteanna lena mbaineann.

Tá gach ceann de dhoiciméid bheartais Oifig an Ombudsman do Leanaí ar fáil le haghaidh íoslódála ar www.oco.ie/publications/policy.html

Rochtain ar nótaí teiripeacha

Go luath in 2011, ardaíodh buarthaí le hOifig an Ombudsman maidir leis an eisiúint rochtana ar nótaí teiripeacha a bhaineann le leanaí ar tugadh mí-úsáid ghnéasach dóibh agus le húsáid na faisnéise atá istigh iontu i gcomhthéacs na n-ionchúiseamh coiriúil. Chuir gairmithe sinsearacha míochaine a sholáthraíonn seirbhísí measúnaithe agus teiripeacha do leanaí ar tugadh mí-úsáid ghnéasach dóibh an tuairim in iúl go raibh eisiúint na nótaí a rinneadh le linn a gcuid oibre teiripí – ar leith ón bpróiseas measúnaithe – chun cabhrú leis an ionchúiseamh fadhbach. Go háirithe, bhí imní ann nach féidir leis na leanaí lena mbaineann dul i riosca agus páirt a ghlacadh sa teiripe i gcás nach féidir le cliniceoirí mothú príobháideachais, iontaoibh agus rúndachta a bhunú sa chaidreamh teiripeach.

D'ardaigh an tOmbudsman do Leanaí na buarthaí seo leis an Stiúrthóir Ionchúiseamh Poiblí (DPP), le linn di an tábhacht a bhaineann le hionracas na n-ionchúiseamh poiblí a admháil. Tar éis di dul i dteagmháil le hOifig an Stiúrthóra Ionchúiseamh Poiblí, scríobh an tOmbudsman do Leanaí chuig an Aire Dlí agus Cirt agus Athchóirithe Dlí, ag leagan béime ar an neamhláithreacht creata reachtúil a rialaíonn an réimse seo agus ag moladh gur cheart breithniú a dhéanamh ar aghaidh a thabhairt ar an tsaincheist i reachtaíocht phríomhúil. Chuir an tAire in iúl ina fhreagra gur chuir an Roinn Dlí agus Cirt agus Comhionannais tús le comhairliúchán leis an Stiúrthóir Ionchúiseamh Poiblí, leis an nGarda Síochána agus leis an Roinn Leanaí agus Gnóthaí Óige lena gcuid tuairimí a dhearbhu faoi mholtaí an Rapóirtéara Speisialta ar Chosaint Leanaí ina leith seo, agus go ndéanfaí tuilleadh breithnithe ar an ngá le gníomhaíocht reachtaíochta sa réimse seo agus an comhairliúchán críochnaithe agus tuilleadh faisnéise ar láimh.

Coiste na Náisiún Aontaithe in aghaidh an Chéasta (UNCAT)

Scrúdaigh UNCAT Éire i mí na Bealtaine 2011. Cé nach ndearna an Oifig aighneacht fhoirmiúil maidir leis an bpróiseas seo, rinne an Coiste tagairt, le linn a phlé leis an toscaireacht Stáit, don tuarascáil a d'fhoilsigh an Oifig faoi thuairimí na ndaoine óga atá faoi choimeád i bhForas Naomh Pádraig. D'iarr an Coiste téarmaí tagartha imscrúdaithe na hOifige a shíneadh le go ndéanfaí daoine óga atá 16 bliana d'aois agus 17 mbliana d'aois atá faoi choimeád i bhForas Naomh Pádraig a chur san áireamh.

Athbhreithniú Tréimhsiúil Uilechoiteann Chomhairle na Náisiún Aontaithe um Chearta an Duine (UPR)

I mí Dheireadh Fómhair 2011, rinne Comhairle na Náisiún Aontaithe um Chearta an Duine scrúdú ar Éire mar chuid dá próiseas UPR.

Ós rud é go bhfuil sí ar an gcomhlacht náisiúnta reachtúil um chearta an duine do leanaí in Éirinn, d'ullmhaigh Oifig an Ombudsman do Leanaí aighneacht don Chomhairle inar leagadh amach cuid de na príomhbhuarthaí i réimse chearta na leanaí in Éirinn. Áiríodh orthu athchóiriú bunreacht, cosaint leanaí, feabhas a chur ar imscrúdú agus fhaireachán ar sheirbhísí leanaí, bochtaineacht leanaí, meabhairshláinte, ceartas óige, leanaí dealaithe ag iarraidh tearmann, agus oideachas na leanaí a bhfuil riachtanais speisialta acu.

