

# OMBUDSMAN

## FOR CHILDREN / DO LEANAÍ

ANNUAL REPORT / TUARASCÁIL BHLIANTÚIL 2014



# OMBUDSMAN FOR CHILDREN ANNUAL REPORT 2014





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# 1

## MESSAGE FROM THE OMBUDSMAN FOR CHILDREN

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I am pleased to submit to the Oireachtas my annual report for the period January 1 to December 31 2014 pursuant to Section 13(7) of the Ombudsman for Children Act, 2002.

I want to start this report by acknowledging my predecessor, Emily Logan, who took on the task of setting up the Office in 2004, following her appointment as Ireland's first Ombudsman for Children in December 2003, and establishing it as the powerful force it has become in the promotion and monitoring of children's rights and welfare in Ireland. Mobilising the provisions of the Ombudsman for Children Act 2002 with great dexterity,

she brought compassion, innovation, huge energy and strength of character to champion the rights of children in Ireland, in particular those children who face significant barriers to the realisation of their rights. It was a pleasure to work with her for two and a half years and during that time I saw at first hand the level of work and perseverance needed to bring children's rights to the fore of decision-making, including within different areas of civil and public administration. As I present this Annual Report for 2014, I would like to wish Emily well in her future career and to say that I am deeply honoured to have been chosen to build upon her work as Ombudsman for Children.

In 2014 the Ombudsman for Children's Office (OCO) marked the 10th anniversary of the Office by hosting a conference, which examined the State's relationship with children and families and included a renewed call for new accountability structures to ensure independence of Ombudsman institutions. At that conference, Emily Logan spoke of how *"as the environment in which children grow up continues to change, posing new challenges and raising new opportunities for them, I am constantly reminded of the importance of having an independent Office that will be available to promote their rights, investigate complaints and provide redress"*.

The ability to work independently with and on behalf of children is one of the greatest strengths of the Ombudsman for Children's Office. Independence has several dimensions, however, and one of the most important is having adequate resources to discharge the statutory functions invested in the Office by the Oireachtas. At present, the OCO receives its funding through the Department of Children and Youth Affairs. In practical terms,

the control of the OCO's budget by the Department has not proven to be problematic. However, it is inappropriate for an independent human rights institution to receive its funding through a public body that it can investigate. As noted in this report, complaints relating to services in or under the aegis of the Department of Children and Youth Affairs amounted to 25% of the total in 2014. I believe that the situation should be remedied by providing for the OCO's funding to come directly from the Oireachtas. This has also been a long standing recommendation from the UN Committee on the Rights of the Child.

The work outlined in this report is an indication of the diverse issues, which come to the attention of the Office through the operation of its statutory functions. In 2014, in the area of policy and legislation, the Office provided advice to the Minister for Justice and Equality on the General Scheme of the Children and Family Relationships Bill 2014 and observations to the Refugee Appeals Tribunal on its *Draft Guidelines in relation to Child Applicants for Refugee Status*. In respect of the latter, the Office provided comments on a range of issues, including staff training, the provision of adequate and appropriate information to young people within the system and the overarching principles that should inform the guidelines. In regard to the General Scheme of the Children and Family Relationships Bill 2014 one of the issues the Office commented on was the importance of clarifying, as far as possible, how surrogacy arrangements that people enter into abroad (both commercial and non-commercial) affect the legal status of children who are born as a result of them. The Office also welcomed the provisions contained within the General Scheme in relation to civil partnership and adoption, which rectify a significant omission from the relevant legislation with respect to children and which the Office had highlighted as a gap a number of years ago.

The Office continues to engage with international monitoring mechanisms. In this regard, the Office hosted a visit from the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in 2014. In our meeting with the CPT, we highlighted our concerns on several matters affecting young people in detention, including difficulties in accessing therapeutic services for young people in Oberstown at that time and issues arising for children in special care.

During 2014, the Office continued to deliver rights education workshops to children and young people visiting the OCO from across the country. Over 1,000 children and young people participated in the workshops in 2014 and, as has been the case in previous years, this programme proved a valuable opportunity for Office to hear the concerns of children and young people throughout Ireland. In 2014, we included a particular focus on facilitating children and young people to express their views on education and a selection of the perspectives they shared are highlighted in this report. The Office also continued to reach current and future professionals in the fields of social work, social care, education and healthcare through our programme of postgraduate seminars. Over 200 people took part in this programme during 2014, which afforded them an opportunity to develop their knowledge of the Office's work and to explore the relationship between children's rights and their professional practice.

In the area of complaints and investigations, the Office continues to work hard to respond efficiently and effectively to all complaints we receive. The information obtained through the receipt, examination and investigation of complaints continues to provide valuable insights into the experiences of children and families in dealing with public services. This enables the Office to not only improve the situation for individual children, but to also bring about systemic change that will improve the way different public bodies engage with all children and families.

The Office has continued to find that many public bodies are willing to take on board the lessons from complaints which arrive at the OCO and they go on to improve their services as a result of the Office's recommendations. An important part of an Ombudsman's role is to liaise and build relationships with those public bodies that come under her/his remit. This approach is vital if actions complained of are to be mitigated and the swiftest and best possible resolution to complaints are to be achieved. In dealing with 1,600 complaints during 2014, the Office continued to build strong, positive and credible relationships with all of the public bodies we interact with so that, even when there is a strong disagreement between the Office and the public body, all parties recognise that the focus must remain on the child at the centre of the complaint.

Unfortunately, 2014 did not see the progress hoped for as regards an end to the detention of all young people under 18 years of age in St. Patrick's Institution. However, 2014 did see positive developments in relation to the redevelopment of the Oberstown Detention Schools into a new National Children Detention Facility (NCDF) so that all children either on remand or sentenced can be accommodated there in the near future. During 2014, I engaged regularly with management in the Irish Prison Service and Oberstown to determine the current status of the young people under the care of both public bodies. OCO colleagues, meanwhile, contributed to the induction process for newly recruited staff in Oberstown and, as a result, these staff are aware of the role this Office may play as regards complaints made by or on behalf of children detained there. The Office is monitoring progress in the area of youth detention and will continue to engage, as necessary and appropriate, to promote the development of a model of youth justice that conforms fully with relevant international standards and best practice.

Concerns about the Direct Provision system have been expressed for many years by many organisations, including this Office. It is commendable that the Minister for Justice and Equality and the Minister of State with special responsibility for New Communities, Culture and Equality established a Working Group in October 2014 under the chairmanship of former High Court Judge Bryan McMahon to identify actions directed towards improving existing arrangements in the processing of protection applications, showing greater respect for the dignity of people in the system and improving their quality of life by enhancing the support and services currently available.

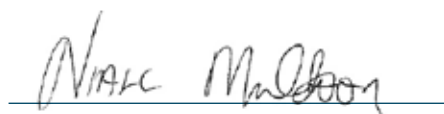
It has been the longstanding position of this Office that all children, including children who are international protection applicants in the Direct Provision system, should have



access to the Ombudsman for Children's Office. As such, the outcome of a High Court case in November 2014 was most encouraging when taken in conjunction with the announcement of this Working Group. Mr Justice Mac Eochaidh found that international protection applicants were entitled to have an independent complaints handling procedure and that it is not acceptable that the Reception and Integration Agency (RIA), which is both the author of the House Rules and in a commercial relationship with the accommodation provider, would be the final arbitrator in a dispute between residents and the commercial accommodation provider. He stated that this breaches the legal principle that nobody should be a judge in something that they have an interest in. It is my hope that 2015 will see children in the Direct Provision system having the same access to the Ombudsman for Children's Office as other children in Ireland. This would be a very welcome development. It would provide for an independent, impartial and efficient resolution of any issues of maladministration that may arise in relation to children in the system and should strengthen confidence in the system itself.

During 2014 the Office, which has a small, but very dedicated and efficient team, lost not only the first Ombudsman for Children, but also a number of other long standing members of staff. Pending sanction to fill vacated posts, it has been a challenging year for those remaining. However, I must commend all of my colleagues at the OCO as they continued to provide an outstanding service notwithstanding the continued pressures of high volumes of complaints and a redistribution of work as a result of unfilled vacated posts.

Access to an independent mechanism of redress, which provides an alternative to the courts, is fundamental to a well-functioning democracy and this Office will continue to offer such a mechanism for children, parents and other adults acting on behalf of children through our complaints function. It is through the full use of the range of powers of this Office that I will maintain the drive for better, more child-centred public services where the rights and welfare of children are fully considered as part of all decision-making processes affecting children.

A handwritten signature in blue ink, appearing to read 'Niall Muldoon', is written over a horizontal line.

**Dr. Niall Muldoon**  
Ombudsman for Children

# 2

## ORGANISATIONAL DEVELOPMENT

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### Corporate Services

#### Financial Control

The 2014 financial allocation of the Ombudsman for Children's Office was €1.888m.

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 2013 accounts took place in July 2014. Financial Statements for a particular year are generally not audited at the time of the relevant annual report's publication. Once approved by the Office of the Comptroller and Auditor General, they are published on the OCO's website and annual accounts for all years up to 2013 are available at [www.oco.ie](http://www.oco.ie).

Crowleys DFK Chartered Accountants provided accountancy services to the Office during 2014.

#### Human Resources

The Office has an approved complement of 15 staff. The use of this key resource to meet demands that continue to increase year-on-year, both in terms of volume and complexity, remains an ongoing challenge. The roles and functions of all staff in the Office are reviewed on a continual basis.

There were a number of very significant staffing changes in 2014, the main one being the departure of Emily Logan as Ombudsman for Children to take up the role of Chief Commissioner of the Irish Human Rights and Equality Commission.

The lengthy process involved in seeking sanction from the Department of Children and Youth Affairs and the Department of Public Expenditure and Reform to replace staff who have left to take up new opportunities has proved to be a significant challenge for the Office.

## Millennium House – use of premises

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

The Office is happy to continue to make the facilities of Millennium House available as a venue for appropriate events focused on the rights and welfare of children and young people. Among the groups that held consultations with young people in Millennium House in 2014 were the Youth Advisory Council representing the three children's hospitals, BeLoNG To, EPIC, Northside Partnership, the Irish Refugee Council, Headstrong and the Children's Rights Alliance.

## Overview of Energy Usage in 2014

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 2014, the Ombudsman for Children's Office used 68.161 MWh of electricity compared to 86.822 MWh in 2013, an drop of 21.5%. Despite an overall average unit price increase of 15.2% in 2014 as against 2013 the Office made saving of 9.6% in overall total costs.

A comprehensive review of energy consumption was carried out during the year by Corporate Services in association with the Office of Public Works. Energy usage is monitored on an ongoing basis. The OCO continues to operate a comprehensive internal recycling system.

## Media

As with previous years, there was significant media interest in, and widespread coverage of, the Office's work, including the Ombudsman for Children's advice on the General Scheme of the Children and Family Relationships Bill 2014 and publication of the Ombudsman for Children's *Investigation into a decision by the HSE (now Tusla, the Child and Family Agency) to cease a Section 10 payment to a family*.

There was also considerable interest in the Office's 10th anniversary. The Office marked this important milestone with a number of initiatives. Firstly, the Ombudsman for Children hosted a conference examining the State's relationship with children and families, with a call for new accountability structures to ensure independence of Ombudsman institutions. The conference, which was chaired by retired Supreme Court judge Catherine McGuinness, heard from several eminent speakers, including the Chair of the UN Committee on the Rights of the Child, Professor Kirsten Sandberg; Fergus Finlay, CEO of Barnardos; Kevin Bakhurst, Deputy Director General at RTÉ; and Professor Ursula Kilkelly,

Head of the College of Business & Law at UCC. The conference was held in Farnleigh and was attended by over one hundred individuals from public sector agencies and civil society organisations working with and for children. There was consensus among participants that it was a powerful day and a fitting way to mark ten years of the OCO. The event also generated such interest that the hashtag (#ococonf10) trended for the day.

A further element of the anniversary was the launch of the *It's Your Right* app and website to raise awareness among children and young people of their rights under the UN Convention on the Rights of the Child (see Education and Participation section of this report for more details). The app and website include video clips of children and young people sharing their views on what different rights under the UNCRC mean to them.

A final initiative to mark the 10th anniversary of the OCO was the publication of a supplement in *The Irish Times*, which outlined the role and impact of the Office over the last decade. It included contributions from Thomas Hammarberg, former Council of Europe Commissioner for Human Rights; Geoffrey Shannon, Special Rapporteur on Child Protection; Alan Shatter TD, then Minister for Justice, Equality and Defence; Frances Fitzgerald TD, then Minister for Children and Youth Affairs; and Mary O'Rourke, former TD and Chair of the Oireachtas Joint Committee on the Constitutional Amendment on Children.

### Public Affairs

The Ombudsman for Children reports directly to the Oireachtas and has a statutory mandate to give advice to Government Ministers on laws and policies that affect children. The Ombudsman for Children continued to have a productive relationship with Ministers, Oireachtas Committees and key spokespeople. The Office also appeared before the Oireachtas Joint Committee on Health and Children in June to discuss the OCO Report on the meta-analysis of repetitive root cause issues regarding the provision of services for children in care; the investigation into HSE social work service provision in North Lee; and the investigation into the implementation of Children First: National Guidelines for the Protection and Welfare of Children.

### Website and social media

The Office's website, [www.oco.ie](http://www.oco.ie), is a key tool for communicating the work of the Office to the wider public. In 2014 there were 26,000 visitors and 66% of those were new to the site. At a time when human resources are under pressure, the website proved an invaluable method of assisting potential complainants with understanding how and when the Office can help them. The Office also makes use of its Twitter account @oco\_ireland to engage with stakeholders and to share current work undertaken by the OCO.

The most popular section of the site is the [Education and Human Rights Section](#) which outlines the Office's human rights workshops with young people. It also provides access to the video clips made by the children and young people during the workshops. In order to

provide a tangible resource for teachers and youth leaders, the Office has made all of the education materials downloadable, for free, from the site.

The [Complaints Section](#) of the site is important and was busy in 2014. The Office endeavours to fulfil its mandate by ensuring that information in relation to our complaints function is in a variety of media and is clear and accessible. This is done by providing updates on current issues, short information videos, FAQs, and information materials, as well as an online complaint form.

The [Government Advice & Oireachtas Submissions/Reports](#) area of the OCO website refers to advice provided by the Office to Government and/or the Oireachtas on matters relating to the rights and welfare of children. The Ombudsman for Children Act, 2002 provides for the Ombudsman for Children, on his/her own initiative or at the request of a Minister, to advise Government Ministers on the probable impact of legislation on children.

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



# 3

## COMPLAINTS AND INVESTIGATIONS

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The complaints and investigation function is a core and busy function of the Office. Under the Ombudsman for Children Act 2002, the Office 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.

The 2002 Act provides for the operation of the complaints function 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 the best interests of the child*

The Act provides that in the performance of his/her complaints function, 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 further provides that in the performance of his/her complaints function, 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 effect 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 insights into the experiences

of children and families in dealing with public services. The scrutiny of complaints, and how they are handled provides valuable performance feedback and audit to the public service providers concerned.

It serves to validate actions taken or present the case for change. It also gives visibility to children’s actual experiences, within public services, and voice to their concerns when they suffer, or are at risk of, adverse effect due to the actions of public service bodies.

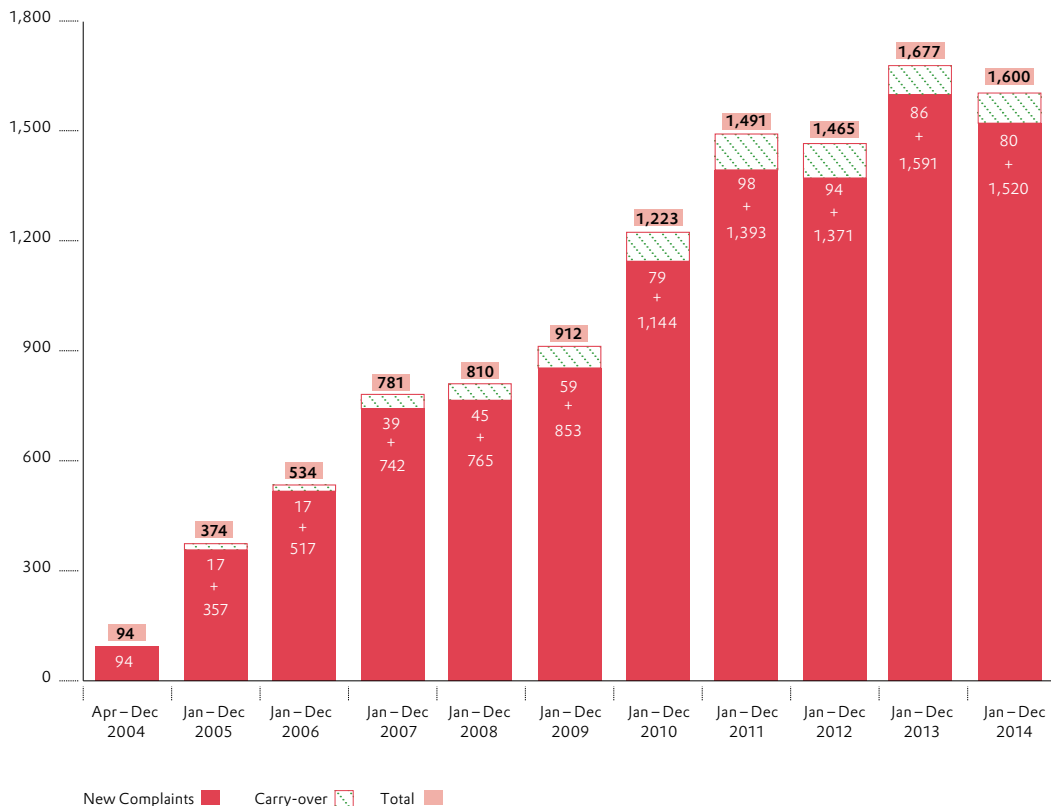
## Statistics

### Complaints dealt with in 2014

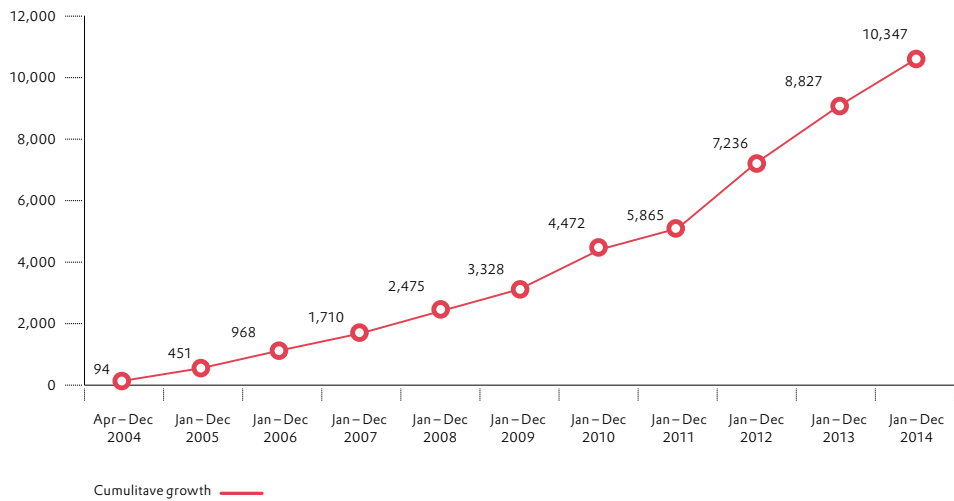
2014 was a year that saw a slight drop in the number of complaints coming to the Office – down 5% from 2013. However, the complaints and investigation team still managed 1,600 complaints in total (1,520 of which were new in 2014), which is an increase of 9% on 2012. The figures in Table 1 also show that there was a reduction in the number of complaints carried forward from 2013 to 2014 – reducing by 15% between 2012 and 2014. This is as a result of improved complaint handling systems put in place by the Office.

**Table 1**

### New and Carried Over Complaints for each year from 2004 - 2014



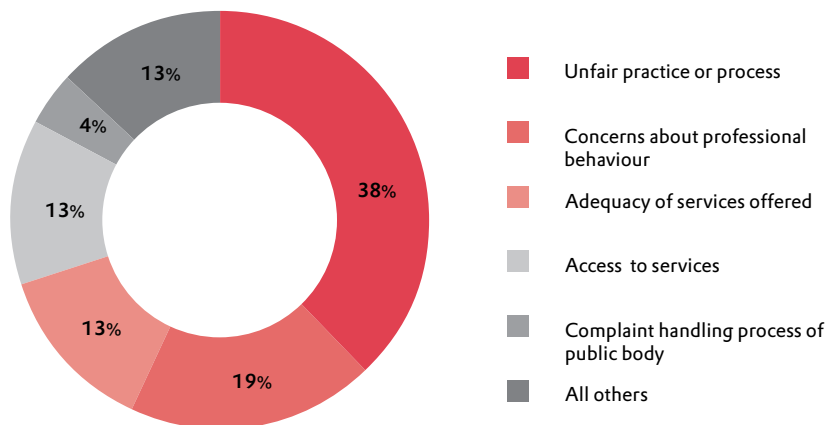
**Table 2**  
**Cumulative Growth (2004-2014)**



**Cumulative Complaints received between 2004 and 2014**

Table 2 shows that, in cumulative terms, 2014 saw the Office pass the landmark 10,000 figure for complaints received during its 10th year of operation. It is a clear indication of how the workload of the Office has expanded. The complaints and investigations team are now dealing with a wide range of extremely varied and often complex complaints.

**Table 3**  
**Top Issues complained about in 2014 (%)**



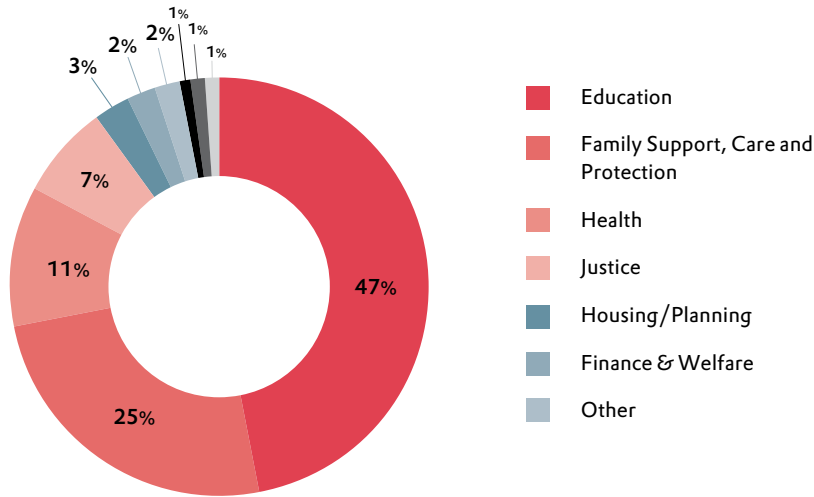
**Top Issues across all sectors complained about in 2014 (%)**

Table 3 gives a clear picture of the issues which the public bring to the Office on a regular basis. While the order of the issues has not changed from 2013, it is worth noting that “Unfair Practice or Process” has grown from 28% to 38% and the number of complaints relating to “Complaint Handling Process of Public Body” has reduced from 8% to 4% in that time.