San fhaisnéis a chuir sí ar fáil do Stáit eile maidir le cás reatha chearta an duine in Éirinn, d'fhreagair Oifig Ard-Choimisinéir na Náisiún Aontaithe um Chearta an Duine (OHCHR) do mhórchuid na moltaí a rinne an tOmbudsman do Leanaí. Le linn an phlé idir an Chomhairle agus an toiscaireacht Éireannach, tugadh tosaíocht do shaincheistean leanaí a d'ardaigh an Oifig seo agus ar ghlac OHCHR leo, lena n-áirítear iad siúd a bhaineann le fairsingiú théarmaí tagartha imscrúdaithe an Ombudsman do Leanaí.

Cé gur ghlac Stát na hÉireann le roinnt de mholtaí na Comhairle a bhaineann le cearta leanaí, bhí raon saincheistean freisin a gheall an Stát a mheas tuilleadh sula dtabharfadh sé freagairt don Chomhairle. I rith 2012, leanfaidh an Oifig d'fhaireachán a dhéanamh ar dhul chun cinn na saincheistean sin agus saincheistean eile a d'ardaigh an Chomhairle.

Athbhreithniú ar an Acht um Ombudsman do Leanaí, 2002

Déantar foráil in Alt 7(1)(h) den Acht 2002 go ndéanfaidh an tOmbudsman do Leanaí faireachán agus athbhreithniú ar fheidhmiú an Achta 2002 agus, nuair a mheasann sí go bhfuil gá leis, déanfaidh sí moltaí leis an Aire Leanaí nó Gnóthaí Óige nó leis an Oireachtas, nó leis an dá cheann acu, mar gheall ar leasú an Achta. Cé gur tharraing Oifig an Ombudsman do Leanaí aird ar easnamh áirithe den Acht 2002 roinnt uaireanta – go háirithe i ndáil le raon feidhme théarmaí tagartha imscrúdaithe na hOifige – ní dhearnadh aon athbhreithniú den chineál sin a ullmhú agus a chur faoi bhráid an Rialtais agus an Oireachais lena bhreithniú.

Mar thoradh ar an taithí a ghnóthaigh an Oifig sna chéad 7 mbliana dá hoibriúchán, chinn an tOmbudsman do Leanaí in 2011 athbhreithniú a dhéanamh ar an Acht 2002. Rinneadh méid suntasach obair ullmhúcháin i rith na bliana agus tá sé beartaithe go ndéanfar an t-athbhreithniú ar an Acht 2002 a chríochnú agus a fhoilsiú i rith 2012.

Rannpháirteachas le Líonra agus le heagraíochtaí idirnáisiúnta

Is í sainfeidhm an Ombudsman do Leanaí faoin Acht 2002 comhoibriú leis na hOmbudsmana do Leanaí i stáit eile. I rith 2010, lean an Oifig ar aghaidh lena rannpháirteachas láidir gníomhach le Líonra Eorpach na nOmbudsman do Leanaí (ENOC), agus le Líonra Ombudsman agus Coimisinéirí Leanaí na Breataine agus na hÉireann (BINOCC).

Ba é an tOmbudsman do Leanaí Cathaoirleach an ghrúpa oibre a bhunaigh Comhthionól Ginearálta ENOC chun plé a dhéanamh ar reachtanna agus ar chaighdeán an Líonra nach mór d'fhorais neamhspleácha chearta na leanaí a chomhlíonadh d'fhonn cáiliú do bhallraíocht san ENOC.

Bhí Oifig an Ombudsman do Leanaí rannpháirteach freisin le raon comhlachtaí tábhachtacha idirnáisiúnta a bhfuil freagracht orthu as cur chun cinn agus cosaint chearta an duine, lena n-áirítear:

- Misean Shaineolaí Neamhspleách na NA ar Chearta an Duine & ar Fhíorbhochtaineacht, Magdalena Sepúlveda, go hÉirinn i mí Eanáir 2011;
- Coimisinéir Chomhairle na hEorpa um Chearta an Duine, an tUas. Thomas Hammarberg, mar chuid dá cuairt tíre go hÉirinn i mí an Mheithimh 2011; agus

- Cathaoirleach Choiste na NA um Chearta an Linbh, an tUas. Jean Zermatten, le hoibriú an tríú prótacal roghnach a ghabhann le Coinbhinsiún na NA um Chearta an Linbh a dhéanann foráil do mheicníocht gearán idirnáisiúnta a phlé i mí Dheireadh Fómhair 2011.

De bhreis air sin, thug an tOmbudsman do Leanaí aitheasc do chomhdhála suntasacha idirnáisiúnta um chearta na leanaí, lena n-áirítear:

- Seimineár Chomhairle na hEorpa ar ghné chearta an duine d'imirce ar an Eoraip in Iostanbúl i mí Feabhra, 2011. D'iarr Coimisinéir Chomhairle na hEorpa um Chearta an Duine, Thomhas Hammerberg, i gcomhar le Cathaoirleacht Thurcach de Choistí Airí Chomhairle na hEorpa, ar an Ombudsman do Leanaí aitheasc a thabhairt don seimineár a dhíríonn ar obair Oifig an Ombudsman do Leanaí le daoine óga dealaithe in Éirinn; agus
- Comhdháil CÉINAL ar an bhfaireachán ar chéasadh agus ar dhrochíde i gcomhthéacs an cheartais d'ógánaigh i gCív i mí Dheireadh Fómhair, 2011. Ba é príomhfhócas na comhdhála seo cabhrú le tíortha ar nós na hAirméine, na Seoirsia, na Casacstáine, na Moldóive agus na hÚcráine agus iad ag forbairt chumas na n-eagraíochtaí neamhrialtasacha um chearta an duine agus na n-oifigí Ombudsman d'fhonn faireachán a dhéanamh ar ionaid choinneála agus taighde a dhéanamh. Iarradh ar an Ombudsman do Leanaí aitheasc a thabhairt don chomhdháil mar gheall ar an obair a rinne an Oifig seo ar leanaí faoi choinneáil i bhforas Naomh Pádraig.

6

RANNPHÁIRTEACHAS AGUS OIDEACHAS

Déanann Alt 7 den Acht 2002 tacar cumhachtaí uathúla reachtúla a thabhairt don Ombudsman do Leanaí a chomhlánaíonn obair na hOifige i ngearáin a imscrúdú agus oibleagáid dhearfach a chur air faireachán a dhéanamh ar chearta agus leas na leanaí agus iad a chur chun cinn go dtí go bhfuil siad ocht mbliana déag d'aois. Tá na nithe seo a leanas i measc oibleagáidí na hOifige faoi Alt 7:

- beartais, nósanna imeachta agus cleachtais a spreagadh a chuireann cearta agus leas na leanaí chun cinn;
- feacht a chur chun cinn i measc an phobail, leanaí san áireamh, ar shaincheisteanna a bhaineann le cearta agus leas leanaí;
- struchtúir a bhunú chun comhairliúchán a dhéanamh le leanaí; agus
- béim a leagan ar shaincheisteanna a bhaineann le cearta agus leas leanaí ar cúis imní iad do na leanaí féin.

Go bunúsach, cuimsítear dhá shraith in obair rannpháirteachais agus oideachais na hOifige. Is é is aidhm leis an gcéad sraith, ina gcuimsítear tionscnaimh amhail a clár cuairteanna agus an fhorbairt ábhar acmhainní ar chearta an duine, a bheith rannpháirteach leis an bpobal leanaí i gcoitinne agus feacht ar shaincheisteanna a bhaineann le cearta na leanaí atá ábhartha do na mílte leanaí a chur chun cinn. Is éard atá sa dara sraith ceangal go díreach le grúpaí leochaileacha leanaí a bhfuil sé níos deacra teacht orthu agus a gcloistear a gcuid tuairimí go hannamh. Áiríodh ar obair na hOifige faoin tsraith seo in 2011 gníomhaíochtaí a rinne forbairt ar a cuid oibre le daoine óga faoi bhun 18 mbliana d'aois a bhí faoi choimeád i bhForas Naomh Pádraig in 2009/2010 agus tionscnamh chun teagmháil dhíreach a dhéanamh le daoine óga a bhfuil taithí acu ar easpa dídine.

Clár Oideachais um Chearta na Leanaí

Á sheachadadh do ghrúpaí leanaí agus daoine óga a thugann cuairt ar an Oifig, tá an clár oideachais um chearta ina chuid thábhachtach d'obair rannpháirteachais agus oideachais na hOifige. Soláthraíonn sé an deis dul i dteagmháil dhíreach, agus ar bhonn leanúnach, le leanaí agus daoine óga ag aoiseanna éagsúla, a chónaíonn i gceantair éagsúla den tír agus i gcúinsí éagsúla. I rith 2011, thug 750 leanbh agus duine óg ó scoileanna, ó thionscadail óige agus ó sheirbhísí eile leanaí i mBaile Átha Cliath, i gCill Dara, i Maigh Eo, i nDún na nGall, i bPort Láirge, sa Mhí, san Iarmhí agus i Muineachán, cuairt ar an Oifig chun páirt a ghlacadh i gceardlanna bunaithe ar ghníomhaíocht. De bhreis ar thuiscint leanaí agus daoine óga ar

chearta an duine, cuireann na ceardlanna seo ar chumas na hOifige cloisteáil agus foghlaim go díreach ó leanaí agus ó dhaoine óga maidir leis na saincheisteanna a théann i bhfeidhm orthu agus a bhfuil imní orthu fúthu.