**Table 4**

**Top categories complained about in 2014 (%)**



**The sectoral distribution of the 1,520 new complaints received in 2014 (%)**

Table 4 indicates that education is, once again, the biggest single public service to be complained about. It shows an increase from 43% to 47% since 2013.

The level of complaints received in relation to family support, care and protection has dropped by 1% from 2013. This represents all those areas within the remit of the Child and Family Agency and children’s care within the Department of Children and Youth Affairs.

The area of health, which incorporates Hospitals and Community/Mental/Public Health, has risen by 2% from 2013.

**Education**

**Table 5**

The sub-categories of new complaints received in respect of education matters in 2014

<b>Education Complaints in 2014 (47% of all new complaints received)</b>
Top Sub-Categories
Handling of allegations of inappropriate professional conduct
Handling of bullying
Complaint handling, decisions and policy
Expulsion, suspension & enrolment
Issues with educational policies, schemes or curriculum

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

## Family Support, Care & Protection

**Table 6**

The sub-categories of new complaints received relating to Family Support, Care and Protection

<b>Family Support, Care &amp; Protection Complaints in 2014 (25% of all new complaints received)</b>
Top Sub-Categories
Child protection concerns
Alternative care
Family support
Social work services
Childcare, pre-school and early childhood care and education (ECCE) scheme

## Health

**Table 7**

The sub-categories of new complaints received relating to Health

<b>Health Complaints in 2014 (11% of all new complaints received)</b>
Top Sub-Categories
Community Care
Hospitals
Mental Health Services
Public Health Services

Table 7 indicates the most regularly complained about categories with regard to the HSE. Some of the issues that arise in these complaints include the provision of Speech and Language Therapy, Occupational Therapy, Assessments of Needs for children with a disability. The management of waiting lists is also a regular issue for complaints across all the areas of service provision.

**Table 8**  
**Persons contacting the Office in 2014**

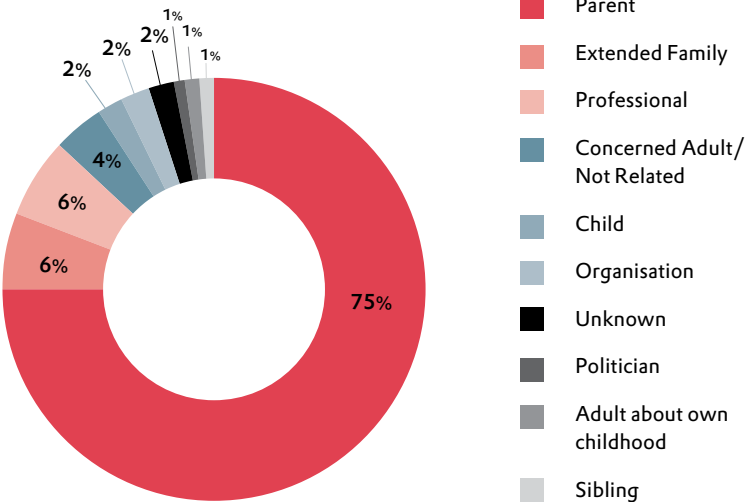


Table 8 shows that parents, siblings and extended family account for 82% of all complaints received at the OCO. It clearly highlights the ongoing situation whereby parents and extended family are the major advocates for children and young people when looking to right a perceived wrong with a public body. It is also important to note that the role of professionals in advocating for children and young people is still vital in ensuring every child has support in seeking redress where they believe a public body has failed in its duties.

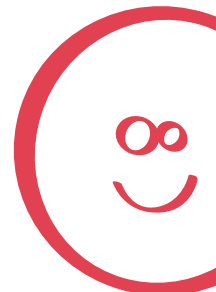
**How complaints are processed at the Ombudsman for Children’s Office**

The Office makes every effort to progress and conclude each complaint as effectively and efficiently as possible while being fair to both the complainant and the public body in question. The promotion of local resolution is a key facet of the work of the Office, in line with international Ombudsman principles. The Ombudsman for Children’s Office has committed most of its human resources to promoting local resolution of each of the individual complaints dealt with. In 2014, where appropriate, the Office continued to

make interventions with public bodies regarding steps that could be taken to address a complainant's concern directly. The majority of cases are resolved at this stage and this, typically, takes between 4-6 weeks.

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

If the public body does not take sufficient steps to mitigate the action subject to the complaint, the Office may progress to investigate the complaint. An investigation involves seeking to determine whether or not the public body's action or inaction was administratively sound and whether it may have had a negative effect on the child. Even at the investigation stage there is an opportunity for the public body and the complainant to agree a course of action to mitigate any adverse effect to the child. If that occurs the Office may close the case but it would always retain the discretion to follow through with an investigation if it were a systemic issue which may affect more children. A full investigation may take some time to complete, and while every effort is made to expedite the process, the OCO is neither an advocate for the child nor an adversary to the public body and must therefore be fair and respectful by allowing all parties an opportunity to present their case before making a decision. Once the OCO concludes an investigation where it upholds a complaint, it will make findings and recommendations. The Office will then follow-up with a six-month review in order to be satisfied that public body is implementing the OCO's recommendations. If the OCO is not satisfied with the public body's progress it may bring its concerns to the Oireachtas.



## Case Studies

### Department of Social Protection (DSP) – Disability Allowance

#### *The Complaint*

The OCO was contacted on behalf of a teenage boy diagnosed with an Autistic Spectrum Disorder. The young person had required continual support and reinforcement to assist him since birth. The young person's GP was of the view that his presentation would not improve and they perceived that he would not be able to independently look after himself and/or find a job.

The young person's psychologist advised that he has a serious neurodevelopmental disorder and would continue to need his parents to scaffold situations for him in a way that would not be necessary for other children. Further, he required various therapeutic services, including occupational therapy, social skills coaching, psychology input for anxiety, sleep issues and behaviour.

In supporting the other professional opinions, the school principal observed the young person as very vulnerable and who required levels of supervision above and beyond his peers. In terms of employment, enquiries were made on behalf of the child in accordance with his interests. However, these enquires were not successful as a result of his diagnoses.

On this basis, an application was made on behalf of this child for Disability Allowance. However, the application, review and subsequent appeal for Disability Allowance were unsuccessful.

#### *OCO Examination*

The OCO initiated a preliminary examination with the Department of Social Protection (DSP) and Social Welfare Appeals Office (SWAO), seeking information to understand the decision-making process in this case. In particular, details were sought regarding the assessment of the young person's ability to meet the criterion regarding a substantial restriction in undertaking suitable employment, where the applicant is aged under 18 years and attends post-primary school.

#### *Outcome*

On foot of the OCO's preliminary examination, the Chief Appeals Officer carried out a further review of this matter, which resulted in the overturning of the three previous decisions as there was an error in law. The Chief Appeals Officer was satisfied that there was ample evidence to demonstrate that the young person will be at a considerable disadvantage in seeking suitable employment.

In concluding this examination with the DSP and SWAO, the OCO recommended that the systemic learning from this case be communicated to all relevant decision makers in the Department of Social Protection and the Social Welfare Appeals Office. With respect to this individual young person, he was awarded a Disability Allowance and the payment was backdated appropriately.

## HSE – HSE Disability Services – Respite Care

### *The Complaint*

Parents submitted a complaint on behalf of their daughter who was diagnosed with autism and is non-verbal. The complaint centred on respite care of their daughter and the nature of an agreement between the parents and the HSE Disability Services which was made and rolled out for a period of time. Shortly after the roll out, a review of the respite services was initiated after which the child's respite was re-categorised. This led to the frequency of her respite being substantially reduced, which appeared to adversely affect the child. The respite was also changed to include hours that the child was spending in school. When the parents engaged in local procedures to address their concerns, the service provider denied agreeing to the original respite arrangement.

### *OCO Examination*

The OCO sought clarification from the HSE on how the needs of the child were being met under the current respite schedule. Clarification was also sought on agreements made between them, as a service provider, and the complainants. The HSE acknowledged the miscommunication with the complainants. They agreed to meet with the complainants to address this and all other issues, including the process of formalising the respite scheme and the hours of respite afforded to the child.

### *Outcome*

The HSE responded positively to the preliminary examination and agreed to meet with the family to try to resolve their concerns.

Communication meetings were held between the HSE and the complainants where they agreed, as part of local resolution that the collection time for the child leaving the service was to be reviewed with the potential for an extension, pending resources.

They also organised the establishment of a Governance Committee to review the respite strategy and budget every quarter. This Committee was also tasked with ensuring families were given written notification of any change to their respite service and that the respite services continue to be offered on a review basis.

Additionally the HSE agreed to set up an appeals process with respect to respite decisions to ensure service users had the opportunity to appeal a decision.

The family was also allocated a Liaison Nurse as their first point of contact due to concerns which the family raised at the communication strategy meeting.

## Department of Children and Youth Affairs (DCYA) – Community Childcare Subvention Programme

### *The Complaint*

A complaint was received in relation to alleged unfair terms and operation of the Community Childcare Subvention (CCS) Programme. The CCS Programme provides support for parents in low paid employment and training or education by enabling qualifying parents to avail of reduced childcare costs at participating community childcare services. A mother of a five month old child advised that she would be returning to work in January 2014 and wished to put her daughter in her community childcare provider/crèche along with her two other children, who already attended.

The child met the qualifying conditions for the reduced rate but had not been registered and had not attended the crèche the previous October, during the 'snapshot week', when the DCYA check the roll of attendance to verify the number of children attending a crèche under the scheme.

The mother had been told that the reduced rate would not be available to her until September of the following year. The complainant contended that this was unfair as it was not possible to have the child attending the crèche by that week in October as the child was too young and this now meant she would have to pay the full rate from January to August 2014.

### *OCO Examination*

The OCO conducted a preliminary examination of the complaint into the operation of the CCS Programme which is overseen by the DCYA and sought details on the rationale for the use of one 'snapshot week' in a year for applications to be received.

An initial response from the Early Years Division of the DCYA did not provide sufficient clarity on the scheme or propose a resolution of the complaint.

While the aim of the scheme is to provide positive direct supports to parents, and their children, as they seek to return to work, the concern of the OCO was that there may have been inflexibility in the scheme that was having a disproportionate and unintended effect on the very families most needing to access child care due to changes in circumstances.

The OCO was of the view that this particular administrative element of scheme was unfair and was adversely affecting the family. The OCO initiated the first stage of the investigative process and sought a response from the DCYA.

Separately, local resolution was provided to the parent by the childcare provider voluntarily providing a reduced rate (from January to August), which would have been in line with the subvention rate achievable under the scheme.

As this resolution mitigated the adverse effect on the child, the OCO decided not to proceed with the proposed statutory investigation. Rather the Office focussed on the systemic issue raised and made a number of recommendations in relation to the operation of the scheme and how aspects of the scheme were impinging unfairly on children who would be too young to start attending a crèche in that one week in October of each year.

### *Outcome*

The Early Years Division of the DCYA conducted a programme review of the CCS scheme and factored into it the recommendations which this Office made. On foot of this, amendments were made to the terms of the 2014 scheme, so that all children from 0-12 months, who were otherwise eligible, could access the programme throughout the year and an application would not now only be limited to the one 'snapshot week' in October of each year.

It is the view of this Office that optimal resolution to this matter was achieved through mutual cooperation with the DCYA and it is hoped that the revised eligibility criteria will allow full access to the scheme for disadvantaged parents of young children, from the time that parents are ready to return to work or training, in line with the overall aims of the scheme.

## **Local Housing Authority**

### *The Complaint*

The OCO received a complaint from a mother on behalf of her family who are on a County Council housing list, currently awaiting appropriate housing. She advised that three of her five children suffer from a degenerative muscular disease and have learning disabilities. Her youngest child, who is six, also has severe developmental delay, autism and behavioural difficulties and is peg fed. She advised that the family live in private rented accommodation, which is not appropriate for the children's needs and that she applied over three years ago to the Council to be placed on the medical priority list for a four bedroom house.

The complainant also advised at the time that she has had very little correspondence from the Council and she was unsure if all the medical information provided had been considered fully in support of her application for medical priority status.

### *OCO Examination*

The OCO conducted a preliminary examination of the complaint into the processing of this family's housing application, including how the Council considered all of the supporting medical documentation. The Office also looked into issues of communication with the family around their medical priority status application.

The Council responded positively to the request from the OCO for information. It was immediately accepted that communication with the complainant could be improved and during the course of the OCO's examination of the complaint, the Council engaged substantially with the complainant, which did not appear to have been the case previously.

It became clear from examination of the case that only very limited housing offers had been made to the family since their application was accepted. These offers were also made for areas which the family could not accept given the medical and educational supports



that were in place in the area where the family was established. Enquiries by the OCO established that the Council's Medical Committee had approved medical priority for the family and had instructed their procurement section to seek to provide a four bedroom house in the required area. However, no offer in that area had been made in over three years.

The Council accepted that it was not meeting the family's housing requirements as recommended by its Medical Committee and advised of limited accommodation in the area but efforts were to continue to find suitable housing.

### *Outcome*

During the examination of the complaint the complainant became aware of a housing estate being built in her established area. Following enquiries made by the complainant and OCO enquiries to the Council, it transpired that units in this estate would become available to the Council for social housing. The Council advised the OCO that it was actively negotiating with the developers and planners and that once plans were approved, the Council would be in a position to offer the family a four bedroomed unit. It is envisaged that these social housing units will be available to the Council in early 2015.

## **Local Authority Housing**

### *The Complaint*

The OCO received a complaint from a mother of a four year old boy, with Autism and Severe Cognitive Delay (ASD). She contacted the OCO with a complaint in relation to their current housing situation and the negative effect that this was having on her son. It is understood that their limited living space was causing her son to become extremely stressed and claustrophobic.

Despite applying to the Council for housing priority on medical grounds and submitting supporting documentation, their application was refused. The mother appealed this and the appeal was also refused.

### *OCO Examination*

The OCO conducted a preliminary examination of the complaint into the matter and contacted the Council in this regard. The Office specifically requested information on:

- the Council's position regarding awarding medical priority for the complainants' son;
- the Council's relevant policies in relation to this situation and whether there were any other suitable types of housing available to this family, such as through the Rental Accommodation Scheme (RAS), Rent Supplement or voluntary housing associations; and
- whether the complainant had been fully informed of all of the options available to her.

### *Outcome*

As a result of intervention by the OCO the Council arranged for its Medical Referee to undertake a full review of all medical details received to date in relation to the young boy to determine whether medical priority was merited. The Council also stated that it was open to the complainant to make a submission to the Chief Housing Welfare Officer on exceptional social grounds.

Following its review, the Council granted the young boy medical priority. A Council representative also rang the complainant to explain the decision and the implications for her housing situation.

However, the complainant has since been informed that even with this priority, it may be two years before the Council is in a position to provide them with a three bedroom accommodation.

## **Tusla (the HSE up until 31 December 2013) – Relative Foster Care**

### *The Complaint*

A complaint was submitted to this Office by the aunt of a young person (A), who was then aged 15 years, regarding a decision by the HSE (service now provided by Tusla) to cease financial support being provided to assist her in caring for him. The aunt advised that she has been caring for her nephew since 2003. For a 2 year period, she was in receipt of a payment made by the HSE through Section 10 of the Child Care Act 1991 (Section 10 payment) and also the Orphan's Allowance (now Guardian's Allowance), a social welfare payment. The complaint centres around the fact that the Section 10 payment was ceased by the HSE on the basis of a contention by the Social Work Department that the aunt did not inform them that she was in receipt of both payments.

### *OCO Examination*

Having carried out a preliminary examination of the complaint received, the Office decided to proceed with an investigation in accordance with Section 8 of the 2002 Act. The investigation focussed on the level of support provided by the HSE to assist A and his aunt.

During the investigation it emerged that as the HSE had facilitated arranging the placement of A with his aunt, this placement could not be said to be a private care arrangement between family members. This Office is of the view that the HSE considered this a private care arrangement beyond a time when it was reasonable to do so. The long term use of a private arrangement in the context of concerns about the mother's ability to care for A left him in a precarious situation and the level of support provided by the HSE was very limited both in terms of financial support and oversight to ensure the child's welfare.

The aunt contacted the HSE in 2004 seeking financial assistance in caring for her nephew as assistance from the mother had ceased. At that time the HSE advised her to apply for Orphan's Allowance. The aunt sought further assistance in 2006 when she reported that

her circumstances had changed and she was experiencing financial difficulty. Section 10 funding was provided at that time to sustain the placement with the aunt and prevent A from coming into care. Thus the provision of Section 10 was in keeping with the HSE approach in 2003, which was to prevent the child from coming into care. The aunt understood that the payment along with the Orphan's Allowance was intended to amount to the financial support provided to foster carers.

The Section 10 payment was made for a specified period and due to be reviewed in October 2007. It appears that the payment was to be renewed as necessary, but this did not occur as the Social Worker left and the case was not re-allocated. It is reasonable that funding is not provided indefinitely without review of the situation. However, the Office found that the decision to cease the Section 10 payment in December 2008 was based on incomplete and erroneous information and following contact from the aunt and a representative, the HSE did not fully consider or review the aunt's situation. The Office found this to be contrary to fair and sound administration as per Section 8 of the 2002 Act.

The Office is of the view that the HSE's actions in failing to provide adequate financial support to assist A; afford due process and re-evaluate family circumstances following representation; and provide any financial assistance from 2008, in the absence of a full review of the child's circumstances, has adversely affected A, the child.

### *Outcome*

The Office made a number of recommendations to Tusla (formerly the HSE), including that:

- Tusla (formerly the HSE) should provide financial assistance to A and his aunt and re-instate the Section 10 financial support and backdate it to the time of its cessation,
- there should be clear, transparent and consistent processes for dealing with Section 10 applications and clear communication to families about the outcome of such applications,
- Tusla (formerly the HSE) should ensure it fully discharges its obligations to provide appropriate protection and support to children, as this investigation raised serious concerns more generally in relation to the use of informal / private care arrangements in the context of child protection concerns.

Tusla advised that they fully accepted the recommendations made and would commence implementation as a matter of priority. The Section 10 payment had been re-instated and arrears calculated and forwarded for processing. An assessment of A's placement with his aunt has been completed and followed up to ensure his needs are being met. All private care arrangements are being reviewed in the relevant area, utilising the recommendations in the Ombudsman's report. Finally, on a national level a designated staff member will review private and family foster care arrangements throughout the country, and there will be monitoring of private arrangements.

## Higher Education Access Route (HEAR)

### *The Complaint*

A mother contacted OCO on behalf of her 17 year old daughter because she was ineligible for HEAR after her initial application and recheck application had been assessed. The complainant believed that her daughter met the criteria for eligibility to the scheme.

The HEAR scheme is a college and university admissions scheme which offers places on reduced points and extra college support to school leavers from socio-economically disadvantaged backgrounds.

The complainant understood that she had submitted the necessary information for HEAR to establish her income levels as required to meet part of the criteria for entry to the scheme.

### *OCO Examination*

The OCO initiated a preliminary examination of the complaint and wrote to the DARE HEAR Shared Services Unit who administers the scheme on behalf of the participating universities and colleges.

In this case HEAR explained that the complainant had not submitted all of the necessary social welfare information by the required deadlines of the 1st April. In particular, the application was missing Social Welfare documentation from 2012, one of the years required. This information is required by HEAR to establish the eligibility of a candidate for the Low Income Indicator, one of the factors considered for determining criteria for HEAR. The young person met other required indicators and, had she received the Low Income Indicator, she would have been eligible for the HEAR scheme.

The mother then submitted the 2012 Social Welfare documentation in June. However, as it was not accompanied by proof of postage, it could not be considered. The importance of retaining proof of postage was stated to be outlined in all HEAR application materials and in the assessment outcome letter.

The family applied for a recheck of the application in early July, in accordance with the HEAR procedures. The application was rechecked and no administrative errors were identified and the young person remained ineligible for HEAR. She received the notification of the outcome of her recheck application by post at the end of July.

It was then that the family contacted the OCO as they were unhappy with the decision of HEAR. However, HEAR explained that, another level of appeal, the Independent Appeals Committee remained open and that this would have been the appropriate avenue for the family at that juncture, in particular as it may have led to a resolution of this matter in time for the first round of CAO offers when HEAR offers are made.

Following preliminary examination by the OCO, HEAR reviewed the application that had been submitted. Having reviewed the file and in consultation with HEAR Assessment and Recheck managers it was the view of HEAR that, although the specific requested Social Welfare documentation had not been submitted by 1 April, the social welfare evidence that had been provided by the deadline, coupled with a P21 submitted for 2012, had provided enough evidence to establish that the family income was below the income threshold. Therefore HEAR state that the young person should have met the Income Indicator and in turn should have been eligible to be considered for a HEAR reduced points place.

### *Outcome*

HEAR apologised to the young person and her mother for the error which was made during the initial assessment and recheck of her application.

As the CAO offers had been submitted by the time the preliminary examination process concluded it was not possible for the young person to avail of the reduced points which the HEAR scheme offers. However, the young person had accepted a place on a third level course, albeit not her first choice. In these circumstances HEAR made the additional supports available under the scheme available to this young person. The family were satisfied with the outcome.

## **Department of Education- Visiting Teacher for Deaf Child**

### *The Complaint*

A mother contacted OCO in February 2014 in order to raise concerns with regard to the level of Visiting Teacher Service (VTS) which was to be made available to her daughter, who is profoundly deaf, while the current Visiting Teacher (VT) for the region is on maternity leave. The VTS provides advice and support to ensure that the needs of children and young people with hearing and visual impairment are met. This service is available at pre-school, primary, post-primary and at third level and includes:

- guidance and support to pre-school children and their parents in the home;
- specialist teaching, support and monitoring;
- advice on curricular and environmental implications;
- supporting, advising, training and liaising with parents / teachers & professionals;
- ensuring Reasonable Accommodations are provided to students by the SEC; and
- advising / liaising with access officers to ensure appropriate supports at 3rd level.

The complainant stated that she was initially informed that cover would be provided for the period of maternity leave but it was later communicated that this would not be possible, but that visits could possibly be arranged on a needs led basis.

The complainant stated that this was not an adequate level of service for her daughter who had benefited greatly from the VTS and the specific, specialised interventions they provided. It was stated that the VT who had gone on maternity leave had been attending the school and meeting with the child on a fortnightly basis.

### OCO Examination

The OCO initiated a preliminary examination seeking information on the service arrangements and planning during this period. The OCO also placed emphasis on the local resolution of the issues raised.

The DES responded and explained that the area in question was affected by the short-term absence of a staff member from January 2014 and that there are 46 children in this VT's caseload. It stated that between January and March the services of another VT were available for support and advice. Formal arrangements were then made for other VTs in the region to provide cover during the period of absence of the local VT, in order to ensure the continuation of an effective service for children, parents and schools in the area.

Schools and parents were then advised of the arrangements by the DES.

### Outcome

The DES explained that in March the Minister stated that arrangements were being put in place to cover the VTS in the area. Following this the complainant explained her happiness with the supports being put in place and had been informed that her daughter would be receiving two visits per month – the same level of service she had previously been receiving.

## School Bullying Complaints

How children treat and respect other children and how schools, as part of society, deal with any breakdown of that respect is an issue that is repeatedly raised with the Office through our complaints and investigation work. Therefore, each year the OCO receives a significant number of complaints in relation to bullying and how schools have handled the concerns of parents.

Parents bringing complaints on behalf of their children may have already brought their concerns directly to the staff and school involved, and are unhappy that the bullying has continued, or feel that the school has not taken sufficient steps to ensure the safety and welfare of their child.

For the last ten years the OCO has considered and examined numerous complaints regarding school bullying and it has consistently been among the top five issues when people complain about education. While each complaint is different, a number of common issues can arise in bullying complaints that suggests the need for improved administrative practice on behalf of schools. Through direct consultation with young people (*Dealing with Bullying in Schools: A Consultation with Children and Young People* – OCO 2013), and statutory policy work the OCO has consistently sought to improve the current framework by which bullying concerns are understood, identified and dealt with in schools.

The OCO, as part of any preliminary examination of a complaint, will seek to ensure that schools are compliant around having an anti-bullying policy on their website and / or readily accessible and available to pupils and parents.

One complaint, received and dealt with in 2014, gives a good example of how better communication on behalf of the school may have brought about better resolution, to a complaint, for the child. In this case parents brought a complaint to the Office which outlined concerns about the actions of a school in response to a serious incident that badly affected their child. As an action it could be considered as either an isolated event and / or potentially the continuation of bullying against their child. The incident involved the placing of an offensive and hurtful message about the pupil in the public domain. There was also a potential criminal nature to it, which subsequently led to Garda involvement.

The parents were seeking assurance and information with respect to the sanction to be given to the pupils identified as being responsible. They were also unclear about the policy and guidance being used by the school in relation the matter.

Having examined the matter, the OCO was satisfied that the school took immediate steps in the best interests of both the child affected and that of the child(ren) who carried out the action.

It became clear that the school was taking steps, to monitor the situation, that were not communicated to the parents. It was also clear that the parents had on-going concerns for their child that were unknown to the school. Based on the information received, the Office determined that further investigation was not required at this stage, but a number of recommendations were made to the school.

Schools have a duty to provide a safe and supportive education environment. However, there is an inherent challenge and difficulty for schools dealing with bullying. In this case the OCO recommended that the school review its practice and recommended that in complex cases, where the school is aware of communication difficulties or is aware that parents are unhappy about how their complaint is being handled, that the school should communicate both verbally and in writing to the parents of the concerned students to advise how the school is handling the matter.

Not all actions that a school takes can be conveyed to parents but there is a responsibility, once the school is aware of the difficulties being raised, to improve how it is communicating matters and this may include clearly setting out what it is unable to give detail on. Where applicable, they may also need to set out how the involvement of relevant third parties such as the Child and Family Agency (Tusla) or an Garda Síochána will be dealt with.

## Focus on thematic Issues

### Mental Health

In 2014, the Office saw a number of complex complaints relating to access to suitable mental health services for young people. In particular, there were a number of complaints relating to concerns about children at risk of suicide or self-harm being inappropriately placed in inpatient adult psychiatric facilities or general paediatric wards whilst awaiting a service at an inpatient adolescent facility. It appears that these admissions occurred on an emergency basis due to the urgent need for treatment and to address the immediate safety concerns. Specialist nurses were arranged to provide support to the young people concerned.

Some of the complaints submitted to this Office related to the length of delay in resolving the matter of provision of inpatient treatment in an appropriate adolescent facility, which took considerable time in some cases. Parents raised concerns that such inappropriate placements meant that no meaningful intervention could take place in the setting and that, as a result, their children's mental health needs were not being adequately addressed. Furthermore, they identified that there were no activities appropriate to their children's needs or age and a lack of interaction with peers, which negatively impacted on the children.

On examination of these cases, there appeared to be substantial delay in accessing the required adolescent inpatient treatment due in part to the number of placements available and the level of demand. In some situations, funding was agreed for access to private facilities, but placements were not always available. Therefore, a key concern arising from the examination of these complaints is the availability of suitable emergency placements for children in these circumstances.

The Office also received complaints relating to access to specialist eating disorder services for children and young people. The children were initially being treated in a hospital setting due to the medical complications arising from their condition, and could not be offered inpatient admission in the child and adolescent facilities as a result. In some cases, the complexity of the children's treatment needs necessitated referral to services outside this jurisdiction. While the inpatient child and adolescent services do provide for this group of children, the professionals in these cases recommended that specialist eating disorder inpatient treatment was required. However, such a service has yet to be established in Ireland. A further difficulty arose in relation to funding of this treatment abroad, which was delayed on occasions due to a lack of clarity in relation to the pathway for accessing funding in such circumstances.

While the Office has examined the individual cases and resolution was reached, the complaints received highlight a pattern of concern about timely access to the required services. Although steps are being taken to look at increasing the number of inpatient facilities it is vital to look at the services and supports available to children in the interim. It is especially important to ensure that children are not inappropriately placed, and specifically,



to consider the suitability of Accident & Emergency services when children are presenting with a mental health crisis.

As outlined in a Vision for Change, which was agreed in 2006, there should be a full multi-disciplinary team in a National Centre for Eating Disorders to provide for this group of children. While there is a plan to develop a specialist eating disorder service as part of the new Children's Hospital, that development is not due for completion until 2019. Therefore it is important that steps are taken in the intervening time to ensure that appropriate treatment can be accessed for these children and that there is clarity in relation to referral and funding pathways.

The Office sought and held a meeting with the HSE National Director for Mental Health to raise the concerns highlighted through the complaints.

### Complaints relating to State Examinations Commission

The State Examinations Commission (SEC) came within the investigative remit of the OCO through the Ombudsman (Amendment) Act in 2012 and which was enacted at the end of April 2013. Since that time, the Office has received a significant number of complaints (61 in 2014) regarding the administrative actions of the SEC. These complaints primarily relate to decisions made regarding applications by students under the Reasonable Accommodations in Certificate Examinations (RACE) scheme.

The scheme is designed to support pupils with certain learning difficulties and/or physical disabilities so that their difficulties do not hinder their expected level of attainment relative to their knowledge of the course content in State examinations. The supports can include access to a reader for a pupil, the use of a scribe, access to a special centre, and a waiver from spelling, grammar and punctuation in language subjects.

The 2013/2014 school year cycle leading to the Leaving Certificate in 2014 was the first full school year where the Office had an opportunity to gain a thorough understanding of the application process. The examination process involved consideration of the many issues parents, pupils and schools submitted as part of their complaints, as well as seeking information from, and a meeting with the SEC. As part of our meeting with the Commission we also engaged with the National Educational Psychological Service (NEPS).

The following are examples of some of the issues being brought to this Office:

- lack of written explanation to applicants when accommodations are refused;
- although an appeal process is offered at this stage, applicants in effect do not know what they are appealing as no explanation has been given for original decision;
- a concern amongst parents and practitioners (including some educational psychologists) that the school-based assessment test does not fully measure the nature of many young peoples' learning difficulties, particularly children with difficulties such as Dyslexia, Dyspraxia and Dyscalculia; and
- a concern about the impact of the RACE scheme on children with dyslexia who are in the above average intelligence bracket and who do not meet the criteria for the scheme.

This Office notes that many of the concerns being raised by parents could be partially addressed by a more open and transparent process and clearer communications at an earlier stage in the process. We recommended that the SEC provide a clear written rationale to applicants when a decision is being communicated. It is also a central tenet of natural justice that in advance of an appeal, the appellant should know the basis of the decision which he or she is allowed appeal against. We have been advised by the SEC that a process is in place to progress the automation of the provision of a rationale for SEC decisions. However, this has not been available for the full 2014/2015 school year.

### **Educational supports for children with Special Education Needs**

Since the establishment of the Office, complaints have been received about access to resources to support children with special educational needs. Typically, complaints have related to

- access to resource teaching hours/low incidence special needs under the Department of Education and Skills' Circular;
- also the adequacy of supports under the General Allocation Model; and
- to the process for determining and assessing the level of need for supports.

In May 2013 the Office completed an investigation into the provision of resource teaching support for children with Down Syndrome. At that time, the Office made a number of recommendations to the Department to establish the adequacy of provision including the method of delivery for children with Down Syndrome and the need for arrangements to centrally monitor the impact of additional support measures. The Department advised that it had set up a working group to develop a proposal for a new model of resource allocation that will focus on allocating additional resources to children in line with their level of need rather than by disability category.

In 2014, the NCSE working group reported and the Minister for Education and Skills announced that a new model for allocating additional teacher supports to all children with special needs would be introduced. The new model, which will change the way resources are allocated to schools and proposes more autonomy for schools in relation to determining how resources are to be allocated. A consultation process was initiated with key stakeholders and the new model is due to be introduced in September 2015.

### **Early Childhood Care and Education (ECCE)**

In 2013, the Office reported on an investigation into a complaint from a parent of a child with special needs regarding ECCE provision – both the availability of a second year and also supports to assist the child's inclusion in pre-school. The child was attending pre-school at the time but had been unable to attend full time due to lack of the required supports.

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

On conclusion of the investigation, the Office recommended that steps should be taken to progress outstanding matters from the 2011 cross-sectoral working group report which had been set up to develop a framework for the integration of children with disabilities in pre-school settings. In response, the Office was advised that a sub-group involving the Departments of Health, Children and Youth Affairs, Education and Skills was set up in May 2013, to examine the recommendations in detail. Since that time, the Office has expressed on several occasions the dissatisfaction of the Ombudsman for Children in relation to the lack of progress made in addressing and resolving the matter of inclusion for children with disabilities in mainstream pre-school settings and the significant delay in advancing this matter.

The Office continued to follow up on this matter throughout 2014. While the sub group set up to examine this matter was expected to have concluded its work by the autumn of 2013, there has been significant delay in this matter being progressed. We were advised in April 2014 that the group was in the process of concluding its work and would be reporting back in the near future with recommendations. In August 2014, the Office was advised that the final report was at an advanced stage of drafting and would be circulated to its members for comments prior to submission to the cross-sectoral team. In October 2014, it was advised that a final draft report had been circulated for comments and observations and a further revised draft final report was being prepared.

The significant delay in progressing this matter is of serious concern and the Ombudsman for Children has raised the matter directly with the Minister for Children and Youth Affairs and the Minister for Health. Most recent reports indicate that it has been agreed that the Department for Children and Youth Affairs will take the lead on this matter. This continues to be an issue of concern raised by parents contacting my Office with complaints and it is important that clarity is provided in terms of a policy approach and a workable model as quickly as possible.

### **Children leaving the care of the State**

The complaints being brought in this regard relate to a number of issues that the Office has dealt with regularly over the past 10 years, including

- suitability of placements;
- delays in transfer of placements (in particular cases relating to children remaining in high support longer than required);
- limited contact with social workers;
- lack of assigned social workers;
- children not having their voice heard in decision making;
- a lack of educational placements being secured /sourced;
- multiple placements; and
- sibling/family access concerns.

Complaints about aftercare provision and support have continued to be raised with this Office in 2014 and we have dealt with these on an individual basis. However, one of the issues arising relates to the availability of and access to onward housing/accommodation for young people leaving care. In one case, a care leaver contacted the Office on behalf of her infant son advising that they remained living in a residential placement for children due to difficulties in accessing suitable housing. While the young person appreciated that she had been able to remain in the residential unit, she did not consider it to be an appropriate home environment for either her or her son. She reported that there were no appropriate aftercare placements for care leavers with children and the only practical way of accessing Local Authority housing quickly was to present as homeless, which she was not prepared to do.

While the situation did get resolved for this young person, it raised the broader issue of housing for care leavers. It is concerning that young people leaving care may be placed in a position where they need to present as homeless in order to access accommodation.

The Office wrote to Tusla seeking an update in relation to ongoing joint work between them and the City and County managers regarding the development of a joint protocol in relation to housing for care leavers.

In response, Tusla advised that it is enhancing its aftercare services to ensure that the service reaches those who meet the eligibility criteria, in particular those who may be assessed as vulnerable and at risk of homelessness. Tusla noted that the risk is exacerbated by the current housing shortage, which, while not particular to those leaving care, has had a major impact on the cohort of young people leaving care recently. Tusla advised that a joint working protocol was in the process of being finalised. Tusla also report that they are in the process of establishing interagency working groups which will look at an interagency approach for young people leaving care.

Care leavers are a particularly vulnerable group of young people, who are often at increased risk of homelessness. It is important that this interagency approach is progressed quickly to ensure that all relevant agencies involved with provision of services to young people are working together to adequately support care leavers. It is essential that their housing needs are addressed as part of this process.

### **Services for children with Acquired Brain Injury**

The Office investigated a complaint brought on behalf of a young person who sustained an Acquired Brain Injury (ABI) at the age of 14 following a car accident. During the course of the investigation, an anomaly with respect to the provision of services became apparent. Specifically, it appeared from the information provided to this Office that there is a lack of dedicated services for young people between the ages of 13 and 17 who sustain an ABI. Those above and below those ages can access the relevant services more readily. In this case, the child's mother indicated that the majority of organisations she contacted in relation to psychiatric and psychological supports were not in a position to assist, they informed her that they could do so if her son was under the age of 12 or nearing 18 years of age.

In addition to the gap in services for this particular age cohort of children, the complaint illustrated the absence of information, advice and advocacy supports for parents of children with Acquired Brain Injuries. It appeared from the information obtained by the Office, that access to the appropriate services and information is largely contingent on the initiative of parents/guardians and individual medical professionals, rather than being provided in a more coherent and co-ordinated manner.

The HSE indicated that certain steps were being taken to address the issues that emerged, including with respect to the implementation of the National Policy and Strategy on Neuro-rehabilitation. However, the Office remains concerned about the apparent disparity between different groups of young people, with such traumatic injuries, being able to access relevant services. Therefore, the Office wrote to the Minister for Health asking that the Department examine this issue with a view to addressing the difficulties outlined.

### **Tusla – Quarterly National Performance Activity Reports for 2014**

The Office reviewed the work done with regard to recommendations it made on conclusion of an investigation into a complaint submitted by a member of the North Lee Social Work Team. The review was completed in 2014. The investigation had highlighted a number of serious concerns, including the ability of the Social Work Team to provide the appropriate level of follow up on referrals of a child welfare and protection nature as well as the timeliness for completion of preliminary enquiries and initial assessments in relation to child abuse allegations.

As part of the investigation, the Office raised concerns about the need for timeliness of information about the operation of the child protection system in order to aid planning for services. As part of the review process, Tusla advised of the steps it has taken in this regard through the National Performance Activity reports, which are prepared quarterly.

While the Office notes that Tusla has taken positive steps to ensure more up to date information, it is of serious concern that the quarterly data issued by Tusla in 2014 indicates that there is a very low percentage of initial assessments being completed within the target timeframe of 21 days. According to the Quarter 2 National Performance Activity report, only 21% (544 out of 2580) of children in the country who required an initial assessment, following a preliminary enquiry, received one within 21 days of receipt of referral.

The Office has raised this matter with Tusla and has been advised of a number of actions being taken to address this matter. It is important to note that this lack of capacity is evident prior to the commencement of the Children First Bill which will make the reporting of child abuse mandatory. The Office remains concerned about the response times to such situations and the capacity to provide a timely assessment of the risk and safety issues for children in such situations. It is crucial that any child reported as being at risk of abuse is catered for in the best possible manner and receives the best service within the quickest possible time according to their needs because that is how we can minimise the length of time which they remain in a vulnerable state.

## Juvenile Justice and Detention

In relation to juvenile justice and detention matters, 2014 marked a significant shift in focus in this area for the Office. Following an end to the detention of 16 year olds in St Patrick's Institution in 2012 and the Government's commitment to move all 17 year olds to Oberstown as quickly as possible, the Office has increased its level of engagement with Oberstown. The focus to date was primarily towards examining complaints received in relation to young people detained in the Irish prison system and in particular in St Patrick's Institution. While Oberstown has always been within the investigatory remit of the Office, complaints received in relation to young people detained there have been minimal in the past.

With the significant expansion of the Oberstown Campus, and the intention for it to be the national place of detention for all sentenced and remanded young people, the Office began a more pro-active involvement with the Campus so that we can be on the ground at an early stage, as this major project is being rolled out. It was deemed important that all management and staff, young people and their families, and other NGOs and support organisations, were aware of the Office's oversight role regarding the administrative aspects of detention and also the complaints and investigations remit regarding such detention.

To that end, the Office engaged with the Campus Manager and his staff throughout 2014. Members of the complaints and investigations team have established liaison contacts with Oberstown management and held information sharing meetings. Staff from the Office have also given presentations about our work to two groups of newly recruited staff.

Oberstown management recognise the benefits of this training and have allowed it to be factored into the overall induction training of new staff. It is our intention to roll out further presentations to both new and established staff as the campus project nears completion in 2015. As a further signal of the commitment of the Office to matters relating to juvenile justice, the Office has sponsored a member of the team to attend the Advanced Diploma in Juvenile Justice in the King's Inns for the 2014/2015 term.

The Office, as always, remains available to meet with the young people and their families where concerns arise and this year, building on the work done in 2014, we will run information sessions at Oberstown so that all can become familiar with the Office's oversight role regarding young people's detention.

Overall, 2014 saw improvements in how the State treats those young people under 18 years who are remanded or found guilty of a crime. However, it is important that the necessary legislation and resources are put in place as soon as possible to ensure that all those young people are moved to the Oberstown Campus and out of the adult system. Into the future the OCO intends that the rights of this group of young people will remain a focus for the Office.



# 4

## POLICY AND LEGISLATION

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### General Scheme of the Children and Family Relationships Bill

The Minister for Justice and Equality published the General Scheme of the Children and Family Relationships Bill 2014 on 30 January 2014. The stated aim of the proposed legislation was to put in place a legal architecture to underpin diverse parenting situations and to provide legal clarity on parental rights and responsibilities in such situations.

Section 7 of the Ombudsman for Children Act 2002 provides that the Ombudsman for Children shall advise Ministers of the Government on any matter relating to the rights and welfare of children - including the probable effect of the implementation of proposals for legislation – when requested to do so by a Minister. The Minister for Justice and Equality sought the observations of the Ombudsman for Children on the General Scheme and on the manner in which it sought to address children’s interests. The Ombudsman for Children’s advice was furnished to the Minister in May 2014.

In previous advice to Government relating to proposals to reform aspects of child and family law - specifically with respect to the Civil Partnership Bill 2009 and the Adoption Bill 2009 – the Ombudsman for Children’s Office stressed the need for legislation to reflect and provide for the reality of children’s lives.

The Ombudsman for Children’s Office welcomed the proposals put forward by the Minister for Justice and Equality, as its starting point was the need to provide for the diversity of family forms in which children grow up in Ireland and to place children’s best interests at the heart of the legislation.

Nonetheless, the OCO noted that there were a number of areas in which the legislation could be enhanced to better serve the interests of children and conform more fully with Ireland’s international human rights obligations.

The OCO recommended that the General Scheme be amended to protect children and young people’s identity rights, on the basis that people born through assisted reproduction and surrogacy should have a right to access information on their birth and origins. In this regard, the OCO recalled that Ireland has a poor history of protecting this right with respect to people who have been adopted and that this mistake must not be repeated in relation to the children born through assisted human reproduction or surrogacy.



The OCO recommended further that Ireland's laws be as clear as possible on how surrogacy arrangements that people enter into abroad – both commercial and non-commercial – affect the legal status of children who are born as a result of them. The General Scheme did not provide such clarity.

While supporting the legitimate prohibition of commercial surrogacy, the OCO recommended that the Oireachtas ensure that the sanctions imposed on parents who break the law do not leave children in a legally precarious situation.

The General Scheme provided for a range of measures that would support children's rights to know and be cared for by their parents. However, the OCO believes that the legislation should go further in places, particularly with respect to a child's right to know and be cared for by her/his father.

Finally, the Ombudsman for Children's Office welcomed the provisions of the General Scheme that reflected recommendations made by the Office a number of years ago with respect to civil partnership and adoption, as they would rectify a significant omission from the relevant legislation with respect to children.

### **Project on Child-Friendly Administration**

During the course of 2014, the Ombudsman for Children's Office decided to undertake a project on child-friendly administration with the support of the International Ombudsman Institute.

The aim of the project is to gain an understanding of the experience children and families have of accessing public services, the difficulties they encounter and what practices characterise a rights-based, child-friendly approach to public administration and decision-making. In particular, the project is looking at whether and how administrative decision-making processes can incorporate principles contained in the UN Convention on the Rights of the Child and other children's rights standards. It is also examining common themes in relation to public bodies, which have been highlighted by the OCO's complaints and investigation work and include:

- the timeliness of decision-making processes for children;
- the integration of services;
- communication with children and families; and
- the availability of local redress and the handling of complaints and appeals

The impetus for this project was the deficit in child-friendly approaches that has become apparent to the Ombudsman for Children's Office in the course of examining and investigating the actions of public bodies since its establishment in 2004.

The first phases of the research, including a desk-based review of relevant literature and consultation with children and their families on the barriers they face in accessing services, were initiated in late 2014. This project is ongoing.

### Refugee Appeals Tribunal Guidelines on Child Applicants for Refugee Status

In May 2014, the Ombudsman for Children was asked by the Refugee Appeals Tribunal (RAT) to provide advice on the RAT's *Draft Guidelines in relation to Child Applicants for Refugee Status*.

One of the OCO's statutory functions under section 7 of the Ombudsman for Children Act 2002 is to encourage public bodies to develop policies, practices and procedures designed to promote the rights and welfare of children. In the context of this function, the OCO welcomed the opportunity to provide observations on the *Draft Guidelines* prepared by the Office of the Refugee Appeals Tribunal in relation to child applicants for refugee status.