In 2011, ghlac an-chuid leanaí agus daoine óga páirt freisin i gceann amháin de na comhairliúcháin seo a leanas a rinne an Oifig tríd an gClár seo:

Cúram Sláinte a oireann do Leanaí

Idir mí na Bealtaine agus mí an Mheithimh 2011, d'éascaigh Oifig an Ombudsman do Leanaí cúig ghrúpa leanaí maidir lena gcuid tuairimí a chur le comhairliúchán Chomhairle na hEorpa le leanaí maidir le cúram sláinte a oireann do leanaí. Chuir an comhairliúchán seo ar chumas leanaí a bheith rannpháirteach i gcomhairliúchán ag an leibhéal Eorpach a thionscain Comhairle na hEorpa chun críocha Treoirínte maidir le Cúram Sláinte a oireann do Leanaí nua a fhorbairt.

Cheap foireann Oifig an Ombudsman do Leanaí na comhairliúcháin timpeall ar théamaí leathana a cuireadh san áireamh i gceistneoir Chomhairle na hEorpa. Thug na 125 leanbh a ghlac páirt sa chomhairliúchán seo tuairimí ar thimpeallacht fhisiceach na suíomhanna cúram sláinte a úsáideann leanaí; ar ról na dtuismitheoirí agus na mball teaghlaigh eile i gcúram sláinte leanaí; ar fhaisnéis do, agus cumarsáid le, leanaí i ndáil le cóireálacha atá á bhfáil acu; ar dheiseanna lena gcuid tuairimí agus cúiseanna imní a chur in iúl do ghairmithe cúram sláinte; agus ar dhearcthaí agus iompraíochtaí na ngairmithe sláinte maidir le leanaí.

Ar roinnt de na saincheisteanna a tháinig aníos, bhí:

- Na tréimhsí agus na láithreacha feithimh – cheap formhór na leanaí gur rófhada a bhí an t-am a chaith siad i láithreacha feithimh sula bhfaca an gairmí cúram sláinte iad.
- An timpeallacht fhisiceach – bhí rannpháirtithe den tuairim gur cheart suíomhanna cúram sláinte a úsáideann leanaí a bheith geal agus dathach agus ba cheart ionaid le scíth a ligean agus leapacha compordacha glana freisin a bheith acu, agus a bheith ina timpeallacht ina mbeadh bhaill teaghlaigh ábalta fanacht le leanaí.
- Ról na dtuismitheoirí agus an teaghlaigh – Bhí na leanaí den tuairim go bhfuil sé tábhachtach baill teaghlaigh a bheith acu leo mar go gcabhraíonn sé seo leo mothú go bhfuil siad sábháilte agus slán i suíomhanna cúram sláinte. Mheabhraigh leanbh amháin an t-eispéireas a bhí aici nuair a bhí eagla agus uaigneas uirthi uair amháin nuair a bhí uirthi fanacht le cóireáil ina haonar toisc go raibh an láthair feithimh i gcuid den ospidéal nach raibh cead ag a tuismitheoirí dul isteach inti.
- Faisnéis agus cumarsáid – chuir formhór na leanaí rannpháirteacha an tuairim in iúl gur minic a labhraíonn gairmithe cúram leanaí róghasta agus go n-úsáideann siad focail nach dtuigeann leanaí. Chuir leanaí síos ar eispéiris nuair nach raibh siad cinnte cad a bhí ag tarlú tar éis dóibh dul chuig gairmí cúram sláinte. Bhí siad den tuairim freisin go bhfuil ar ghairmithe cúram sláinte cumarsáid dhíreach a dhéanamh le leanaí i dteanga agus ar bhealach a oireann do leanaí (úsáideadh focail amhail “mín”, “croíúil” agus “foighneach” ina leith seo). Bhí formhór mór na leanaí den tuairim gur cheart do thuismitheoirí a bheith i láthair agus a bheith páirteach in aon phlé a bhaineann le cóireáil leighis a linbh.