The OCO provided comments on a range of issues arising in the *Draft Guidelines*, including: the over-arching principles that should inform the guidelines; the prioritisation of children's cases; training for staff at the RAT; the provision of adequate and appropriate information to young people; and the approach to questioning adopted by the RAT.

### Committee for the Prevention of Torture

As part of its country mission to Ireland in September 2014, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) met with the Ombudsman for Children's Office.

The OCO highlighted its continuing concerns regarding the situation of children in detention, including: the continued use of St Patrick's Institution for 17 year old boys detained on remand; difficulties that existed at the time with providing therapeutic services to young people detained on the Oberstown campus; and issues arising for children in special care.

### Operation of the Ombudsman for Children Act 2002

#### *Direct Provision*

An issue that the OCO has consistently raised with the Oireachtas is the exclusion to its investigatory remit in the domain of asylum and immigration. As noted in this Office's last Annual Report, section 11 (1)(e)(i) of the Ombudsman for Children Act 2002 provides that the Ombudsman for Children shall not investigate an action taken in the administration of the law relating to asylum, immigration, naturalisation or citizenship. As a result, certain actions of the Department of Justice and Equality fall outside the investigatory remit of this Office. Precisely what acts or omissions may be subject to investigation by the Ombudsman for Children will depend on the circumstances.

The Department of Justice and Equality and the OCO do not have a shared understanding of the scope of this exclusion. The OCO believes that young people – including those in Direct Provision – should have access to the Ombudsman for Children in the same way as every other child in Ireland, and that the only thing excluded would be the procedures

for defining and determining whether a person is entitled to a particular status, not the provision of services. This is consistent with the position of the Minister for Children at the time the Ombudsman for Children Bill was being debated in the Oireachtas in 2002. The Department of Justice and Equality believes, on the contrary, that the OCO does not have the jurisdiction to examine and investigate complaints made by or on behalf of young people in Direct Provision.

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



# 5

## EDUCATION AND PARTICIPATION

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Section 7 of Ombudsman for Children Act, 2002 invests the Ombudsman for Children with a set of unique statutory powers that complement the Office's work to investigate complaints and place a positive obligation on the Office to promote and monitor the rights and welfare of children up to 18 years of age. The Office's education and participation programme aims to give effect to a number of statutory functions under Section 7 of the 2002 Act. Among these functions 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 (including the UN Convention on the Rights of the Child) and how those rights can be enforced; and
- to establish structures to consult with children and highlight issues relating to children's rights and welfare that are of concern to children themselves.

### **Rights Education Workshops**

During 2014, education workshops on children's rights were delivered on a weekly basis to groups of children and young people visiting the Office. A mainstay of the OCO's rights education programme, these workshops continue to provide a valuable opportunity for the Office 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.

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

In 2014, over 1,100 children and young people from schools and youth services in 16 counties visited the OCO to explore how children's rights surface in the context of their daily lives and to consider the responsibilities that different people have for respecting, protecting and fulfilling children's rights.

## Children and Young People's Views on Education

20th November 2014 marked the 25th anniversary of the adoption by the UN General Assembly of the UN Convention on the Rights of the Child (UNCRC). Article 29 of this Convention is focused on defining core aims for children's education. Among these aims are *"the development of the child's personality, talents and mental and physical abilities to their fullest potential"* and *"the development of respect for human rights and fundamental freedoms"*.

In 2014, workshops delivered by the OCO for visiting groups of children and young people also provided an opportunity to facilitate children and young people to consider and express their views on what they feel key aims of education for children living in Ireland should be. Over 700 children and young people from 30 primary and post-primary schools around the country shared their ideas, with many taking the opportunity not only to speak about what education should enable children to achieve, but also to comment on different features of education such as matters relating to the whole school environment, curriculum and assessment.

Several themes emerged from the viewpoints shared by children and young people. Based on their own experiences, they suggested that more priority might be afforded within formal education to a number of areas, namely:

- the development of life skills (financial literacy, independent living skills, preparing for the world of work);
- health and well-being (nutrition, physical education, mental health);
- personal and social development (self-esteem and self-confidence, building positive, respectful relationships with others);
- the development of communications skills;
- the development of ICT skills and digital literacy; and
- fostering creativity, including through arts education.

In addition, several children and young people spoke about the importance of taking an inclusive, equitable approach to recognising and nurturing children and young people's different interests and talents, including by affording children choices around what they learn. In this regard, the matter of subject choices being gendered arose – for example, a group of sixth class boys from an all-boys primary school felt that, in terms of developing independent living skills, it is as important for boys as it is for girls to have the opportunity to do home economics.

The value of employing diverse teaching and learning methodologies and of adopting different approaches to formal assessment was also proposed, in particular by young people in post-primary education. In raising these matters, young people spoke about the need to recognise and support young people's different learning styles as well as about the merits of employing methods of assessment, which discourage rote learning, focus on the quality of young people's learning, and facilitate young people to demonstrate their learning to the best of their ability.

A sample of the opinions and ideas shared by children and young people are highlighted overleaf.

*"Discovery ... You should get to find out more things about yourself through education ... Like discover your own talents and skills rather than it being forced upon you that you have to do this, this and this to get on ... It's just very stressful ... You don't really get to find out much about yourself through education."*

Young person from Co Louth

*"I think we should be more focused on IT and I think we should learn how to create computer software and computer programming."*

Young person from Co Mayo

***"Classes like home economics, you should have to do them. It's life skills."***

Young person from Donegal

***"I think in school people should be more broad-minded ... They should have more awareness of other people's cultures."***

Children from Co Westmeath

***"The one big thing I think we need from our education is positive mental health."***

Young person from Dublin

*"PE should be about learning parts of the body and how parts of the body work and what food you need to stay healthy and fit."*

Young person from Co Limerick

*"Change how you're learning. Most of the time ... you just have to learn it off. You don't even have to know what it's really about or what you need it for. Just learn the formula or learn the text off."*

Young person from, Co Dublin

*"I think music should be taken more seriously and that they should do more about performance ... I think doing more plays and dramas would make students more confident. They'd be able to be better in front of people and they won't be so nervous."*

Young person from Co Mayo

*"Education should teach us more about real-life situations, for example helping or caring for a relative if they are sick or in need."*

Young person from Co Kilkenny

***"Some people find it easier to express themselves through music and art rather than through maths and English."***

Young person from Co Wexford

“Maybe another aspect that schools should work on is behaviour in classes and around the school grounds because bullying is a massive problem nowadays in schools ... So maybe teach kids ... how to treat people as they would like to be treated themselves.”

Young person from Co Leitrim

“Education should help young people to learn how to cope with any situation that may happen during their adult lives.”

Young person from Co Longford

*“I think we should do more PE and sport in school ... I think you should get points in your Leaving Cert if you’re fitter.”*

Child from Co Wexford

*“Memories are very important from a child’s education ... My favourite memory is playing football in the class because I have friends that play with me.”*

Child from Co Dublin

*“I like technology ... and I would like that to be a school subject.”*

Child from Co Wexford

“Education is about socialising, being confident, meeting new people, learning how to get along together.”

Young person from Co Dublin

*“Without education people wouldn’t be able to express their thoughts to other people and that can cause conflict between people. So I think education makes people less violent.”*

Child from Co Galway

“We do gymnastics and a part of gymnastics is trusting your partners ... If you don’t trust somebody you won’t improve on things.”

Children from Co Wexford

“More group work ... to build up our confidence to talk to new people or to speak out.”

Young person from Co Donegal

“Everybody learns differently and maybe people should be assessed by how they learn best. Some might learn by watching ... some might learn by writing and some might learn by actually doing ... If people were assessed by how they learn best and they were taught that way, it would probably help.”

Young person from Co Mayo

*“Every child should leave school with self-confidence ... I think they would get that if school focused a bit less on academic work and more on personal growth.”*

Young person from Co Monaghan

“You should have less subjects and focus more on what you really want in your future.”

Young person from Co Dublin

“You gain a lot of communication skills that you use throughout life from sport and team sports. And you need a lot of communication skills to get life success.”

Young person from Co Wexford

*“Education isn’t just about reading and writing. It’s about learning about being part of team.”*

Child from Co Galway

“We think that every child in education should take away life skills... Like learning how to take money out of a bank, loans, bills ... Or writing a letter to somebody ... And cooking ... even how to follow a recipe.”

Children from Co Wexford

**“I think every child should feel accomplished coming out of school. That they would have achieved what they wanted to and feel proud.”**

Young person from Co Longford

“People in school should be taught more about what’s going on in the world ... I don’t think there’s enough emphasis on current affairs in school ... I’d like to know more about what’s going on in the world and how countries stand at the moment.”

Young person from Co Galway



## It's Your Right

Cognisant that there are necessarily limits to how many children and young people the Office can engage with through its rights education workshop, the OCO has supplemented this programme through the development of educational resource materials, which aim to facilitate engagement with issues relating to children's rights and children's lives in Ireland in the context of curriculum teaching and learning as well as through the non-formal education sector. Developed in English and Irish and comprising activities targeted at different age groups, resource materials such as *What do you say?* (2010) and *Small Places* (2012) have been disseminated through the country and made available for downloading on the OCO's website.

In the context of its tenth anniversary in 2014, the Office initiated a new project to raise awareness of children's rights among children and young people in Ireland. Comprising a dedicated site and free iPad app, *It's Your Right* takes a transmedia approach to building awareness of children's rights in a range of formats and across interconnected platforms, including, Vimeo and Audioboom. Providing core information in English and Irish and incorporating elements of a peer-learning approach among children and young people, the first phase of *It's Your Right* focuses on building awareness of children's rights under the UN Convention on the Rights of the Child and on highlighting the perspectives of children and young people living in different parts of the country as regards what different rights under this Convention mean to them.

The *It's Your Right* website can be viewed at [www.itsyourright.ie](http://www.itsyourright.ie). The accompanying iPad app, which won a silver award at the Appy Awards 2014, can be downloaded for free from the iTunes app store.

The Office would like to express its appreciation to the schools, youth services and other organisations, which facilitated the development of visual, audio and video content for the site with children and young people. The Office is also very grateful to the children and young people who have participated in the *It's Your Right* project to date.

The OCO is planning to implement the next phase of the project during 2015, which will focus on developing the *It's Your Right* platform as an online hub for child and youth-friendly information on children's rights in Ireland.

## Seminars for Postgraduate Students

In line with its statutory obligations under Section 7 of the 2002 Act, the Office designed and delivered a series of rights education seminars for postgraduate students in 2012 and 2013. In view of participants' interest in and positive evaluations of these seminars, the Office expanded the programme again in 2014.

Having regard to the issues that the Office has occasion to engage with through its different statutory functions, the seminars delivered during 2014 were targeted at students pursuing postgraduate qualifications in social work, social care, education, and child protection and welfare. Almost 200 students from six third level institutions (NUI Galway, University College Cork, University College Dublin, Trinity College Dublin, Athlone IT, and St. Patrick's College) participated in the seminar programme.

Delivered by OCO staff in November and December 2014, the seminars focused on raising awareness of the Office's statutory mandate, functions and corresponding areas of work; developing participants' understanding of fundamental children's rights principles and their application in the context of their own professional practice; and encouraging child-centred practice and decision-making, including through a facilitated examination of case studies arising from the Office's investigative work.

As with 2012 and 2013 programmes, the seminars delivered in 2014 were positively evaluated by participants and the Office plans to implement a similar programme during 2015.





# TUARASCÁIL BHLIANTÚIL AN OMBUDSMAN DO LEANAÍ 2014





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# 1

## TEACHTAIREACHT ÓN OMBUDSMAN DO LEANAÍ

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Is cúis áthais dom é mo thuarascáil bhliantúil don tréimhse an 1 Eanáir go dtí an 31 Nollaig 2014 a chur faoi bhráid an Oireachtais de bhun Alt 13(7) den Acht um Ombudsman do Leanaí, 2002.

Ba mhaith liom tús a chur leis an tuarascáil seo agus cúpla focal a rá faoi mo réamhtheachtaí, Emily Logan, a chuir an Oifig seo ar bun sa bhliain 2004, tar éis a ceapacháin i mí na Nollag 2003 ar an gcéad Ombudsman do Leanaí in Éirinn. Le bunú na hoifige tugadh ar an bhfód fórsa láidir chun cearta agus leas leanaí in Éirinn a chothú agus monatóireacht a dhéanamh ar na cearta sin. Trí fhorálacha

an Achta um Ombudsman do Leanaí 2002 a chur i bhfeidhm go sáraithe, throid sí ar son cearta leanaí in Éirinn le comhbhá, nuálaíocht, sárghuineamh agus dúthracht, go háirithe ar son leanaí a mbíonn constaicí móra ag seasamh i gcoinne réadú na gcearta sin. Ba mhór an onóir dom é a bheith ag obair léi ar feadh dhá bhliain go leith agus chonaic mé féin le linn an ama sin an dianobair agus an dianseasmhacht aici agus í i mbun cearta leanaí a chur chun cinn. Bhí sí ag tús cadhnaíochta sa chinnteoireacht sna réimsí sin, lena n-áirítear réimsí an riaracháin shibhialta agus phoiblí. Agus Tuarascáil Bhliantúil 2014 á cur i láthair agam, ba mhaith liom gach rath a ghuí ar Emily ina gairm nua agus a chur in iúl gur mór an onóir dom é a bheith tofa ar an gcéad Ombudsman do Leanaí eile chun leanúint den obair a thosaigh síse.

In 2014 bhí Oifig an Ombudsman do Leanaí (OCO) ar an bhfód 10 mbliana agus mar cheiliúradh air sin reáchtáil an Oifig comhdháil, mar a ndearnadh iniúchadh ar chaidreamh an Stáit le leanaí agus teaghlaigh agus éilíodh le linn na comhdhála go mbeadh struchtúir ann chun cuntasacht a chinntiú i measc na n-institiúidí atá faoi scáth an Ombudsman. Ag an gcomhdháil sin, thrácht Emily Logan air seo *“as the environment in which children grow up continues to change, posing new challenges and raising new opportunities for them, I am constantly reminded of the importance of having an independent Office that will be available to promote their rights, investigate complaints and provide redress”*.



Ar cheann de na láidreachtaí is tábhachtaí ag Oifig an Ombudsman do Leanaí in Éirinn tá an cumas bheith in ann feidhmiú go neamhspleách le leanaí agus ar a son. Tá cúpla gné ag baint le neamhspleáchas, ámh, agus ceann de na gnéithe is tábhachtaí ná dóthain acmhainní a bheith ar fáil chun na feidhmeanna reachtúla, atá bronnta ag an Oireachtas ar an Oifig, a chomhlíonadh. Faoi láthair, faigheann OCO a mhaoiniú tríd an Roinn Leanaí agus Gnóthaí Óige. Go praiticiúil, ní raibh fadhbanna ag baint leis an smacht a bhí ag an Roinn ar bhuiséad OCO. Cibé scéal é, níl sé oiriúnach go mbeadh institiúid neamhspleách um chearta daonna ag fáil a cuid maoiniúcháin trí chomhlacht poiblí ar féidir leis an institiúid sin imscrúdú a dhéanamh air. Mar a luadh sa tuarascáil seo, bhain 25% de na gearáin go léir a fuarthas in 2014 le seirbhísí faoi scáth na Roinne Leanaí agus Gnóthaí Óige. Tá mé den tuairim gur chóir an scéal sin a leigheas agus go bhfaigheadh OCO a mhaoiniú go díreach ón Oireachtas. Bhí sé sin ina mholadh le fada an lá a rinne Coiste NA um Chearta an Linbh.

Is léir ón obair a bhfuil cur síos uirthi sa tuarascáil seo go mbíonn an Oifig ag plé le saincheistanna ilchineálacha, a thagann chun solais don Oifig trí chur i bhfeidhm a feidhmeanna reachtúla. In 2014, i réimse an pholasaí agus na reachtaíochta, chuir an Oifig comhairle ar fáil don Aire Dlí is Cirt agus Comhionannais maidir le Scéim Ghinearálta an Bhille um Leanaí agus Cóngais Teaghlaigh 2014 agus chuir an Oifig barúlacha ar fáil don Bhinse Achomhairc do Dhídeanaithe maidir lena Dhréacht-Treoirínite i ndáil le hlarratais ar Stádas Dídeanaí ó dhaoine ar Leanaí iad. Maidir leis an dara foilseachán sin, chuir an Oifig raon tuairimí ar fáil ar shaincheistanna éagsúla, lena n-áirítear oiliúint foirne, soláthar faisnéise iomchuí do dhaoine óga laistigh den chóras agus na prionsabail uileghabhálacha is cóir a bheith ina mbonn is taca leis na treoirínite. Maidir le Scéim Ghinearálta an Bhille um Leanaí agus Cóngais Teaghlaigh Bill 2014 bhain ceann de na saincheistanna ar chuir an Oifig tuairim ar fáil maidir léi leis an tábhacht atá le soiléiriú a dhéanamh, a mhéid is indéanta, ar an gcaoi a dtéann socruithe máthairionadaíochta a dhéanann daoine thar lear (bíodh sin ar bhonn tráchtála nó neamhthráchtála) i bhfeidhm ar stádas dlíthiúil na leanaí a saolaítear mar thoradh orthu. D'fháiltigh an Oifig freisin roimh fhorálacha atá sa Scéim Ghinearálta i ndáil le páirtneireacht shibhialta agus uchtáil, a chuireann ina cheart bearna shuntasach a bhí ann sa reachtaíocht ábhartha i ndáil le leanaí agus tharraing an Oifig aird ar an mbearna sin roinnt blianta ó shin.

Bíonn an Oifig páirteach, ar bhonn leanúnach, i sásraí idirnáisiúnta monatóireachta. Maidir leis sin, rinne an Oifig óstáil in 2014 ar chuairt ó Choiste Eorpach um Chosc ar Chéasadh nó Táiríde nó Pionós (CPT). Inár gcruinniú le CPT, chuireamar in iúl ár gcúiseanna imní faoi roinnt ceistanna a théann i bhfeidhm ar dhaoine óga faoi choinneáil, lena n-áirítear deacrachtaí rochtain a fháil ar sheirbhísí teiripeacha do dhaoine óga i mBaile an Oibricigh ag an uair, agus saincheistanna a bhaineann le leanaí faoi chúram speisialta.

Le linn 2014, lean an Oifig ag reáchtáil roinnt ceardlann oideachais faoi chearta, do leanaí agus daoine óga a thugann cuairt ar OCO ó gach cearn den tír. Ghlac breis is 1,000 leanbh agus duine óg páirt sna ceardlanna in 2014, mar ab amhlaidh i mblianta roimhe sin. Is deis mhaith na ceardlanna don Oifig éisteacht le cúiseanna imní leanaí agus daoine óga ar fud na hÉireann. In 2014, dhíríomar go sonrach ar chuidiú le leanaí a dtuairimí féin a chur in iúl faoi

oideachas agus roghnaíomar roinnt dá dtuairimí le cur síos orthu sa tuarascáil seo. Chomh maith leis sin, lean an Oifig ag déanamh teagmhála le gairmithe i réimsí na hoibre sóisialta, an chúraim shóisialta, an oideachais agus an chúraim sláinte trínár gclár de sheimineáir iarchéime. Ghlac breis is 200 duine páirt sa chlár seo le linn 2014, agus ar an gcaoi sin fuair siad an deis a gcuid eolais ar obair na hOifige a fhorbairt agus breathnú ar an ngaol idir cearta leanaí agus a gcleachtas gairmiúil féin.

I réimse na ngearán agus na n-imscrúduithe, oibríonn an Oifig seo go dian chun freagairt go héifeachtach do gach gearán a fhaighimid. Ón eolas a fhaighimid trí mheán na ngearán sin agus trí imscrúdú a dhéanamh ar na gearáin chéanna, faighimid léargas ar na heispéiris a bhíonn ag leanaí agus a dteaghlaigh agus iad ag plé leis na seirbhísí poiblí. Cuidíonn sé sin leis an Oifig ní hé amháin feabhas a chur ar chúrsaí do leanaí indibhidiúla, ach athrú córasach a dhéanamh a chuirfidh feabhas ar an gcaoi a n-idirghníomhaíonn comhlachtaí poiblí le leanaí agus teaghlaigh.

Ón taithí ag an Oifig go dtí seo bíonn comhlachtaí poiblí sásta glacadh lena bhfuil foghlamtha ó na gearáin a cuireadh faoi bhráid OCO agus bíonn siad ag cur feabhais ar a seirbhísí mar thoradh ar mholtaí na hOifige. Ar na ról thábhachtacha ag an Ombudsman tá an teagmháil agus an caidreamh leis na comhlachtaí poiblí sin atá faoina scáth a chothú. Is cur chuige ríthábhachtach é seo má táthar chun leigheas a fháil ar na nithe a ndéantar gearán fúthu agus an réiteach is fearr agus is féidir a fháil. Trí dhéileáil le 1,600 gearán le linn 2014, lean an Oifig ag tógáil caidrimh láidre, dhearfacha, mhaithe leis na comhlachtaí poiblí a mbímid i dteagmháil leo agus ar an gcaoi sin fiú amháin má tharlaíonn easaontas láidir idir an Oifig agus an comhlacht poiblí, beidh gach páirtí ar an eolas gur chóir an fócas a choinneáil i gcónaí ar an leanbh atá lánach sa ghearán féin.

Ar an drochuair, níor tharla an dul chun cinn a rabhthas ag súil leis in 2014 maidir le deireadh a chur le coinneáil daoine óga faoi bhun 18 mbliana d'aois i bhForas Naomh Pádraig. É sin ráite, tharla forbairtí dearfacha ó thaobh athfhorbairt Scoileanna Coinneála Bhaile an Oibricigh ina Shaoráid Choinneála Náisiúnta do Leanaí (NCDF) ionas gur féidir cóiríocht a chur ar fáil go luath do gach leanbh atá ar athchur nó a bhfuil pianbhreith gearrtha air/uirthi. Le linn 2014, bhí mé ag obair go rialta le lucht bainistíochta Sheirbhís Príosún na hÉireann agus le Baile an Oibricigh chun a fháil amach cén stádas reatha atá ag daoine óga faoi chúram ag an dá chomhlacht poiblí sin. I gcomhthráth leis sin bhí comhghleacaithe liom in OCO ag cuidiú sa phróiseas ionductaithe d'fhoireann nua-earcaithe i mBaile an Oibricigh agus, mar thoradh air sin, tá an fhoireann sin in iúl anois ar ról na hOifige seo ó thaobh na ngearán a dhéanann na leanaí atá faoi choinneáil ansin, nó ó thaobh na ngearán a dhéantar ar a son. Tá súil á choinneáil ag an Oifig ar an dul chun cinn i réimse daoine óga faoi choinneáil agus leanfaidh an Oifig ag plé na ceiste, de réir mar is gá agus mar is iomchuí, chun samhail de cheartas don óige a fhorbairt atá ag teacht go hiomlán leis na caighdeáin idirnáisiúnta agus leis an gcleachtas is fearr idirnáisiúnta.

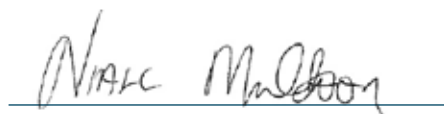
Bhí a lán eagraíochtaí, an Oifig seo san áireamh, ag cur cúiseanna imní in iúl le fada an lá faoin gcóras Soláthair Dhírigh. Tá moladh ag dul don Aire Dlí is Cirt agus Comhionannais

agus don Aire Stáit le freagracht speisialta as Pobail Nua, Cultúr agus Comhionannas, as Meitheal a bhunú i mí Dheireadh Fómhair 2014 faoi chathaoirleacht an Iar-Bhreithimh Ard-Chúirte Bryan McMahon chun bearta a ainmniú a bhfuil mar aidhm leo feabhas a chur ar na socruithe reatha do phróiseáil iarratas ar chosaint, agus ar an gcaoi sin meas a léiriú ar dhínit na ndaoine sa chóras agus feabhas a chur ar an gcáilíocht saoil acu trí fheabhas a chur ar na tacaí agus na seirbhísí atá ar fáil dóibh faoi láthair.

Chuir an Oifig seo in iúl, le fada an lá, gur chóir go mbeadh fáil ar Oifig an Ombudsman do Leanaí ag gach leanbh, lena n-áirítear leanaí atá ina n-iarratasóirí ar chosaint idirnáisiúnta sa chóras Soláthair Dhíriú. Maidir leis sin, ba chúis mhór áthais don Oifig é toradh ar chás Ard-Chúirte i mí na Samhna 2014 a tharla i gcomhráth le bunú na Meithele seo. Chinn an Breitheamh Mac Eochaidh go raibh iarratasóirí ar chosaint idirnáisiúnta i dteideal go mbeadh gnáthamh láimhseála neamhspleách ann agus nach bhfuil sé inghlactha go mbeadh an Ghníomhaireacht Fáiltithe agus Imeachta (RIA), atá ina údar ar Rialacha Tí agus a bhfuil caidreamh tráchtála aige leis an soláthróir cóiríochta, ina eadránaí i ndíospóidí idir áitritheoirí agus soláthróirí tráchtála cóiríochta. Luaigh sé go sáraíonn sé sin an prionsabal dlí nár chóir do dhuine a bheith ina bhreitheamh i gcúrsaí a bhféadfadh leas a bheith ag an té sin iontu. Tá súil agam go dtarlóidh sé in 2015 go dtabharfar an rochtain chéanna do leanaí sa chóras Soláthair Dhíriú ar Oifig an Ombudsman do Leanaí is atá ag leanaí eile in Éirinn. D'fháilteoisim go mór roimh an bhforbairt seo. Beifear in ann, dá réir, teacht ar réiteach neamhspleách, neamhchlaonta, éifeachtach ar aon saincheisteanna míriaracháin a thiocfadh chun cinn i ndáil le leanaí sa chóras agus daingneoidh sé an córas féin.

Le linn 2014, chaill an Oifig seo, a bhfuil foireann bheag, ach an-díograiseach agus an-éifeachtach aici, ní hé amháin an chéad Ombudsman do Leanaí, ach cúpla ball foirne eile a bhí ann le fada. Agus muid ag feitheamh leis na folúntais sin a líonadh, tréimhse dhúshlánach atá ann don chuid eile den fhoireann atá fágtha. Cibé scéal é, molaim go hard mo chomhghleacaithe san OCO a lean ag soláthar seirbhíse den chéad scoth d'ainneoin na mbrúna a bhain le líon mór gearán a fháil agus athdháileadh na hoibre ba ghá a dhéanamh sa mhéid nach raibh na folúntais phoist sin líonta.

Tá rochtain ar mheicníocht neamhspleách sásaimh, ina bunchuid de dhaonlathas atá ag feidhmiú mar is cóir agus leanfaidh an Oifig seo ag soláthar meicníochta dá leithéid do leanaí, tuismitheoirí agus daoine fásta eile a bhíonn ag feidhmiú ar son leanaí trínár bhfeidhm gearán. Trí úsáid iomlán a bhaint as raon cumhachtaí na hOifige seo leanfaidh mé ag stocaireacht ar son seirbhísí poiblí níos fearr atá níos dírithe ar leanaí – seirbhísí a aithníonn leas leanaí go hiomlán mar chuid d'aon phróiseas cinnteoireachta a d'fhéadfadh dul i bhfeidhm ar leanaí.



**An Dr Niall Muldoon**

An tOmbudsman do Leanaí

# 2

## FORBAIRT EAGRAÍOCHTÚIL

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### Seirbhísí Corparáideacha

#### Rialú Airgeadais

In 2014 leithdháileadh €1.888m ar Oifig an Ombudsman do Leanaí.

De réir mar atá sonraithe in Ailt 17(1) agus (2) den Acht um Ombudsman do Leanaí, 2002, tá an tOmbudsman do Leanaí freagrach as Ráitis Airgeadais a ullmhú agus rialtacht idirbhearta na hOifige a chinntiú. Áirítear i measc na bhfeidhmeanna is bonn agus taca leis na freagrachtaí sin údarú agus monatóireacht a dhéanamh ar íocaíochtaí le haghaidh earraí agus seirbhísí, ar phróisis tairisceana, ar fheidhmiú an phárolla, agus ar thiomsú na dtuairisceán míosúil.

Bíonn na Ráitis Airgeadais faoi réir iniúchóireachta ag Oifig an Ard-Reachtair Cuntas agus Ciste. Rinneadh iniúchóireacht ar chuntais 2013 i mí Iúil 2014. De ghnáth ní bhíonn Ráitis Airgeadais do bhliain áirithe iniúchta tráth a bhfuil an tuarascáil bhliantúil chuí á foilsiú. Chomh luath agus a dhéanann Oifig an Ard-Reachtair Cuntas agus Ciste faomhadh ar na ráitis airgeadais, déantar iad a fhoilsiú ar shuíomh gréasáin OCO agus tá cuntais bhliantúla uile OCO go dtí an bhliain 2013 le fáil ag [www.oco.ie](http://www.oco.ie).

Chuir Crowleys DFK Chartered Accountants seirbhísí cuntasáiochta ar fáil don Oifig le linn 2014.

#### Acmhainní Daonna

Tá 15 bhall foirne ceadaithe don Oifig. Dúshlán leanúnach é úsáid a bhaint as an acmhainn luachmhar sin chun freastal ar éilimh a thagann chun solais bliain i ndiaidh bliana, ó thaobh líon agus chastacht na ngearán de. Déantar athbhreithniú ar bhonn leanúnach ar ról agus ar fheidhmeanna gach baill foirne san Oifig.

Tharla roinnt mhaith athruithe suntasacha foirne in 2014, an príomhathrú ná gur fhág Emily Logan mar Ombudsman do Leanaí chun dul i mbun poist mar Phríomh-Choimisinéir Choimisiún na hÉireann um Chearta an Duine agus Comhionannas.

Bhain dúshlán ar leith don Oifig seo leis an bpróiseas fadálach chun cead a fháil ón Roinn Leanaí agus Gnóthaí Óige agus ón Roinn Caiteachais Phoiblí agus Athchóirithe foireann nua a cheapadh in áit na mball foirne a d'fhág le dul sa tóir ar dheiseanna nua.

## Millennium House – úsáid an áitribh

Chomh maith leis na ceardlanna oideachais faoi chearta daonna a réachtáil do ghrúpaí leanaí a tháinig ar cuairt chuig an Oifig, lean an Oifig freisin le clár dá leithéid do mhic léinn iarchéime.

Tá an Oifig sásta leanúint ag cur na n-áiseanna in Millennium House ar fáil mar ionad d'imeachtaí atá dírithe ar chearta agus leas leanaí agus daoine óga. I measc na ngrúpaí a raibh seisiúin chomhairliúcháin acu le daoine óga in Millennium House in 2014 bhí Comhairle Chomhairleach na nÓg, ionadaithe ó thrí ospidéal leanaí, BeLoNG To, EPIC, Northside Partnership, Comhairle Dídeanaithe na hÉireann, Headstrong agus an Chomhghuaillíocht um Chearta Leanaí.

## Forléargas ar Úsáid Fuinnimh in 2014

I mí na Nollag 2009, thug an tAire Cumarsáide, Fuinnimh agus Acmhainní Nádúrtha éifeacht do Threoir 2006/32/EC ó Pharlaimint na hEorpa agus ón gComhairle an 5 Aibreán 2006, dar teideal 'Rialachán CE (Éifeachtacht Fuinnimh na Críochúsáide agus Seirbhísí Fuinnimh) 2009 (I.R. 542 de 2009)'. De réir na Rialachán seo tá sé de cheangal ar eagraíochtaí san earnáil phoiblí tuairisciú go bliantúil ó Eanáir 2011 ar a n-úsáid fuinnimh agus ar na bearta a glacadh chun tomhaltas fuinnimh a laghdú.

In 2014, bhain Oifig an Ombudsman do Leanaí úsáid as 68.161 MWh d'fhuinneamh i gcomparáid le 86.822 MWh in 2013, sin laghdú de 21.5%. D'ainneoin gur ardaigh an meánphraghas foriomlán in aghaidh an aonaid faoi 15.2% in 2014 i gcomparáid le 2013 d'éirigh leis an Oifig coigilteas de 9.6% a dhéanamh sna costais fhoriomlána.

Rinne Seirbhísí Corparáideacha athbhreithniú cuimsitheach ar thomhaltas fuinnimh le linn na bliana i gcomhar le hOifig na nOibreacha Poiblí. Déantar monatóireacht ar úsáid fuinnimh ar bhonn leanúnach. Tá córas athchúrsála inmheánach i bhfeidhm ag OCO i gcónaí.

## Na Meáin

Mar ab amhlaidh i mblianta roimhe seo, léirigh na meáin spéis mhór i gclúdach a dhéanamh ar obair na hOifige, lena n-áirítear comhairle an Ombudsman do Leanaí maidir Scéim an Bhille um Leanaí agus Cóngais Teaghlaigh agus foilseachán de chuid an Ombudsman do Leanaí *Investigation into a decision by the HSE (now Tusla, the Child and Family Agency) to cease a Section 10 payment to a family*.

Léiríodh spéis ar leith freisin i gcomóradh 10 mbliana na hOifige. Chun ceiliúradh a dhéanamh ar an gcloch mhíle sin réachtáil an Oifig roinnt tionscnamh. Ar an gcéad dul síos, réachtáil an tOmbudsman do Leanaí comhdháil chun mionscrúdú a dhéanamh ar an ngaol atá ag an Stát le leanaí agus teaghlaigh, mar a rabhtas ag éileamh struchtúir nua chuntasachta chun neamhspleáchas institiúidí an Ombudsman a chinntiú. Faoi chathaoirleacht an Bhreithimh Cúirte Uachtaraí, Catherine McGuinness, réachtáladh comhdháil ag a raibh aoichainteoirí mór le rá, lena n-áirítear Cathaoirleach an Choiste NA

um Chearta an Linbh, an tOllamh Kirsten Sandberg; Fergus Finlay, Príomhfheidhmeannach Barnardos; Kevin Bakhurst, Ard-Stiúrthóir Cúnta RTÉ; agus an tOllamh Ursula Kilkelly, Ceann Choláiste Gnó & Dlí in UCC. Reáchtáladh an chomhdháil in Farmleigh agus d'fhreastail céad toscaire air ó ghníomhaireachtaí san earnáil phoiblí agus ón tsochaí shibhialta a bhíonn ag obair le leanaí. Bhí an t-aiseolas ó na rannpháirtithe dearfach agus luaigh siad gur ócáid thar a bheith iomchuí a bhí ann chun comóradh deich mbliana a dhéanamh ar Oifig an Ombudsman do Leanaí. Spreag an ócáid freisin an méid sin spéise go raibh an haischlib (#ococonf10) ag treochtú ar feadh an lae.

Ócáid eile chun an chloch mhíle deich mbliana a chomóradh ná seoladh an tsuímh ghréasáin agus na haipse *It's Your Right* chun feasacht a spreagadh i measc leanaí agus daoine óga maidir lena gcearta faoi Choinbhinsiún na Náisiúin Aontaithe um Chearta an Linbh (féach na rannóga Oideachas agus Rannpháirtíocht den tuarascáil seo chun tuilleadh eolais a fháil faoi sin). Áirítear ar an aip agus an suíomh gréasáin gearrthóga físeáin de leanaí agus daoine óga ag labhairt faoina dtuairimí maidir le cearta éagsúla atá sonraithe faoin UNCRC agus faoina gciallaíonn na cearta sin dóibhsean.

An tionscnamh eile don chomóradh 10 mbliana ar an OCO ná gur foilsíodh forlónadh san Irish Times ina raibh breac-chur síos ar an tionchar a d'imir an Oifig le deich mbliana anuas. Áiríodh san fhorlónadh sin píosaí a scríobh Thomas Hammarberg, iar-Choimisinéir Eorpach um Chearta Daonna; Geoffrey Shannon, Ráipóirtéir Speisialta um Chosaint Leanaí; Alan Shatter TD, an tAire Dlí agus Cirt, Comhionannais agus Cosanta ag an uair; Frances Fitzgerald TD, an tAire Leanaí agus Gnóthaí Óige ag an uair; agus Mary O'Rourke, iar-Theachta Dála agus Cathaoirleach an Chomhchoiste Oireachtais um Athchóiriú an Bhunreachta maidir le Leanaí.

## Gnóthaí Poiblí

Tuairiscíonn an tOmbudsman do Leanaí go díreach don Oireachtas agus tá sainchúram reachtúil air/uirthi comhairle a sholáthar don Rialtas agus d'Airí Rialtais maidir le dlíthe agus beartais a théann i bhfeidhm ar leanaí. Lean an caidreamh táirgiúil idir an tOmbudsman agus Airí, Coistí Oireachtais agus urlabhraithe tábhachtacha. Tháinig an Oifig os comhair an Chomhchoiste Oireachtais um Shláinte agus Leanaí i mí an Mheithimh chun Tuarascáil OCO a phlé maidir le meitea-anailís ar bhunchúiseanna athfhillteacha i ndáil le soláthar seirbhísí do leanaí faoi chúram; an t-iniúchadh ar sholáthar seirbhíse oibre sóisialta FSS sa Laoi Thuaidh; agus iniúchadh ar chur i bhfeidhm *Tús Áite do Leanaí: Treoir Náisiúnta um Chosaint agus Leas Leanaí*.

## Suíomh gréasáin agus meáin shóisialta

Tá suíomh gréasáin na hOifige, [www.oco.ie](http://www.oco.ie), ina uirlis ríthábhachtach chun an pobal i gcoitinne a chur ar an eolas faoi obair na hOifige. In 2014 thug 26,000 úsáideoir cuairt ar an suíomh agus bhí 66% ag féachaint ar an suíomh don chéad uair. Tráth a rabhamar faoi bhrú ó thaobh acmhainní daonna de, bhí an suíomh ina uirlis luachmhar cuidiú le daoine gearáin a dhéanamh agus tuiscint a fháil ar conas agus cathain is féidir leis an Oifig cuidiú

leo. Chomh maith leis sin, baineann an Oifig úsáid as a cuntas Twitter@oco\_ireland chun plé a bheith ann lena páirtithe leasmhara agus chun an obair is deanaí a rinne OCO a roinnt leo.

An chuid is mó éileamh ar an suíomh ná Oideachas agus Cearta Daonna ina gcuirtear síos ar cheardlanna um chearta daonna na hOifige le daoine óga. Chomh maith leis sin, tá gearrthóga físeáin air a rinne leanaí agus daoine óga le linn na gceardlann sin. D'fhonn acmhainn inláimhsithe a sholáthar do mhúinteoirí agus do cheannairí a oibríonn leis an aos óg, chuir an Oifig an t-ábhar oideachais go léir ar fáil i bhformáid in-íoslódáilte, saor in aisce, ón suíomh.

Tá rannóg na nGearán ar an suíomh tábhachtach freisin agus bhí sé gnóthach in 2014. Déanann an Oifig a dícheall a sainchúram a chomhlíonadh trína chinntiú go bhfuil faisnéis faoinár bhfeidhm gearáin ar fáil i meáin éagsúla agus go bhfuil an t-ábhar sin soiléir agus inúsáidte. Déantar é seo trí nuashonrúcháin a chur ar fáil faoi shaincheisteanna reatha, chomh maith le físeáin faisnéise, Ceisteanna Coitianta, ábhar faisnéise, agus foirm ghearáin ar líne.

Sa Rannóg Comhairle don Rialtas & Aighneachtaí/Tuarascálacha Oireachtais de shuíomh OCO tagraítear don chomhairle a chuir an Oifig ar fáil don Rialtas agus/nó don Oireachas ar shaincheisteanna bainteach le cearta agus leas leanaí. Forálann an tAcht um Ombudsman do Leanaí, 2002 le gur féidir leis an Ombudsman do Leanaí, as a stuaim féin nó ar iarratas ón Aire, comhairle a sholáthar d'Airí Rialtais ar an tionchar a d'fhéadfadh a bheith ag reachtaíocht áirithe ar leanaí.

Tá gach ceann de ghearrthóga físeáin OCO le fáil anois ar an gcainéal YouTube, OCOIreland, agus soláthraíonn siadsan eolas maidir le hobair na hOifige. Áirítear iontu freisin cás-staidéir, ár dtionscadail speisialta gearrthóg a rinne daoine óga iad féin agus iad ag plé a gceart.



# 3

## GEARÁIN AGUS IMSCRÚDUITHE

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Tá an fheidhm gearán agus imscrúduithe ag croílár fheidhm na hOifige. Faoin Acht um Ombudsman do Leanaí 2002, féadfaidh an Oifig imscrúdú a dhéanamh ar ghearáin arna ndéanamh ag leanaí agus daoine óga, nó ag daoine fásta thar ceann na ndaoine óga sin, faoi eagraíochtaí poiblí, scoileanna poiblí nó ospidéal phoiblí. Seirbhís saor in aisce, neamhspleách agus neamhchlaonta is ea an tseirbhís seo.

Forálann Acht 2002 d'fheidhmiú na feidhme gearán ag an Ombudsman do Leanaí. Leagtar amach sna forálacha reachtúla seo forais chaighdeánacha míriaracháin d'athbheithniú ar ghearáin agus an chaoi a réachtáiltear na himscrúduithe. Sa mhéid go gcaithfidh an tionchar a bheadh ag gníomh ar leanbh a bheith mar ábhar an ghearáin a ndéanann an tOmbudsman do Leanaí imscrúdú air agus gur féidir leis na leanaí féin an gearán a chur faoi bhráid na hOifige, leagtar amach san Acht na forálacha sonraithe reachtacha a chuireann san áireamh leochaileacht leanaí.

### *1. An Dualgas aird a thabhairt ar leas is fearr an linbh*

Foráiltear san Acht, agus an tOmbudsman do Leanaí ag feidhmiú a f(h)eidhme maidir le gearáin gur chóir aird a thabhairt ar leas is fearr an linbh.

### *2. An dualgas measúnú cuí a dhéanamh ar mhianta an linbh féin*

Chomh maith leis sin, foráiltear san Acht, agus an tOmbudsman do Leanaí ag feidhmiú a f(h)eidhme maidir le gearáin, go ndéanfaidh sé nó sí, a mhéid is indéanta é, breithniú iomchuí ar aois agus ar thuiscint an linbh, agus cothromaíocht a bhaint amach idir sin agus mianta an linbh.

Go háirithe, sa phróiseas imscrúduithe agus iniúchóireachta breithnítear an tionchar neamhfhabhrach a bheadh ag gníomh ar leanbh, chomh maith le cibé acu an raibh nó nach raibh aon cheann díobh seo fíor:

- rinneadh an gníomh gan údarás cuí;
- rinneadh an gníomh ar fhorais neamhábhartha;
- rinneadh an gníomh mar thoradh ar fhaillí nó míchúram;
- bunaíodh an gníomh ar fhaisnéis mhícheart nó neamhiomlán;
- bhí an gníomh idirdhealaitheach go mícheart;
- bhí an gníomh bunaithe ar chleachtas neamh-inmhianaithe riaracháin; nó
- rinneadh an gníomh ar bhealach eile a bhí contrártha le riarachán cóir agus iontaoifa.



Bíonn an fhaisnéis a fhaightear trí ghearáin a fháil, a scrúdú agus a imscrúdú ina bhonn luachmhar eolais a bhfaigheann an Oifig léargais thábhachtacha uaidh maidir le heispéiris leanaí agus teaghlaigh agus iad ag déileáil le seirbhísí poiblí. Faightear aiseolas luachmhar ón scrúdú a dhéantar ar ghearáin, agus an chaoi a ndéileáiltear leo, agus is mar a bheadh iniúchóireacht é do na soláthraithe seirbhíse poiblí féin.

Déanann an t-eolas sin bailíochtú ar ghníomhartha arna ndéanamh nó tacaíonn siad le rún tabhairt faoin athrú. Chomh maith leis sin, tugann sé sofheictheacht d’eispéiris na leanaí, laistigh de na seirbhísí poiblí, agus tugann sé an deis dóibh a gcúiseanna imní a chur in iúl i gcás go dtarlaíonn siad, nó go bhfuil an baol ann go dtarlóidh, mar thoradh ar ghníomhartha na bhforas seirbhíse poiblí.