- Éisteacht le leanaí – bhí formhór na leanaí rannpháirteacha den tuairim nach n-éistean gairmithe sláinte le leanaí agus nach dtugann siad deiseanna dóthanacha do leanaí ceisteanna a chur i gcoitinne.

Rinneadh dea-ionadaíocht dá gcuid tuairimí i dtuarascáil ar an gcomhairliúchán ag an leibhéal Eorpach, inar tugadh eolas do ghlacadh Chomhairle na hEorpa leis na Treoirlínte nua i mí Mheán Fómhair 2011.

Bulaíocht

Mar chuid den Chlár seo, bhuaill Oifig an Ombudsman do Leanáí idir mí Mheán Fómhair agus mí na Samhna 2011 le grúpaí leanaí ó 10 scoil (200 leanbh) agus rinne sí comhairliúchán maidir lena mbarúlacha agus lena dtuairimí a bhaineann lenar féidir le scoileanna a dhéanamh chun teagmhais bhulaíochta a chosc agus a chomhrac. Ba é a bhí sna 10 ngrúpa a ghlac páirt ann meascán de dhaltáí bunscoile agus meánscoile ó roinnt contaetha agus meascán de shuíomhanna uirbeacha agus tuaithe. Ba as an 5ú rang a bhí an grúpa is óige agus bhí daltaí tríú bliain ar an ngrúpa is sine. Ina theannta sin, ghlac grúpa amháin daoine óga ó ghrúpa tacaíochta meabhairshláinte páirt sa chomhairliúchán.

Bhí na nithe seo a leanas ar na príomh-theachtaireachtaí a chuir leanaí agus daoine óga ina leith seo:

- Ba cheart do scoileanna cur chuige réamhghníomhach a ghlacadh maidir le labhairt faoi bhulaíocht agus feasacht ar bhulaíocht a mhúscailt;
- Ba cheart treoir a thabhairt do leanaí agus do dhaoine óga maidir lenar cheart dóibh a dhéanamh i gcás ina dtarlaíonn bulaíocht dóibh agus ina bhfeiceann siad bulaíocht agus ba cheart dóibh tuiscint shoiléir chomhroinnte a bheith acu ar an dóigh a ndéileáil na scoil le teagmhais bhulaíochta;

Cuirfear an fhaisnéis a bhaileofar ón gcomhairliúchán sin san áireamh san obair amach anseo a dhéanfaimid ar an gceist um bulaíocht.

Leanáí agus na Meáin

Chuaigh an Oifig i gcomhairle le leanaí agus daoine óga ar cuairt i ndáil leis an úsáid a bhaineann siad as na meáin ionas go bhféadfaidh a gcuid tuairimí eolas a thabhairt dá hobair leanúnach lena cur chuige cumarsáide le leanaí a fhorbairt agus a éagsúlú.

Ba é an príomhchuspóir plé a éascú ar an úsáid a bhaineann leanaí agus daoine óga as na meáin agus na meáin shóisialta mar aon lena n-idirghníomhaíocht leo, lena n-áirítear tuilleadh eolais a fháil ar na cineálacha meán atá á n-úsáid acu, na pointí dearfacha agus diúltacha a mheas siad a bheith ann agus na meáin éagsúla seo á n-úsáid acu, conas ba mhaith leo go mbeadh teacht níos fearr ag daoine óga ar na meáin agus, ar deireadh, conas a d'fhéadfadh an Oifig, ina dtuairim, na meáin a úsáid lena teachtaireacht a chur in iúl.

Maidir le húsáid na meán, bhí teagmháil rialta ag gach grúpa leis raidió, leis an teilifís, leis na nuachtáin agus leis an Idirlíon, mar a rabhthas ag súil leis. D'úsáid na grúpaí an tIdirlíon i bhfad níos mó ná na meáin eile agus ba é an rogha roghnaithe é. I gcoitinne, luaigh na grúpaí nach léifidís nuachtáin nó nach léifidís go minic iad.

Luaigh na grúpaí go léir go raibh spéis acu i bhfoghlaim faoi chúrsa reatha ach bhí siad den tuairim nár cuireadh an nuacht in iúl ar dhóigh a n-oireann do leanaí agus, dá bhrí sin, níor thug siad mórán airde.

Agus an t-idirlíon agus na meáin shóisialta go háirithe á bplé acu, cheap daoine óga gur dóigh iontach é le coinneáil i dteagmháil le cairde agus le teaghlach. Luaigh na daoine óga go léir a ghlac páirt a raibh rochtain rialta acu ar an Idirlíon go n-úsáidfidís é chun foghlaim faoi rudaí, tionscadail taighde agus nuacht a sheiceáil. Mar sin féin, cé gur aithin na leanaí gurb iad Facebook, YouTube agus Twitter na príomhshuíomhanna meán sóisialta, ní raibh siad chomh cinntitheach sin maidir leis an áit a rachaidís chun faisnéise nó nuacht a fháil.