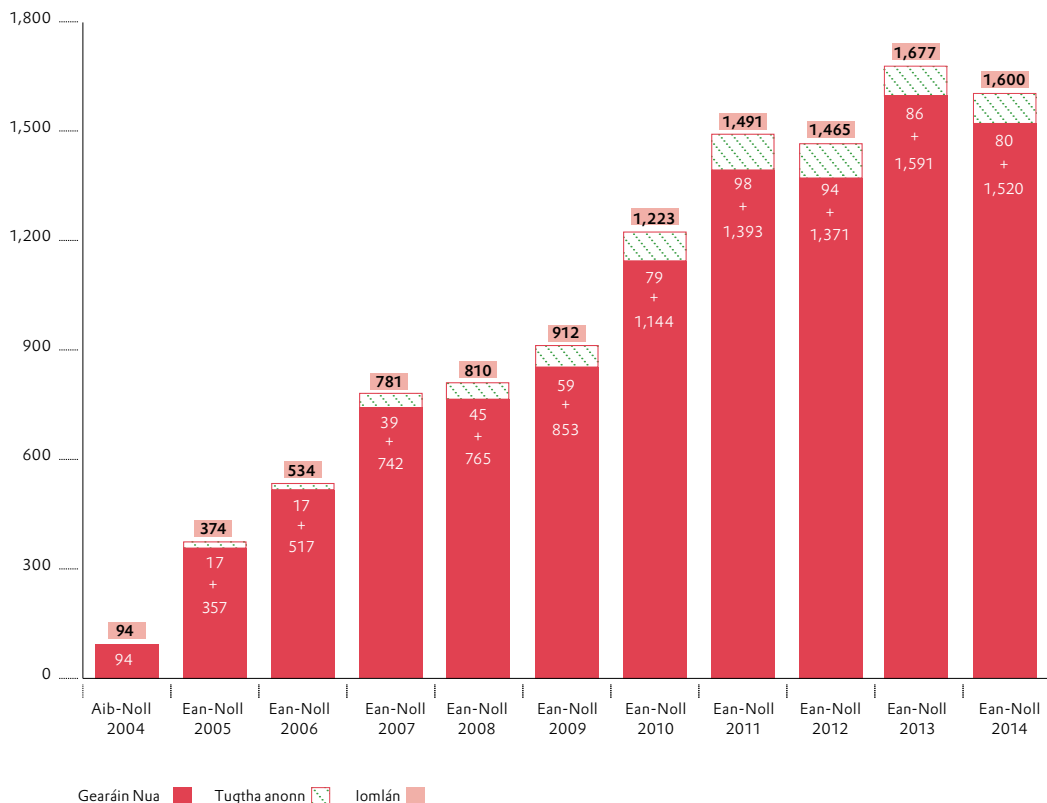
## Staitisticí

### Gearáin a ndearnadh déileáil leo in 2014

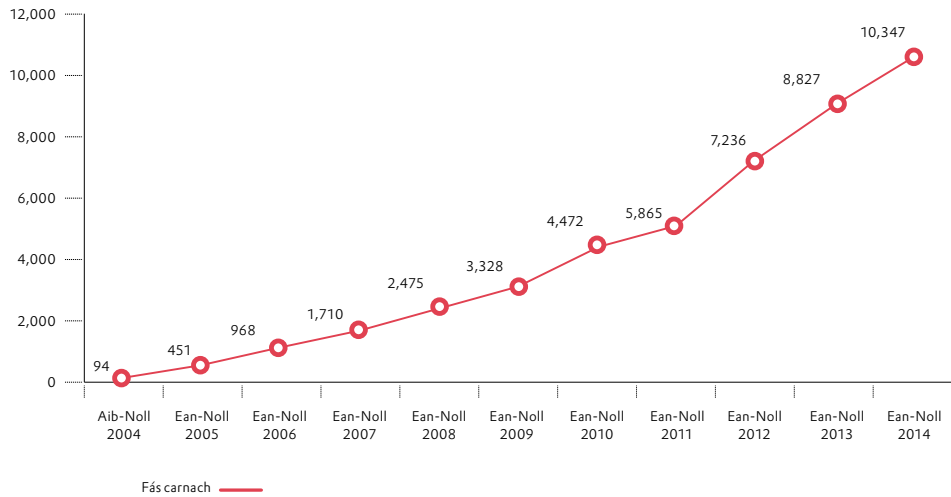
Tháinig laghdú beag in 2014 ar líon na ngearán a fuair an Oifig – thíos 5% ó 2013. Cibé scéal é, fós féin d’éirigh leis an bhfoireann gearán agus imscrúduithe déileáil le 1,600 gearán san iomlán (agus astusan bhí 1,520 gearán nua ann in 2014), agus sin méadú de 9% i gcomparáid le 2012. Léiríonn na figiúirí i dTábla 1 gur laghdaigh líon na ngearán a tugadh anonn ó 2013 go 2014 – ag laghdú faoi 15% idir 2012 agus 2014. Seo mar thoradh ar chórais níos fearr láimhseála gearán a chuir an Oifig i bhfeidhm.

Tábla 1

### Gearáin Nua agus Gearáin a Tugadh Anonn gach bliain ó 2004 - 2014



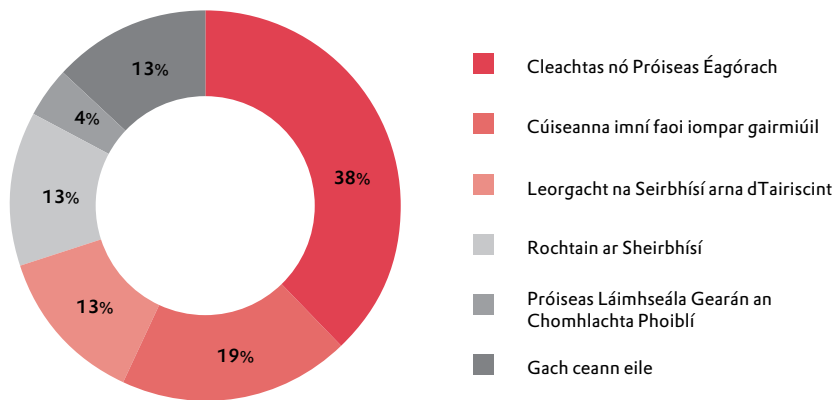
**Tábla 2**  
**Fás Carnach (2004-2014)**



**Gearáin ar Bhonn Carnach a fuarthas idir 2004 agus 2014**

Léirítear i dTábla 2 gur sháraigh an Oifig, in 2014, an figiúr 10,000 gearán faighte le linn a 10ú bliain ar an bhfód. Is léir uaidh sin cé chomh mór is atá ualach oibre na hOifige imithe i méid. Bíonn an foirne gearán agus imscrúduithe anois ag déileáil le raon leathan gearán a bhíonn ilghnéitheach agus casta go minic.

**Tábla 3**  
**Príomhcheisteanna a nDearnadh Gearán Fúthu in 2014 (%)**

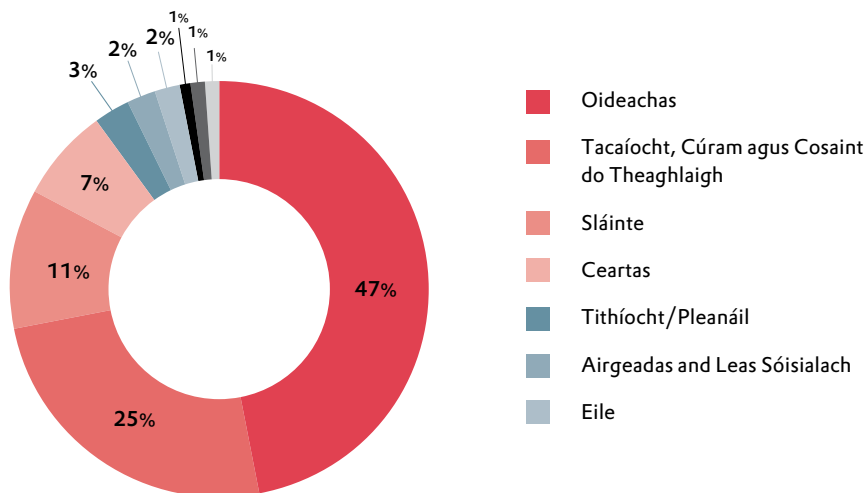


**Príomhcheisteanna ar fud na n-earnálacha go léir a ndearnadh gearán fúthu in 2014 (%)**

Tugann Tábla 3 pictiúr soiléir de na saincheisteanna a chuireann an pobal faoi bhráid na hOifige seo ar bhonn rialta. Cé nach bhfuil ord na saincheisteanna athraithe ó 2013, is fiú a lua go bhfuil “Cleachtas nó Próiseas Éagórach” imithe i méid ó 28% go 38% agus go bhfuil laghdú tagtha ar ghearáin a bhaineann le “Próiseas Láimhseála Gearán an Chomhlachta Phoiblí” ó 8% go 4% sa tréimhse chéanna.

**Tábla 4**

**Catagóirí a ndearnadh gearán fúthu in 2014 (%)**



**Dáileadh de réir earnála ar na 1,520 gearán nua a fuarthas in 2014 (%)**

Mar is léir ó Thábla 4 is faoi earnáil an oideachais, arís, is mó a dhéantar gearáin leis an Oifig seo. Tháinig méadú ar líon na ngearán san earnáil sin ó 43% go 47% ó bhí 2013 ann.

Laghdaigh an leibhéal gearán maidir le tacaíocht teaghlaigh, cúram agus cosaint faoi 1% ó bhí 2013 ann. Léiríonn sé seo na réimsí uile atá faoi scáth na Gníomhaireachta um Leanaí agus an Teaghlach laistigh den Roinn Leanaí agus Gnóthaí Óige.

D'ardaigh an líon gearán i réimse na sláinte, a chuimsíonn Ospidéal agus Sláinte Pobail/ Meabhairshláinte agus Sláinte Phoiblí, faoi 2% ó bhí 2013 ann.

**Oideachas**

**Tábla 5**

Na fochatagóirí nua gearán a fuarthas i ndáil le cúrsaí oideachais in 2014

<b>Gearáin Oideachais in 2014 (47% de gach gearán nua a fuarthas)</b>
Príomh-fhochatagóirí
Láimhseáil líomhaintí maidir le hiompar míchuí gairmiúil
Láimhseáil cúiseanna imní maidir le bulaíocht
Láimhseáil, cinntí agus beartais gearán
Díbirt, fionraí agus rollúchán
Saincheisteanna a bhaineann le beartais nó scéimeanna oideachais nó leis an gcuraclam

Léirítear i dTábla 5 go mbíonn OCO fós ag fáil gearán maidir le láimhseáil líomhaintí d’iompar míchuí gairmiúil múinteoirí agus foirne scoile. Tá cosc sonrath orainn iniúchadh a dhéanamh ar líomhaintí d’iompar míchuí gairmiúil. Cibé scéal é, faoi láthair níl aon bhealach eile sásaimh ann do ghearán sa mhéid nár tugadh tosach feidhme go fóill do Chuid 5 den Acht um Chomhairle Mhúinteoireachta (2001). Is cúis thromchúiseach imní é sin don Oifig seo agus is ceist í a d’ardaíomar le hAirí Oideachais éagsúla agus leis an Oireachtas. Is é seasamh leanúnach OCO ina leith seo ná gur chóir tosach feidhme a thabhairt do Chuid 5 gan aon mhoill eile.

## Tacaíocht, Cúram & Cosaint do Theaghlaigh

### Tábla 6

Na fochatagóirí nua gearán a fuarthas maidir le Tacaíocht, Cúram agus Cosaint do Theaghlaigh

<b>Gearáin maidir le Tacaíocht, Cúram &amp; Cosaint do Theaghlaigh a fuarthas in 2014 (25% de gach gearán nua a fuarthas)</b>
Príomh-fhochatagóirí
Cúiseanna imní maidir le cosaint leanaí
Cúram malartach
Tacaíocht teaghlaigh
Seirbhís oibre sóisialaí
Scéim cúraim leanaí, réamhscoile agus cúraim agus oideachais luath-óige (ECCE)

## Sláinte

### Tábla 7

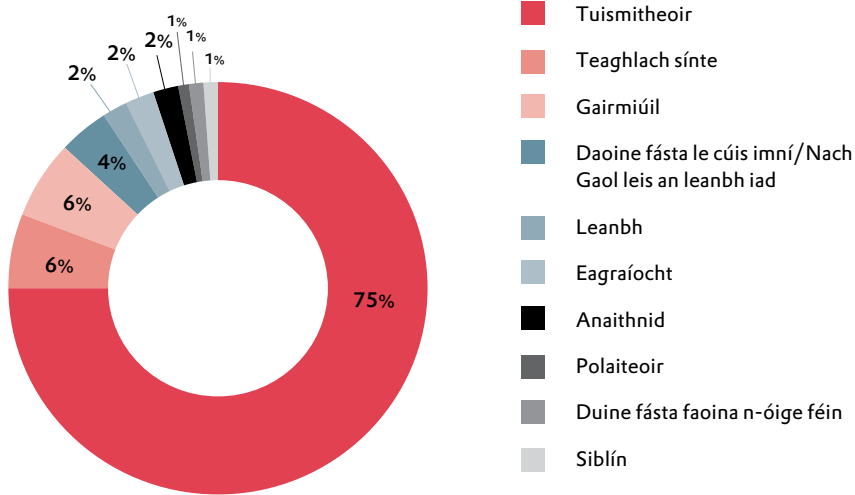
Na fochatagóirí nua gearán a fuarthas maidir le Sláinte

<b>Gearáin Sláinte in 2014 (11% de gach gearán nua a fuarthas)</b>
Príomh-fhochatagóirí
Cúram Pobail
Ospidéal
Seirbhísí Meabhairshláinte
Seirbhísí Sláinte Poiblí

Léiríonn Tábla 7 na catagóirí is mó a ndearnadh gearáin fúthu i ndáil le FSS. I measc na saincheisteanna a eascraíonn ó na gearáin sin tá soláthar Teiripe Uirlabhra agus Teanga, Teiripe Gairme agus Measúnuithe Riachtanas do leanaí faoi mhíchumas. Ceist a thagann aníos go minic freisin ná bainistiú liostaí feithimh ar fud gach réimse de sholáthar seirbhíse.

**Tábla 8**

**Daoine a rinne teagmháil leis an Oifig in 2014**



Léiríonn Tábla 8 gurb ó thuismitheoirí, ó shiblíne agus ón teaghlach sínte a thagann 82% de gach gearán a fhaigheann OCO. Léiríonn sé sin gurb iad thuismitheoirí agus an teaghlach sínte is mó a phléadálann ar son leanaí agus daoine óga i gcás go mbítear ag iarraidh réiteach a fháil ar éagóir, dar leo, a rinne comhlacht poiblí. Ní miste a lua freisin go bhfuil ról tábhachtach fós ag gairmithe pléadáil a dhéanamh ar son leanaí agus daoine óga chun a chinntiú go bhfaigheann gach leanbh tacaíocht chun sásamh a lorg i gcás go bhfuiltear den tuairim nár chomhlíon comhlacht poiblí a dhualgais mar ba chóir.

**An chaoi a ndéanann Oifig an Ombudsman do Leanaí gearáin a phróiseáil**

Déanann an Oifig gach iarracht gach gearán a bhogadh ar aghaidh agus réiteach a fháil air ar an mbealach is éifeachtaí agus is éifeachtúlaí agus is féidir, ach fós féin déantar tréaniarracht a bheith chomh cothrom agus is féidir don ghearánach agus don chomhlacht poiblí i gceist. Gné lárnach d’obair na hOifige ná tathant ar dhaoine *réiteach áitiúil* a lorg ar ghearán, agus tá sé sin ag teacht le prionsabail idirnáisiúnta Ombudsman. Baineann Oifig an Ombudsman do Leanaí leas as formhór a cuid acmhainní daonna ag cur chun cinn an réitigh áitiúil do gach gearán indibhidiúil a láimhseáiltear. In 2014, de réir mar b’iomchuí, rinne an Oifig idirghabháil le comhlachtaí poiblí i ndáil leis na céimeanna ba chóir a thógáil chun dul i ngleic le gearáin go caol díreach. Faightear réiteach ar fhormhór mór na gcásanna ag an gcéim seo agus glacann sé sin, de ghnáth, idir 4 agus 6 seachtaine.

Lorg an Oifig cruinnithe go minic le comhlachtaí poiblí ar bhonn níos ginearálta chun feabhas a chur ar a mbeartais, a gcleachtas agus a ngnáthaimh ar mhaithe le leas is fearr gach linbh a bhféadfadh teagmháil a bheith acu leis na comhlachtaí poiblí sin.

I gcás nach nglacann comhlacht poiblí na céimeanna is gá chun réiteach a fháil ar ghníomh is ábhar do ghearán, féadfaidh an Oifig tús a chur le himscrúdú ar an ngearán. Is éard a bhíonn i gceist le himscrúdú ná a fháil amach cibé acu an raibh an gníomh sin a rinne an comhlacht poiblí ina ghníomh nó neamhghníomh nach raibh iontaofa ó thaobh riaracháin de nó nach raibh agus cibé acu an raibh nó nach raibh éifeacht dhiúltach aige ar an leanbh. Fiú ag céim an imscrúdaithe bíonn an deis ag an gcomhlacht poiblí aontú ar bhealach chun maolú ar aon tionchar neamhfhabhrach ar an leanbh. I gcás go dtarlaíonn sé sin féadfaidh an Oifig an cas a dhúnadh ach bíonn an lánrogha i gcónaí ag OCO an t-imscrúdú a chur i gcrích i gcás gur saincheist chórasach atá ann a d'fhéadfadh dul i bhfeidhm ar leanaí eile. Le himscrúdú iomlán mar sin féadfaidh roinnt mhaith ama a bheith i gceist, agus cé go ndéantar gach iarracht an próiseas a bhrostú, níl OCO ina pléadálaí don leanbh ná ina freasúra ag an gcomhlacht poiblí agus dá bhrí sin is gá don oifig a bheith chomh cóir cothrom agus is féidir agus meas a léiriú ar gach páirtí i gceist tríd an deis a thabhairt dóibh uile a gcás a chur i láthair sula nglactar cinneadh. Chomh luath agus a chuireann OCO imscrúdú i gcrích agus i gcás go seasann OCO leis an ngearán, cuirfidh an Oifig torthaí agus moltaí ar fáil. Ansin déanfaidh an Oifig athbhreithniú tar éis sé mhí chun a bheith deimhin de go bhfuil an comhlacht poiblí ag cur i bhfeidhm mholtaí OCO. I gcás nach bhfuil OCO sásta le dul chun cinn an chomhlachta poiblí féadfaidh an Oifig a cúiseanna imní a chur faoi bhráid an Oireachtais.

## Cás-staidéir

### An Roinn Coimirce Sóisialaí (DSP) – Liúntas Míchumais

#### *An Gearán*

Rinne duine teagmháil le OCO ar son buachalla ar déagóir é agus a bhfuil neamhord aige ar speictream an uathachais. Bhí gá ag an duine óg seo le tacaíocht leanúnach ar feadh a shaol. Bhí Dochtúir Teaghlaigh an duine óig seo den tuairim nach dtiocfadh feabhas ar a riocht agus níor measadh go mbeadh sé riamh in ann maireachtáil go neamhspleách ná aire a thabhairt dó féin agus/nó post a fháil.

Dar le síceolaí an duine óig seo bhí neamhord trom néarfhorbartha aige agus bheadh gá aige le tacaíocht a thuismitheoirí chun scafall saoil a chruthú dó ar bhealach nach mbeadh gá ag leanaí óga eile. De bhreis air sin, bheadh gá aige le seirbhísí teiripeacha, lena n-áirítear teiripe shaothair, cóitseáil i scileanna sóisialta, ionchur síceolaíoch d'inní, fadhbanna codlata agus cúrsaí iompair.

Ag tacú leis na tuairimí gairmiúla eile, luaigh an príomhoide scoile go raibh an duine óg seo an-leochaileach agus go raibh leibhéil mhaoirseachta ag teastáil dó nach raibh ag teastáil dá chomhscoláirí. Ó thaobh fostaíochta de, rinneadh roinnt fiosrúchán ar son an linbh de réir na spéiseanna aige. Cibé scéal é, ní raibh rath ar na fiosrúcháin sin mar thoradh ar a dhiagnóis.

Ar an mbonn sin, rinneadh iarratas ar son an linbh seo do Liúntas Míchumais. Níor éirigh leis an iarratas, athbhreithniú ná achomharc ina dhiaidh sin, ámh, don Liúntas Míchumais.

### *Imscrúdú OCO*

Chuir OCO tús le réamh-imscrúdú leis an Roinn Coimirce Sóisialaí (DSP) agus le hOifig Achomhairc Leasa Shóisialaigh (SWAO), ag lorg eolais chun a thuiscint conas mar a tugadh faoin gcinnteoireacht sa chás seo. Go háirithe, lorgaíodh sonraí maidir le measúnú ar chumas an duine óig na critéir a shásamh i ndáil le srian substaintiúil ó thaobh fostaíochta de, i gcás go bhfuil an t-iarratasóir faoi bhun 18 mbliana d'aois agus ag freastal ar iar-bhunscoil.

### *Toradh*

De bhun réamh-imscrúdú OCO rinne an Príomhoifigeach Achomhairc athbhreithniú eile ar an scéal, agus cuireadh ar ceal na trí chinneadh a rinneadh roimhe sin sa mhéid go raibh earráid sa dlí. Bhí an Príomhoifigeach Achomhairc sásta go raibh níos mó ná dóthain fianaise ann chun a léiriú go mbeadh an duine óg seo faoi mhíbhuntáiste mór ó thaobh fostaíocht a lorg.

Agus an t-imscrúdú seo á thabhairt chun críche leis an Roinn Coimirce Sóisialaí agus leis an Oifig Achomhairc Leasa Shóisialaigh, mhol OCO go gcuirfí an méid a foghlaimíodh go córasach ón gcás seo in iúl do gach cinnteoir eile sa Roinn Coimirce Sóisialaí agus san Oifig Achomhairc Leasa Shóisialaigh. I ndáil leis an duine óg seo, bronnadh an Liúntas Míchumais air agus rinneadh íocaíochtaí a shiardhátú de réir mar b'iomchuí.

## **FSS – Seirbhísí Míchumais FSS – Cúram Faoisimh**

### *An Gearán*

Rinne tuismitheoirí gearán thar ceann a n-iníne a raibh uathachas uirthi dar leis an diagnóis agus nach bhfuil urlabhra aici. Dhírigh an gearán ar chúram faoisimh a n-iníne agus cuireadh i bhfeidhm go céimneach an comhaontú idir na tuismitheoirí agus Seirbhísí Míchumais FSS. Go luath tar éis an chuir i bhfeidhm sin, rinneadh athbhreithniú ar na seirbhísí faoisimh agus rinneadh athchatagóiriú ar chúram faoisimh an linbh. Mar thoradh air sin laghdaíodh go mór ar an gcúram faoisimh di agus bhí an chuma air go ndeachaigh sin i bhfeidhm go neamhfhabhrach uirthi. Athraíodh an cúram faoisimh freisin le go n-áireofaí uaireanta a bhí á chaitheamh ag an leanbh ar scoil. Nuair a d'ardaigh na tuismitheoirí an cheist maidir leis na gnáthaimh áitiúla chun dul i ngleic leis na cúiseanna imní acu, shéan an soláthraí seirbhíse go ndearnadh an socrú bunaidh maidir le cúram faoisimh ar chor ar bith.