Labhair siad faoi rochtain freisin; thug an t-idirlíon rochtain ar gach ar mhaith le daoine óga a bheith acu ar a gcaoihiúlacht am ar bith ar mhaith leo é, gan fógraí nó gan chlár nach ndírítear orthu.

Sa deireadh, phléigh siad sábháilteacht; labhair dhá cheann de na grúpaí go díreach faoi bhuarthaí sábháilteachta a bhaineann le bheith ar líne agus bhí aithne ag formhór na leanaí sin ar dhuine ag a raibh droch-eispéireas ar líne nó luaigh siad go raibh droch-eispéireas acu féin. Ba iad na droch-eispéiris is mó: bulaíocht ar líne, ábhar mí-oiriúnach ar líne, agus na contúirtí a bhaineann le daoine/daoine fásta mí-oiriúnacha ag déanamh teagmhála leo ar líne.

Thug sé seo eolas ina dhiaidh sin maidir leis an dóigh a ndéanann Oifig an Ombudsman do Leanaí teagmháil leis na meáin i ndáil le raon saincheisteanna.

Ábhair Oideachais faoi Chearta na Leanaí

I rith 2010, d'fhorbair an Oifig ábhair acmhainní oideachais faoi chearta agus shaol leanaí in Éirinn dar teideal What do You Say? do mhúinteoirí lena n-úsáid i mbunscoileanna, i scoileanna iarbhunscoile agus in ionaid Ógtheagmhála. Mar gheall ar an bhfreagairt dhearfach do na hábhair ó mhúinteoirí a oibríonn ag an leibhéal bunscoile agus iarbhunscoile, go luath in 2011 d'eisigh an Oifig cóip de na hábhair sin do gach bunscoil, scoil iarbhunscoile agus ionad Ógtheagmhála sa tír.

Tá na hábhair sin ar fáil i mBéarla agus i nGaeilge agus cuimsíonn siad lámhleabhair do mhúinteoirí, póstaer agus DVD is féidir a úsáid le haghaidh oibre le leanaí atá 4 bliana d'aois agus níos sine. Is iad na saincheisteanna a chuirtear i láthair chun críche foghlama bunaithe ar ghníomhaíocht ná: tuairimí a bheith acu agus iad a chur in iúl; teaghlach agus cúram; sláinte agus saibhreas; oideachas; súgradh, fóillíocht agus caitheamh aimsire; cuimsiú; agus leanaí agus an dlí. Chuir an Oifig na hábhair ar fáil le híoslódáil óna láithreán Gréasáin freisin.

Béim a chur ar Bhuarthaí Daoine Óga i bhForas Naomh Pádraig

I mí Feabhra 2011, d'fhoilsigh an Oifig tuarascáil ina leagtar síos torthaí a comhairliúcháin le daoine óga 16 bliana d'aois agus 17 mbliana d'aois faoi choimeád i bhForas Naomh Pádraig, ar príosún dúnta le meánmhéid slándála é atá faoi stiúir Sheirbhís Príosún na hÉireann (IPS).

Ba é cuspóir foriomlán an chomhairliúcháin seo cloisteáil go díreach ó dhaoine óga faoina n-eispéiris ar bheith faoi choimeád ag féachaint dá bpeirspictíochtaí ar an réimeas agus na

coinníollacha sa phríosún. Ba é an sprioc a bhí ann go mbreathnódh lucht bainistíochta Fhoras Naomh Pádraig, IPS, agus lucht déanta beartais go cuí ar a dtuairimí, agus, go ginearálta, go ndéanfaí dul chun cinn ar mheas ar chearta agus leas daoine óga sna agus trí na beartais, nósanna imeachta agus cleachtais a fheidhmítear le haghaidh daoine faoi bhun 18 mbliana d'aois sa phríosún.

Ag forbairt ar obair na hOifige i bhForas Naomh Pádraig, lean an tOmbudsman do Leanaí de bhéim phoiblí agus ar leibhéal Airí a chur ar an ngá le socruithe malartacha cuí a shainaitheint agus a chur chun cinn, gan mhoill, chun úsáid Fhoras Naomh Pádraig mar áit choinneála do leanaí faoi bhun 18 a laghdú go radacach agus tús a chur le deireadh a chur leis.

Chuir an tOmbudsman do Leanaí béim fosta ar an tábhacht a bhaineann le leanúint de bhearta a chur i bhfeidhm chun feabhas a chur ar an soláthar i bhForas Naomh Pádraig fad is go bhfuiltear ag coinneáil daoine óga faoi bhun 18 ansin. Ina theannta sin, chuir sí béim nach mór aghaidh a thabhairt ar an gcás go bhfuil bac ar an Ombudsman do Leanaí faoi Acht 2002 ó ghearáin a dhéanann daoine óga faoi 18 atá coinnithe i bhForas Naomh Pádraig, nó a dhéanann daoine thar a gceann a imscrúdú.

Torthaí

Aithníonn an Oifig gur tionscnaíodh roinnt athruithe i gcomhréir le cuid de na moltaí a rinneadh ina tuarascáil i rith 2011.

- Ag freagairt do mholadh a thug daoine óga a ghlac páirt ina comhairliúchán, chabhraigh an Oifig le hábhair faisnéise nua a oireann d'ógánaigh a fhorbairt a dhíríonn ar fheasacht agus ar thuiscint daoine óga ar rialacha, na nósanna imeachta agus ar sheirbhísí an phríosúin a fheabhsú.
- Bhí an Oifig rannpháirteach freisin i gclár oiliúna ar dhaoine óga sa tsochaí d'oifigigh phríosúin a oibríonn le daoine óga faoi bhun 18 mbliana d'aois i bhForas Naomh Pádraig. I mí na Samhna 2011, sholáthair foireann na hOifige ceardlann oiliúna ar chearta na leanaí d'oifigigh phríosúin i bhForas Naomh Pádraig. Mar sin féin, tá freagracht as soláthar a fheabhsú ar fud réimse leathan seirbhísí, agus as na hidirghabhálacha sin, go fóill ar an Roinn Leanaí agus Gnóthaí Óige agus an Roinn Dlí agus Cirt, Comhionannais agus Cosanta, agus ar sheirbhísí faoina gcoimirce, lena n-áirítear Seirbhís na hÉireann um Chearta i leith an Aosa Óig agus Seirbhís Príosún na hÉireann. Is gá go gcomhoibríonn siad go héifeachtach i gceapadh agus i soláthar na hoiliúna agus idirghabhálacha eile a chosnaíonn cearta agus riachtanais leasa na ndaoine óga faoi bhun 18 mbliana d'aois atá faoi choimeád i bhForas Naomh Pádraig,

I mí an Mheithimh 2011, leag an tOmbudsman do Leanaí a buarthaí amach don Ghrúpa Athbhreithnithe um Príosún Halla Thornton maidir leis an gcoimeád leantach leanaí i bhForas Naomh Pádraig, ag moladh socruithe le haistriú na leanaí as Foras Naomh Pádraig a éascú agus chuir sí a buairt in iúl nár cheart do cheisteanna leanúnacha maidir le caidreamh tionscail a bheith mar bhacainn ar chearta leanaí.

I mí Dheireadh Fómhair 2011, scríobh an tOmbudsman do Leanaí chuig an Aire Leanaí agus Gnóthaí Óige, ag cur buairt mhór in iúl maidir leis an gcoimeád leantach leanaí i bhForas Naomh Pádraig agus ag iarraidh go foirmiúil ar an Aire cinntiú go ndéanfaí beart práinneach chun deireadh a chur leis an gcleachtas seo.

Chuir an tOmbudsman do Leanaí a buairt in iúl, ní amháin faoin timpeallacht fhisiceach, ach faoin gcultúr a mhair i bhForas Naomh Pádraig agus faoin dóigh ar caitheadh le leanaí faoina chúram freisin.

Aibhsíodh sa litir príomhbhuarthaí an Ombudsman do Leanaí, lena n-áirítear easpa cloí le treoirlínte cosanta leanaí, an úsáid a bhaintear as cleachtais phionósacha, cleachtais ar cúis eagla iad do na leanaí sin, gearáin a dhéanann leanaí faoin dóigh a gcaitear leo i bhForas Naomh Pádraig gan aon sásamh leis an Oifig seo agus roinnt leanaí a thuairiscigh nach mothaíonn siad sábháilte i bhForas Naomh Pádraig.

Ag éisteacht le daoine óga a bhfuil taithí ar easpa dídine acu

I mí Mheán Fómhair 2011, chuir an Oifig tús le comhairliúchán le daoine óga a bhfuil taithí acu ar easpa dídine agus ar rochtain a fháil ar sheirbhísí lasmuigh d'uaireanta oibre, ar sheirbhísí idirghabhála géarchéime agus ar sheirbhísí cóiríochta éigeandála.