### *Imscrúdú OCO*

Lorg OCO soiléiriú ó FSS maidir leis an gcaoi a rabhtas ag freastal ar riachtanais an linbh faoin sceideal reatha faoisimh. Lorgaíodh soiléiriú freisin maidir leis na comhaontuithe idir iadsan, mar sholáthraí seirbhíse, agus na gearánaigh. D'admhaigh FSS go raibh míchumarsáid ann leis na gearánaigh. D'aontaigh siad bualadh leis na gearánaigh chun dul i ngleic leis sin, agus le saincheistanna eile, lena n-áirítear próiseas chun an scéim faoisimh agus uaireanta faoisimh don leanbh seo a dhéanamh foirmiúil.

### *Toradh*

D'fhreagair FSS go dearfach don réamh-imscrúdú agus d'aontaigh bualadh leis an teaghlach chun iarracht teacht ar réiteach ar a gcúiseanna imní.

Reáchtáladh cruinnithe cumarsáide idir FSS agus na gearánaigh de réir mar a d'aontaigh siad, agus mar chuid den réiteach áitiúil beartaíodh go ndéanfaí athbhreithniú ar am bailithe an linbh ag fágáil na seirbhíse ag lua go bhféadfaí b'fhéidir síneadh a chur leis, ag brath ar acmhainní.

D'eagraigh siad freisin go mbunófaí Coiste Rialachais chun athbhreithniú a dhéanamh ar an straitéis faoisimh agus ar an mbuiséad gach ráithe. Tugadh an dualgas don Choiste seo freisin a chinntiú go dtabharfaí fógra do theaghlaigh maidir le haon athrú a bheadh le teacht ar a seirbhís faoisimh agus go leanfaí ag tairiscint na seirbhíse faoisimh ar bhonn athbhreithniúcháin.

Chomh maith leis sin, d'aontaigh FSS go mbunófaí próiseas achomhairc i ndáil le cinní faoisimh chun a chinntiú go mbeadh an deis ag úsáideoirí seirbhíse achomharc a dhéanamh ar chinneadh.

Leithdháileadh Altra Idirchaidrimh ar an teaghlach freisin mar an chéad phointe teagmhála toisc cúiseanna imní a d'ardaigh an teaghlach ag cruinniú straitéise cumarsáide.

## **An Roinn Leanaí agus Gnóthaí Óige (DCYA) – Clár Fóirdheontais Cúraim Leanaí Pobail**

### *An Gearán*

Fuarthas gearán i ndáil le téarmaí ag líomhnú go raibh téarmaí agus feidhmiú an Chláir Fóirdheontais Cúraim Leanaí Pobail (CCS) míchothrom. Faoi chlár CCS cuirtear tacaíocht ar fáil do thuismitheoirí atá i bpoist ísealphá nó ag tabhairt faoi oiliúint nó oideachas trí chead a thabhairt do na thuismitheoirí sin fónamh a bhaint as costais laghdaithe cúraim leanaí ag seirbhísí cúraim leanaí pobail atá páirteach sa scéim. Chuir máthair le cúigear clainne in iúl go mbeadh sí ag filleadh ar an obair i mí Eanáir 2014 agus theastaigh uaithi a hiníon a chur san áis cúraim leanaí pobail/creis in éineacht lena beirt leanaí eile, a bhí ag freastal cheana féin.

Chomhlíon an leanbh na critéir uile don ráta laghdaithe ach ní raibh an leanbh cláraithe agus ní raibh ag freastal ar an gcreis an Deireadh Fómhair roimhe sin, le linn na 'seachtaine roghbhliúire' mar a thugtar air, tráth a seiceáilann DCYA an rolla chun a dhearbhu cén líon leanaí atá ag freastal ar an gcreis faoin scéim.

Dúradh leis an máthair nach mbeadh an ráta laghdaithe ar fáil di go dtí an Meán Fómhair an bhliain dár gcionn. Mhaígh an gearánach go raibh sé sin míchothrom mar nach raibh sé indéanta an leanbh a bheith ag freastal ar an gcreis an tseachtain sin i mí Dheireadh Fómhair sa mhéid go raibh an leanbh ró-óg agus chiallaigh sé sin anois go mbeadh uirthi an ráta iomlán a íoc ó mhí Eanáir go mí Lúnasa 2014.



### *Imscrúdú OCO*

Reáchtáil OCO réamh-imscrúdú ar ghearán maidir le feidhmiú an Chláir CCS a ndéanann DCYA maoirseacht air agus lorg sonraí maidir leis an réasúnaíocht in úsáid don 'tseachtain roghbhliúire' sa bhliain d'iarratais a bheith faighte.

Sa chéad fhreagra a fuarthas ó Rannán Luathbhlianta DCYA ní raibh dóthain soiléire ann maidir leis an scéim ná níor moladh réiteach ar an ngearán.

Cé gurb í aidhm na scéime tacaí dearfacha díreacha a sholáthar do thuismitheoirí, agus dá leanaí, agus iad ag iarraidh fillleadh ar an obair, ba í príomhchúis imní OCO ná go mb'fhéidir go raibh dolúbthacht ann sa scéim a bhí míréireach agus go raibh éifeacht nach raibh beartaithe ag eascairt as sin a rachadh i bhfeidhm ar na teaghlaigh sin is mó a mbeadh gá acu le rochtain a fháil ar chúram leanaí toisc go raibh a gcúinsí athraithe.

Bhí OCO den tuairim go raibh an ghné áirithe riaracháin seo den scéim míchothrom agus go raibh tionchar neamhfhabhrach aige ar an teaghlach. Chuir OCO tús leis an gcéad chéim den phróiseas imscrúdúcháin agus lorg freagra ó DCYA.

Ar leithligh uaidh sin, cuireadh réiteach áitiúil ar fáil don thuismitheoir sa mhéid gur chuir soláthraí cúraim leanaí ráta laghdaithe ar fáil go deonach (ó Eanáir go Lúnasa) a bheadh ag teacht leis an ráta leis an bhfóirdheontas a bhí ar fáil faoin scéim.

Sa mhéid gur laghdaigh an réiteach seo an tionchar neamhfhabhrach ar an leanbh, bheartaigh OCO gan dul ar aghaidh leis an imscrúdú reachtúil a bhí beartaithe. Seachas sin, bheartaigh an Oifig díriú ar an gceist chórasach agus rinne roinnt moltaí maidir le feidhmiú na scéime agus le conas a bhí roinnt gnéithe den scéim ag dul i bhfeidhm go héagórach ar leanaí a bheadh ró-óg tosú sa chreis sa tseachtain áirithe sin i mí Dheireadh Fómhair gach bliain.

### *Toradh*

Reáchtáil an Rannán Luathbhlianta de DCYA clár athbhreithniúcháin ar scéim CCS agus chuir san áireamh ann na moltaí a rinne an Oifig seo. Dá bhun sin, leasaíodh téarmaí scéim 2014, ionas go bhféadfadh gach leanbh ó 0-12 mí, ach nach raibh incháilithe seachas sin, rochtain a fháil ar an gclár le linn na bliana go léir agus nach mbeadh an t-iarratas teoranta a thuilleadh don 'tseachtain roghbhliúire' sin i mí Dheireadh Fómhair gach bliain.

Tá an Oifig seo den tuairim gur baineadh an réiteach is fearr amach sa chás seo trí chomhoibriú le DCYA agus táthar ag súil, leis na critéir leasaithe incháilitheachta go mbeidh thuismitheoirí faoi mhíbhuntáiste, a bhfuil leanaí óga acu, in ann rochtain iomlán a fháil ar an scéim seo, chomh luath agus atá na thuismitheoirí sin in ann fillleadh ar an obair nó ar oiliúint, de réir aidhmeanna foriomlána na scéime.

## Údarás Tithíochta Áitiúla

### *An Gearán*

Fuair OCO gearán ó mháthair thar ceann a teaghlaigh a bhí ar liosta tithíochta Comhairle Contae, atá ag feitheamh faoi láthair do thithíocht iomchuí. Chuir sí in iúl go raibh triúr dá cúigear páistí a raibh galar meathlúcháin matán acu agus go bhfuil míchumais foghlama acu freisin. Chomh maith leis sin, tá moilliú géar forbraíochta, uathachas agus deacrachtaí iompraíochta ag an leanbh is óige agus déantar an leanbh sin a chothú le peg. Chuir sí in iúl go raibh an teaghlach ina gcónaí i gcóiríocht phríobháideach ar cíós, agus nach raibh an chóiríocht sin oiriúnach do riachtanais a leanaí agus go raibh sí tar éis cur isteach ar áit tosaíochta leighis ar liosta na Comhairle trí bliana roimhe sin do theach le ceithre sheomra codlata.

Chuir an gearánach in iúl freisin ag an uair nach bhfaigheann sí mórán comhfhreagrais ón gComhairle agus nach raibh sí cinnte an ndearnadh breithniú ceart ar an bhfaisnéis leighis go léir a cuireadh ar fáil chun tacú lena hiarratas ar stádas tosaíochta leighis.

### *Imscrúdú OCO*

Reáchtáil OCO réamh-imscrúdú ar an ngearán maidir le próiseáil an iarratais a rinne an teaghlach seo ar thithíocht, lena n-áirítear conas a bhreithnigh an Chomhairle an doiciméadúchán leighis go léir. Bhreathnaigh an Oifig seo ar shaincheisteanna cumarsáide idir an teaghlach maidir lena n-iarratas ar stádas tosaíochta leighis.

D'fhreagair an Chomhairle go dearfach don iarratas ó OCO faisnéis a sholáthar. Admhaíodh láithreach go bhféadfaí feabhas a chur ar an gcumarsáid leis na ngearánach agus le linn an ama agus OCO ag imscrúdú an ghearáin bhí plé substainteach ann idir an Chomhairle agus an gearánach, rud nár tharla roimhe sin is cosúil.

Tháinig sé chun solais ón imscrúdú ar an gcás nach ndearnadh ach tairiscintí thar a bheith teoranta leis an teaghlach ón tráth ar glacadh lena n-iarratas. Rinneadh na tairiscintí sin maidir le ceantair nach bhféadfadh an teaghlach glacadh leo sa mhéid nach raibh tacaí leighis agus oideachais ann sna ceantair sin, tacaí a bhí ann don teaghlach sa cheantar ina raibh siad lonnaithe ag an uair. Ó fhiosrúcháin a rinne OCO fuarthas amach go raibh Coiste Leighis na Comhairle tar éis cead a thabhairt tosaíocht leighis a thabhairt don teaghlach agus chuir siad comhairle ar an rannóg soláthair teach le ceithre sheomra codlata a chur ar fáil sa cheantar cúí. Ní dhearnadh aon tairiscint, ámh, leis an teaghlach do theach sa cheantar cúí le trí bliana.

Ghlac an Chomhairle leis nach raibh siad ag freastal ar riachtanais tithíochta an teaghlaigh seo de réir mar a mhol a Coiste Leighis féin agus luaigh go raibh cóiríocht sa cheantar sin teoranta ach go ndéanfaí iarrachtaí leanúint ag lorg tithíocht chúí.

### *Toradh*

Le linn an imscrúdaithe fuair an gearánach amach go raibh eastáit tithíochta á thógáil ina ceantar. Tar éis don ghearánach agus don OCO fiosrúcháin a dhéanamh leis an gComhairle, tháinig sé chun solais go mbeadh roinnt de na haonaid san eastáit tithíochta sin le cur ar fáil don Chomhairle mar thithíocht shóisialta. Chuir an Chomhairle in iúl don OCO go raibh siad ag idirbheartaíocht leis na forbróirí agus pleanálaithe agus chomh luath agus a bheadh na pleananna faofa, go mbeadh an Chomhairle in ann aonad le ceithre sheomra codlata a thairiscint don teaghlach. Meastar go mbeidh na haonaid tithíochta sóisialta sin ar fáil don chomhairle go luath in 2015.

## **Tithíocht Údaráis Áitiúla**

### *An Gearán*

Fuair OCO gearán ó mháthair a raibh a mac ceithre bliana d'aois ag an uair agus Uathachas agus Géarmhoilliú Cognaíoch (ASD) air. Rinne sí teagmháil le OCO le gearán i ndáil lena staid tithíochta reatha ag lua go raibh tionchar diúltach aige sin ar a mac. Tugadh le fios go raibh an spás cónaithe chomh teoranta sin go raibh a mac faoi strus mór agus ag brath dúnta isteach.

D'ainneoin gur chuir sí iarratas isteach chuig an gComhairle do thosaíocht tithíochta ar fhorais leighis agus gur chuir sí an doiciméadúchán tacaíochta ar fáil, diúltaíodh dá hiarratas. Rinne an mháthair achomharc air sin, ach diúltaíodh don achomharc.

### *Imscrúdú OCO*

Rinne OCO réamh-imscrúdú ar an ngearán agus d'imigh i dteagmháil leis an gComhairle maidir leis sin. Lorg an Oifig go sonrath faisnéis maidir leis an nithe seo a leanas:

- Seasamh na Comhairle maidir le tosaíocht leighis a bhronnadh ar mhac an ghearánaigh;
- Beartais iomchuí na Comhairle i ndáil leis an suíomh áirithe seo agus cibé acu an raibh nó nach raibh aon chineálacha eile oiriúnacha tithíochta ar fáil don teaghlach seo, mar shampla tríd an Scéim Cóiúochta ar Cíos (RAS), Fóirdheontas Cíos nó cumainn dheonacha tithíochta; agus
- Cibé acu ar cuireadh nó nár cuireadh an gearánach ar an eolas go hiomlán faoi na roghanna go léir a bhí ar fáil di.

### *Toradh*

Mar thoradh ar idirghabháil OCO shocraigh an Chomhairle a Mholtóir Leighis a chur ar fáil chun athbhreithniú iomlán a dhéanamh ar na sonraí leighis go léir a fuarthas go dtí sin i ndáil leis an mbuachaill óg chun a chinneadh cibé acu an raibh sé oiriúnach tosaíocht leighis a thabhairt dó. Luaigh an Chomhairle freisin go raibh sé sásta go ndéanfadh an gearánach aighneacht leis an bPríomhoifigeach Leasa Tithíochta ar fhorais eisceachtúla shóisialta.

Tar éis a athbhreithnithe, bheartaigh an Chomhairle tosaíocht leighis a bhronnadh ar an mbuachaill óg. Chomh maith leis sin, chuir ionadaí ón gComhairle glao ar an ngearánach chun an cinneadh a mhíniú di agus na himpleachtaí a bheadh aige dá staid tithíochta.

Idir an dá linn, ámh, bhíothas tar éis a chur in iúl don ghearánach fiú leis an stádas tosaíochta sin, go bhféadfadh dhá bhliain a bheith ann sula mbeadh an Chomhairle in ann cóiríocht le trí sheomra codlata a chur ar fáil di.

## **Tusla (FSS go dtí an 31 Nollaig 2013) – Cúram Altramaís le Gaolta**

### *An Gearán*

Cuireadh gearán faoi bhráid na hOifige maidir le haintín duine óige (A), a bhí cúig bliana déag d’aois ag an uair, maidir le cinneadh FSS (seirbhís arna soláthar ag Tusla anois) deireadh a chur le tacaíocht airgeadais a sholáthar di chun cuidiú léi cúram a dhéanamh de. Chuir sí in iúl go raibh sí ag tabhairt aire dá nia ó 2003. Ar feadh tréimhse dhá bhliain, bhí íocaíocht á fháil aici ó FSS de réir Alt 10 den Acht um Chúram Leanaí 1991 (Íocaíocht Alt 10) agus Liúntas Dílleachta (Liúntas Caomhnóra mar a thugtar air anois), agus íocaíocht leasa shóisialaigh. Bhain an gearán le gur chuir FSS deireadh leis an íocaíocht Alt 10 ar an mbonn gur mhaígh an Rannóg Oibre Sóisialaí nach raibh sí tar éis a chur in iúl dóibh go raibh an dá íocaíocht á bhfáil aici.

### *Imscrúdú OCO*

Tar éis réamh-imscrúdú a dhéanamh ar an ngearán a fuarthas, chinn an Oifig dul ar aghaidh leis an imscrúdú de réir Alt 8 d’Acht 2002. Dhírigh an t-imscrúdú ar an leibhéal tacaíochta arna fháil ag FSS chun cuidiú le A agus a aintín.

Le linn an imscrúdaithe tháinig sé chun solais sa mhéid go raibh FSS tar éis cuidiú A a chur ag cónaí lena aintín, ní fhéadfaí a rá gur socrú cúraim phríobháidigh é seo idir baill den teaghlach. Tá an Oifig seo den tuairim go raibh FSS tar éis caitheamh leis mar shocrú cúraim phríobháidigh tar éis tréimhse ama nach raibh sé réasúnta é sin a dhéanamh. Trí leas a bhaint as socrú príobháideach san fhadtéarma, i gcomhthéacs cúiseanna imní faoi chumas na máthar aire a thabhairt dó, bhí A i suíomh thar a bheith leochaileach agus bhí an tacaíocht arna soláthar ag FSS an-teoranta ó thaobh tacaíocht airgeadais agus maoirseachta de chun leas an linbh a chinntiú.

Rinn aintín A teagmháil le FSS in 2004 ag lorg cúnaimh airgeadais chun cúram a dhéanamh dá nia sa mhéid nach raibh aon chúnamh ag teacht ón mháthair a thuilleadh. Ag an uair mhol FSS di cur isteach ar an Liúntas Dílleachta. Lorg sí chúnamh breise in 2006 tráth ar chuir sí in iúl go raibh a cúinsí athraithe agus go raibh deacrachtaí airgeadais aici. Cuireadh maoiniú Alt 10 ar fáil di chun an socrúchán a choinneáil mar a bhí ionas nach mbeadh gá A a chur in ionad cúraim. Mar sin, bhí soláthar faoi Alt 10 ag teacht leis an gcur chuige maoiniúcháin ag FSS in 2003, an leanbh a chur isteach in ionad cúraim a sheachaint. Bhí a aintín den tuairim go raibh sé beartaithe leis an Liúntas Dílleachta agus leis an íocaíocht eile tacaíocht airgeadais cúramóirí altramaís a chur ar fáil di.

Rinneadh an íocaíocht Alt 10 ar feadh tréimhse shainithe agus bhíothas le hathbhreithniú a dhéanamh air i mí Dheireadh Fómhair 2007. Is cosúil go rabhthas leis an íocaíocht a athnuachan, ach níor tharla sé sin sa mhéid gur fhág an tOibrí Sóisialta agus ní dhearnadh

ath-leithdháileadh ar an gcás. Tá sé réasúnta nach ndéanfaí maoiniú a chur ar fáil ar bhonn neamhtheoranta leanúnach gan athbhreithniú a dhéanamh ar an gcás. Ach chinn an Oifig go raibh an cinneadh scor den íocaíocht Alt 10 a dhéanamh i mí na Nollag, ámh, bunaithe ar fhaisnéis neamhiomlán mhícheart agus tar éis dul don Aintín agus tar éis d'ionadaí teagmháil a dhéanamh leo, ní dhearna FSS athbhreithniú ar an gcás. Chinn an Oifig go raibh sé sin contrártha le riarachán iontaoifa de réir mar atá sonraithe in Alt 8 d'Acht 2002.

Tá an Oifig seo den tuairim go ndeachaigh sé i bhfeidhm go neamhfhabhrach ar an leanbh gur theip ar FSS tacaíocht imleor airgeadais a sholáthar chun cuidiú le A; nár cuireadh próis chúí i bhfeidhm agus nach ndearnadh athmheasúnú ar chúinsí an teaghlaigh tar éis go ndearnadh uirfoll; agus nár cuireadh aon chúnamh airgeadais ar fáil ó 2008, d'éagmais athbhreithniú iomlán a dhéanamh ar chúinsí an linbh.

### *Toradh*

Rinne an Oifig roinnt moltaí le Tusla (FSS mar a bhí), lena n-áirítear na moltaí seo a leanas:

- Ba chóir do Tusla (FSS mar a bhí) cúnamh airgeadais a sholáthar do A agus dá aintín agus an tacaíocht airgeadais Alt 10 a chur ar ais agus é a shiardhátú go dtí an dáta ar scoradh dá chur ar fáil,
- Ba chóir go mbeadh próiseas soiléir, trédhearcach, comhleanúnach ann chun déileáil le hiarratais Alt 10 agus go mbeadh cumarsáid shoiléir ann le teaghlaigh faoi thoradh na n-iarratas sin,
- Ba chóir do Tusla (FSS mar a bhí) a chinntiú go gcomhlíonfadh sé a dhualgais cosaint agus tacaíocht a sholáthar do leanaí, mar gur léirigh an t-imscrúdú seo cúiseanna tromchúiseacha imní i ndáil le húsáid socrúithe neamhfhoirmiúla/príobháideacha i gcomhthéacs cúiseanna imní faoi chosaint leanaí.

Chuir Tusla in iúl gur ghlac siad go hiomlán leis an moladh seo agus go dtosófaí á chur i bhfeidhm ar bhonn tosaíochta. Cuireadh an íocaíocht Alt 10 ar ais agus ríomhadh na riaráistí agus tá sé sin curtha ar aghaidh le próiseáil. Tá measúnú ar shocrúchán A lena aintín i gcrích anois agus rinneadh iniúchadh leantach chun a chinntiú go rabhthas ar freastal ar a riachtanais. Tá gach socrú cúraim phríobháidigh á athbhreithniú anois sa réimse cuí, ag úsáid na moltaí ó thuarascáil an Ombudsman. Ag an leibhéal náisiúnta tá ball foirne tiomnaithe ann a dhéanfaidh athbhreithniú ar shocrúithe príobháideacha agus cúram altramais teaghlaigh ar fud na tíre, agus déanfar monatóireacht ar shocrúithe príobháideacha.

## **Bealach Rochtana Ardoideachais (HEAR)**

### *An Gearán*

Rinne máthair teagmháil le OCO thar ceann a hiníne 17 mbliana d'aois mar nach raibh sí incháilithe le haghaidh HEAR tar éis a céadiarratais agus tar éis go ndearnadh iarratas athsheiceála a mheas. Bhí an gearánach den tuairim gur shásaigh a hiníon na critéir incháilitheachta don scéim.

Is éard is HEAR ann scéim iontrála coláiste agus ollscoile mar a gcuirtear tairiscintí áiteanna ar fáil ar bhonn pointí laghdaithe chomh maith le tacaíocht bhreise choláiste d'fhágáilthe scoile ó chúlraí socheacnamaíocha faoi mhíbhuntáiste.