Tá an comhairliúchán seo mar chuid de phíosá níos leithne oibre ina bhfuil an Oifig rannpháirteach leis an FSS faoin tsaincheist. D'iarr comhairliúchán na hOifige léargas a fháil ar eispéiris phearsanta na ndaoine óga ar sheirbhísí easpa dídine a rochtain agus a úsáid agus, bunaithe ar na heispéiris seo, ar na rudaí ba cheart a dhéanamh, ina dtuairim, le feabhas a chur ar an soláthar atá ann do leanaí ar gá dóibh leas a bhaint as na seirbhísí seo.

Idir mí Mheán Fómhair agus mí na Nollag 2011, rinne an Oifig agallaimh duine le duine le daoine óga atá ag úsáid nó a bhfuil taithí acu ar na seirbhísí sin a úsáid i mBaile Átha Cliath agus i gCorcaigh – an dá áit in Éirinn ina bhfuil cóiríocht de stíl bhrú á húsáid faoi láthair le haghaidh daoine óga.

Tabharfaidh tuarascáil, ina ndoiciméadófar eispéiris agus peirspictíochtaí na ndaoine óga a bheidh le tarraingt suas go luath in 2011, eolas do rannpháirteachas leanúnach na hOifige leis FSS ar fheabhas a chur ar an ngné ríthábhachtach seo de na seirbhísí do leanaí agus daoine óga atá an-leochaileach.

Taighde le haghaidh Leanaí agus le Leanaí

Oideachas le haghaidh Leanaí faoi Chúram

I rith 2011, rinne an Institiúid Taighde Eacnamaíochta agus Sóisialta agus an tIonad Taighde Leanaí, Coláiste na Tríonóide, Baile Átha Cliath dul chun cinn ar thaighde don Oifig maidir le hoideachas le haghaidh leanaí faoi chúram. Coimisiúnaíodh an taighde in 2010 mar thoradh ar bhuarthaí agus ar ghearáin a fuair an Oifig i ndáil leis na dúshláin os comhair leanaí faoi chúram altrama agus faoi chúram cónaithe chun rochtain ar agus/nó a bheith rannpháirteach in oideachas. Tá sé mar aidhm leis an tionscadal taighde thaiscéalaíoch seo bearta nithiúla

infheidhmithe a shainaithint lena gcur i bhfeidhm ag seirbhísí iomchuí laistigh de na córais oideachais agus sláinte/chúraim shóisialta ina bhféadfar tacú le leanaí a chónaíonn faoi chúram an Stáit freastal ar oideachas agus páirt a ghlacadh in oideachas. Cuimsíonn an taighde agallaimh le leanaí agus le daoine óga faoi chúram faoi láthair, mar aon leo siúd a bhí faoin gcúram sin roimhe. Foilseoidh an Oifig tuarascáil ina ndoiciméadófar torthaí an taighde seo agus ina ndéanfar moltaí in am is i dtráth.

Leanaí agus na Seirbhísí Sláinte

Ag aithint go bhfuil an tsaincheist maidir le soláthar cúram sláinte do leanaí ina saincheist a théann i bhfeidhm ar gach leanbh agus teaghlach in Éirinn, thug an Oifig faoi thionscnamh sa réimse seo ag teacht leis na bearta a luadh cheana atá á ndéanamh ag an leibhéal Eorpach. Freagraíodh sa thionscnamh ar leith seo don fhíríc go mbíonn líon suntasach de na gearáin a fuair an Oifig déanta suas gach bliain le seirbhísí sláinte do leanaí, agus le bearta riaracháin agus le cinnteoireacht ar chúrsaí a bhaineann le sláinte leanaí. Dá réir sin, choimisiúnaigh sí taighde ar bhearta a shainaithint le cur chun cinn agus dul chun cinn a dhéanamh ar chúram sláinte a oireann do leanaí agus ar chultúr measa ar chearta leanaí i suíomhanna cúram sláinte. Breathnaíodh sa taighde seo, atá á dhéanamh ag an gColáiste Ollscoile, Corcaigh, ar threoiríní, ar bheartais, ar chaighdeáin agus ar dhea-chleachtais ar féidir leo cúram sláinte a oireann do leanaí a chur chun cinn. Foilseofar torthaí an taighde seo i rith 2012 agus beidh siad mar bhonn eolais maidir le bearta ina dhiaidh sin de thionscnamh cúram leanaí na hOifige.

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