Bhí an gearánach den tuairim go raibh sí tar éis an fhaisnéis riachtanach a chur ar fáil do HEAR ionas go bhféadfaidís a leibhéal ioncaim a mheas de réir mar ba ghá mar chuid de na critéir iontrála sa scéim.

### *Imscrúdú OCO*

Chuir OCO tús le réamh-imscrúdú ar an ngearán agus scríobh chuig Aonad Seirbhísí Comhroinnte DARE HEAR a dhéanann riar ar an scéim thar ceann na n-ollscoileanna agus na gcoláistí atá páirteach ann.

Sa chás seo mhínigh HEAR nach raibh an gearánach tar éis an fhaisnéis riachtanach leasa shóisialaigh a sholáthar faoin spriocdháta an 1 Aibreán. Go háirithe, bhí doiciméadúchán leasa shóisialaigh ar lár ó 2012, ceann de na blianta a bhí le cur san áireamh. Bíonn gá leis an bhfaisnéis seo ionas go mbeadh HEAR in ann cinneadh a dhéanamh maidir le hincháilitheacht iarrthóra don Táscaire Ísealioncaim, ceann de na fachtóirí a chuirtear san áireamh chun cinneadh ar chritéir HEAR. Shásaigh an duine óg na táscairí eile, agus dá mbeadh sí tar éis an táscaire Ísealioncaim a shásamh, bheadh sí incháilithe don scéim HEAR.

Ansin chuir an mháthair an doiciméadúchán Leasa Shóisialaigh le haghaidh 2012 ar fáil i mí an Mheithimh. Ach, sa mhéid nach raibh fianaise phostála ag gabháil leis, níor breithníodh é. Bhí an tábhacht a bhaineann le fianaise phostála a choinneáil sonraithe sa treo maidir le hiarratas a dhéanamh agus sa litir maidir le toradh an mheasúnaithe.

Chuir an teaghlach isteach ar athsheiceáil ar an iarratas go luath i mí Iúil, de réir ghnáthaimh HEAR. Rinneadh athsheiceáil ar an iarratas agus fuarthas nach raibh aon earráidí riaracháin ann agus go raibh an duine óg fós neamhincháilithe do HEAR. Cuireadh fógra chuici faoi thoradh na hathsheiceála tríd an bpost ag deireadh mhí Iúil.

Is ansin a rinne an teaghlach teagmháil le OCO sa mhéid nach raibh siad sásta le cinneadh HEAR. Mhínigh HEAR, ámh, go raibh leibhéal eile achomhairc ann, an Coiste Neamhspleách Achomhairc, agus go raibh sin ina bhealach iomchuí don teaghlach ag an staid sin, go háirithe sa mhéid go bhféadadh sé réiteach a fháil ar an scéal ag an uair don chéad bhabhta de thairiscintí CAO tráth a ndéantar tairiscintí HEAR.

Tar éis don OCO réamh-imscrúdú a dhéanamh, rinne HEAR athbhreithniú ar an iarratas a cuireadh isteach. Tar éis athbhreithniú a dhéanamh ar an gcomhad agus i gcomhairle le bainisteoirí Measúnaithe agus Athsheiceála HEAR bhíodas den tuairim cé nár cuireadh isteach an fhaisnéis shonrach a bhí ag teastáil maidir le doiciméadúchán Leasa Shóisialaigh faoin spriocdháta den 1 Aibreán, fós féin léirigh an fhianaise leasa shóisialaigh go raibh ioncam an teaghlaigh faoi bhun na tairisí ioncaim. Mar sin dar le HEAR ba chóir go raibh an duine óg seo tar éis an critéir a shásamh a bhain le hioncam agus dá bhrí sin ba chóir go mbeadh sí incháilithe don áit le pointí laghdaithe HEAR.

### *Toradh*

Ghabh HEAR leithscéal leis an duine óg agus lena máthair as an earráid a rinneadh sa chéad mheasúnú agus san athsheiceáil ar a hiarratas.

Toisc go raibh na tairiscint CAO thart faoin taca go raibh próiseas an réamh-imscrúdaithe i gcrích ní fhéadadh an duine óg leas a bhaint as na pointí laghdaithe a chuireann scéim HEAR ar fáil. Cibé scéal é, bhí an duine óg tar éis glacadh le háit ar chúrsa tríú leibhéal, cé nach a céad rogha a bhí ann. Sna cúinsí seo chuir HEAR tacaí breise ar fáil faoin scéim don duine óg seo. Bhí an teaghlach sásta leis an toradh.

## **An Roinn Oideachais- Múinteoir ar Cuairt le Leanbh Bodhar**

### *An Gearán*

Rinne máthair teagmháil le OCO i mí Feabhra 2014 d'fhonn cúiseanna imní a chur in iúl i ndáil le leibhéal na Seirbhíse Múinteora ar Cuairt (VTS) a rabhtas le cur ar fáil dá hiníon, atá faoi ollbhodhaire, agus an Múinteoir ar Cuairt (VT) don réigiún ar shaoire mháithreachais ag an am. Cuireann VTS comhairle agus tacaíocht ar fáil chun a chinntiú go bhfreastalaítear ar riachtanais leanaí agus daoine óga a bhfuil lagú éisteachta nó radhairc acu. Cuirtear an tseirbhís sin ar fáil ag leibhéal réamhscoile, bunscoile, iar-bhunscoile agus tríú leibhéal agus áirítear ann:

- Treoir agus tacaíocht do leanaí réamhscoile agus dá dtuismitheoirí sa bhaile;
- Teagasc, tacaíocht agus monatóireacht speisialtóireachta;
- Comhairle maidir le himpleachtaí curaclaim agus timpeallachta ;
- Tacaíocht, comhairle, oiliúint agus idirchaidreamh do thuismitheoirí/múinteoirí & gairmithe;
- A chinntiú go gcuirtear Cóiríocht Réasúnta ar fáil do mhic léinn trí SEC; agus
- Comhairle/idirchaidreamh le hoifigigh rochtana chun a chinntiú go gcuirtear na tacaí iomchuí ar fáil ag an 3ú leibhéal.

Luaigh an gearánach go ndúradh léi ar dtús go gcuirfí clúdach ar fáil do thréimhse na saoire máithreachais ach ina dhiaidh sin cuireadh in iúl di nach mbeadh sé sin indéanta, agus go gcaithfí cuairteanna a shocrú ar bhonn riachtanais-bhunaithe.

Luaigh an gearánach nach leibhéal imleor seirbhíse é sin dá hiníon a bhain an-leas as an VTS agus as na hidirghabhálaithe speisialaithe, saineúla a bhí ag gabháil leis sin. Bhíothas tar éis a chur in iúl go mbíodh an VT a d'ímigh ar shaoire mháithreachais ag freastal ar an scoil agus ag bualadh leis an leanbh gach coicís.

### *Imscrúdú OCO*

Chuir OCO tús le réamh-imscrúdú ag lorg faisnéise faoi shocruithe na seirbhíse agus faoin bpleanáil le linn na tréimhse sin. Leag OCO béim ar an réiteach áitiúil a lorg maidir leis na ceisteanna a ardaíodh.

D'fhreagair DES agus mhínigh go raibh an ceantar i gceist thíos leis toisc ball foirne a bheith as láthair ó mhí Eanáir 2014 agus go raibh 46 leanbh in ualach cásanna an VT seo. Chuir DES in iúl go raibh seirbhísí VT eile ar fáil idir Eanáir agus Márta chun tacaíocht agus comhairle a sholáthar. Cuireadh socruithe foirmiúla i bhfeidhm ansin go gcuirfeadh VTanna eile sa réigiún clúdach ar fáil sa tréimhse asláithreachta sin don VT áitiúil, chun a chinntiú go mbeadh leanúnachas seirbhíse ann do leanaí, tuismitheoirí agus scoileanna sa cheantar.

Cuireadh scoileanna agus tuismitheoirí ar an eolas faoi shocruithe DES.

### *Toradh*

Mhínigh DES go raibh an tAire tar éis a rá i mí Márta go raibh socruithe á gcur i bhfeidhm chun an VTS a chlúdach sa limistéar. Tar éis sin a chloisteáil luaigh an gearánach go raibh áthas uirthi faoi na tacaí a bhí á gcur i bhfeidhm agus gur cuireadh in iúl di go mbeadh dhá chuairt á fháil ag a hiníon in aghaidh na míosa – an leibhéal céanna seirbhíse a bhíodh á fháil aici roimhe sin.

## **Gearáin faoi Bhulaíocht ar Scoil**

Ar na ceisteanna a thagann aníos arís is arís eile sna gearáin a faigheann an Oifig tá an chaoi a gcaitheann páistí lena chéile agus an meas a bhíonn acu ar a chéile agus an chaoi a ndéanann scoileanna, mar chuid den tsochaí, déileáil le haon chliseadh ar an meas sin. Mar sin, gach bliain, faigheann OCO líon suntasach gearán i ndáil le bulaíocht agus an chaoi ar láimhseáil na scoileanna cúiseanna imní na dtuismitheoirí.

I gcás tuismitheoirí a dhéanann gearáin thar ceann a leanaí seans go bhfuil siad tar éis a gcúiseanna imní a chur in iúl cheana féin go díreach don fhoireann agus don scoil i gceist, agus go bhfuil siad míshásta sa mhéid gur leanadh den bhulaíocht, nó go mbraitheann siad nár ghlac an scoil na céimeanna ba ghá chun sábháilteacht agus leas an linbh a chinntiú.

Le deich mbliana anuas bhreithnigh agus d'imscrúdaigh OCO a lán gearán i ndáil le bulaíocht ar scoil agus bhí sé i gcónaí i measc na gcúig shaincheist is mó a raibh daoine óga ag gearán fúthu san oideachas. Cé go mbíonn gach gearán éagsúil, féadfaidh roinnt saincheisteanna coiteanna teacht chun cinn a thugann le fios go bhfuil gá feabhas a chur ar an gcleachtas riaracháin thar ceann scoileanna. Trí chomhairliúchán díreach le daoine óga (*Dealing with Bullying in Schools: A Consultation with Children and Young People – OCO 2013*), féachann obair OCO maidir le beartas reachtúil le feabhas a lorg sa chreat reatha ina dtuigtear, ina n-aithnítear agus ina ndéileáiltear le bulaíocht i scoileanna.

Féachfaidh OCO, mar chuid d'aon réamh-imscrúdú lena chinntiú go mbeidh scoileanna ag cloí le beartas frithbhulaíochta agus go mbeidh an beartas sin le fáil ar a suíomh gréasáin agus/nó inrochtana go héasca do dhaltaí agus tuismitheoirí.

Léiríonn gearán amháin a fuarthas agus ar déileáladh leis in 2014, léargas maith ar an gcaoi a bhféadfadh toradh níos fearr a bheith ar ghearán don leanbh dá mba rud é go raibh cumarsáid níos fearr ann. Sa chás seo rinne tuismitheoirí gearán leis an Oifig inar cuireadh síos ar chúiseanna imní faoi ghníomhartha na scoile mar fhreagairt ar tharlú tromchúiseach a d'imigh i bhfeidhm go neamhfhabhrach ar a leanbh. Mar ghníomh d'fhéadfaí a shamhlú



leis gur tarlú aonraithe é agus/nó tarlú ag leanúint ó bhulaíocht i gcoinne a linbh. Is éard a tharla na gur cuireadh teachtaireacht mhaslach faoin dalta san fhearann poiblí. Mar sin bhí gné fhéideartha choiriúil ag baint leis, agus dá bhrí sin bhí na Gardaí páirteach sa scéal ina dhiaidh sin.

Bhí na tuismitheoirí ag iarraidh dearbhú agus faisnéis a fháil i ndáil leis an bpíonós a ghearrfaí ar na daltaí a aithníodh mar na daltaí a bhí freagrach as ar tharla. Ní raibh siad soiléir faoin mbeartas agus an treoir arna húsáid ag an scoil i ndáil leis an gcás.

Tar éis iniúchadh a dhéanamh ar an scéal, bhí OCO deimhin de go raibh an scoil tar éis céimeanna a ghlacadh láithreach ar mhaithe le leas is fearr an linbh a ndeachaigh an tarlú i bhfeidhm air/uirthi agus chun leasa is fearr an linbh/na leanaí a rinne an gníomh.

Tháinig sé chun solais go raibh an scoil ag glacadh céimeanna, chun monatóireacht a dhéanamh ar an scéal, céimeanna nár cuireadh in iúl do na tuismitheoirí. Ba léir freisin go raibh cúiseanna imní leanúnacha ag na tuismitheoirí dá leanbh nach raibh an scoil ar an eolas fúthu. Bunaithe ar an bhfaisnéis a fuarthas, chinn an Oifig nach raibh gá dul níos faide san imscrúdú ag an staid sin, ach rinneadh roinnt moltaí leis an scoil.

Tá sé de dhualgas ar scoileanna timpeallacht shábháilte thacúil oideachais a sholáthar. Tá dúshlán intreach ag baint leis sin go háirithe agus scoileanna ag déileáil le bulaíocht. Sa chás seo mhol OCO go ndéanfadh an scoil athbhreithniú ar a cleachtas agus mhol i gcásanna casta, i gcás go mbeadh scoileanna in iúl ar dheacrachtaí cumarsáide nó ar an eolas go raibh tuismitheoirí míshásta faoin gcaoi a raibh an gearán á láimhseáil, gur chóir don scoil cumarsáid ó bhéal agus is scríbhinn a dhéanamh le tuismitheoirí an dalta leis na cúiseanna imní chun comhairle a sholáthar don scoil maidir leis conas is fearr déileáil leis an gcás.

Ní féidir gach gníomh a ghlacann scoil a chur in iúl do thuismitheoirí ach tá sé de fhreagracht orthu, chomh luath agus atá an scoil in iúl ar na deacrachtaí atá á lua, feabhas a chur ar na nithe a chuireann sé in iúl agus d'áireodh sé seo leagan amach soiléir a dhéanamh ar na nithe nach féidir leis sonraí beachta a sholáthar maidir leo. I gcás gur iomchuí é, féadfaidh go mbeidh ar an scoil freisin leagan amach cén pháirt a bheadh ag tríú páirtí sa chás, mar shampla an Ghníomhaireacht um Leanaí agus an Teaghlach (Tusla) nó an Garda Síochána.

## Fócas ar shaincheisteanna téamacha

### *Meabhairshláinte*

In 2014, fuair an Oifig roinnt gearán casta a bhain le rochtain ar sheirbhísí oiriúnacha meabhairshláinte do dhaoine óga. Go háirithe, bhí roinnt gearán a fuarthas a bhain le cúiseanna imní faoi leanaí a bhí i mbaol lámh a chur ina mbás féin nó iad féin a ghortú a cuireadh ar liosta na saoráidí síciatrachta do dhaoine gasta agus iad ag feitheamh le háit i seirbhís othair chónaithigh sa tsaoir do dhéagóirí. Is cosúil gur tharla na hiontrálacha sin ar bhonn éigeandála toisc go raibh gá le cóireáil go práinneach agus dul i ngleic leis

na cúiseanna láithreacha imní. Eagraíodh go mbeadh altraí speisialtóireachta ar fáil chun tacaíocht a sholáthar do na daoine óga i gceist.

Bhain roinnt de na gearáin a fuair an Oifig le moill a cuireadh ar réiteach a fháil ar chóireáil d'othair chónaitheacha i saoráid iomchuí do dhéagóirí, agus thóg sé roinnt mhaith ama i roinnt cásanna. Luaigh tuismitheoirí a gcúiseanna imní nach raibh aon idirghabháil chuspóireach á chur ar fáil sa mhéid go raibh na socrúcháin míchuí agus, mar thoradh air sin, nach rabhtas ag freastal mar ba ghá ar riachtanais mheabhairshláinte a leanaí. De bhreis air sin, luaigh siad nach raibh aon ghníomhaíochtaí a bheadh oiriúnach do riachtanais ná d'aois a leanaí ar fáil agus nach raibh aon idirchaidreamh ann le daoine ar comhaois leo, rud a bhí ag dul i bhfeidhm go neamhfhabhrach ar na leanaí sin.

Tar éis scrúdú a dhéanamh ar na cásanna sin, ba chosúil go raibh moill shuntasach ar rochtain a fháil ar na gcóireáil othair chónaithe ba ghá do dhéagóirí go páirteach toisc líon na socrúcháin ar fáil agus leibhéal an éilimh. I roinnt cásanna, aontaíodh ar mhaoiniú chun rochtain a fháil ar shaoráidí príobháideacha, ach ní i gcónaí a bhí socrúcháin ar fáil. Mar sin, cúis imní lárnach a tháinig chun solais ón scrúdú ar na gearáin seo ná infhaighteacht socrúcháin oiriúnach éigeandála do leanaí sna cúinsí seo.

Chomh maith leis sin fuair an Oifig gearáin i ndáil le rochtain ar sheirbhísí speisialtóireachta do neamhoird itheacháin do leanaí agus daoine óga. Bhí an chéad chóireáil á fháil ag na leanaí seo in ospidéal toisc na n-aimhréidheanna leighis ag eascairt óna riocht, agus ní fhéadfaí iad a ligean isteach i saoráidí othair chónaithe do leanaí agus déagóirí mar thoradh air sin. I roinnt cásanna, toisc chastacht riachtanais chóireála na leanaí ba ghá iad a atreorú chuig seirbhísí lasmuigh den dlínse. Cé go soláthraíonn na seirbhísí othair chónaithe do leanaí agus déagóirí seirbhísí don ghrúpa seo leanaí, bhí gá le gairmithe sna cásanna a raibh speisialtóireacht neamhoird itheacháin acu. Níl seirbhís dá leithéid ar bun in Éirinn go fóill, ámh. Deacracht eile a tháinig chun solais ná maoiniú ar chóireáil thar lear, ar cuireadh moill leis cúpla uair toisc easpa soiléire i ndáil leis an mbealach a bhféadfaí rochtain a fháil ar mhaoiniú sna cúinsí sin.

Cé go ndearna an Oifig scrúdú ar chásanna indibhidiúla agus gur thángthas ar réiteach, léiríonn na gearáin go bhfuil pátrún ann ó thaobh rochtain thráthúil ar na seirbhísí riachtanacha. Cé gur glacadh céimeanna chun breathnú ar líon na saoráidí othair chónaithe tá sé rithabhachtach amharc ar na seirbhísí agus tacaí atá ar fáil do leanaí san idirlinn. Tá sé tábhachtach a chinntiú go háirithe nach gcuirtear leanaí i socrúcháin míchuí, agus go háirithe go mbreithnítear oiriúnacht na seirbhísí Timpiste & Éigeandála i gcás go bhfuil géarchéim meabhairshláinte ag leanbh.

De réir mar atá sonraithe in Vision for Change, a aontaíodh in 2006, ba chóir go mbeadh foireann ildisciplíneach ann in Ionad Náisiúnta do Neamhoird Itheacháin chun soláthar don ghrúpa seo leanaí. Cé go bhfuil plan ann seirbhís speisialtóireachta neamhoird itheacháin a bhunú mar chuid den Ospidéal Leanaí nua, ní bheidh sé sin i gcrích go dtí 2019. Mar sin tá sé tábhachtach go nglacfaí na céimeanna is gá san idirlinn chun a chinntiú go mbeadh

rochtain ag na leanaí sin ar chóireáil iomchuí agus go mbeadh soiléire ann i ndáil le conairí atreorúcháin agus maoiniúcháin.

Lorg an Oifig cruinniú agus réachtáil an cruinniú sin le Stiúrthóir Náisiúnta Meabhairshláinte FSS chun cúiseanna imní a ardú a tháinig chun solais trí na gearáin.

### **Gearáin maidir le Coimisiún na Scrúduithe Stáit**

Tháinig Coimisiún na Scrúduithe Stáit (SEC) faoi scáth imscrúduithe OCO leis an Acht Ombudsman (Leasú) in 2012 a achtaíodh ag deireadh mhí Aibreáin 2013. Ón tráth sin fuair an Oifig líon suntasach gearán (61 in 2014) i ndáil le gníomhartha riaracháin SEC. Bhain na gearáin sin go príomha le cinntí a rinneadh maidir le hiarratais ó mhic léinn faoin scéim Oiriúntais Réasúnta i Scrúduithe Stáit (RACE).

Dearadh an scéim seo chun tacú le daltaí a bhfuil deacrachtaí áirithe foghlama agus /nó fisiceacha acu ionas nach rachaidh a ndeacrachtaí i bhfeidhm ar an leibhéal gnóthachtála a bhfuiltear ag súil leis bunaithe ar a n-eolas agus ar ábhar an chúrsa sna scrúduithe Stáit. I measc na dtacaí sin tá leabhar léitheoireachta don dalta, scríobhaí a chur ar fáil, rochtain ar ionad speisialta, agus tarscaoileadh ó litriú, gramadach agus poncaíocht in ábhair a bhaineann le cúrsaí teanga.

Ba í 2013/2014 an chéad timthriall scoilbhliana, le hArdteistiméireacht 2014 ag a dheireadh a raibh an deis ag an Oifig tuiscint iomlán a fháil ar an bpróiseas iarratais. Sa scrúdú sin a rinne an Oifig breithníodh roinnt de na saincheistean a d'ardaigh tuismitheoirí, daltaí agus scoileanna mar chuid dá ngearáin, chomh maith le faisnéis a lorg ó SEC agus cruinniú a lorg leo. Mar chuid dár gcruinniú leis an gCoimisiún bhíomar ag plé freisin leis an tSeirbhís Náisiúnta Síceolaíochta Oideachais (NEPS).

Seo a leanas roinnt samplaí de na saincheistean a cuireadh faoi bhráid na hOifige seo:

- Gan míniú i scríbhinn a bheith á chur ar fáil d'iarratasóirí i gcás gur diúltaíodh oiriúntais;
- Cé go bhfuil próiseas achomhairc ar fáil ag an gcéim seo, go praiticiúil ní bhíonn fhios ag iarratasóirí céard atá á achomharc acu sa mhéid nach dtugtar aon mhíniú ar an gcinneadh bunaidh;
- Cúis imní i measc tuismitheoirí agus cleachtóirí (lena n-áirítear síceolaithe oideachais) nach ndéanann an measúnú scoilbhunaithe tástáil iomlán ar an gcineál deacrachta foghlama atá ag a lán daoine óga, go háirithe leanaí a bhfuil deacrachtaí acu amhail Disléicse, Diospraicse agus Dioscalcúile; agus
- Cúis imní faoin tionchar ag scéim RACE ar leanaí le disléicse atá os cionn an mheáin ó thaobh éirime de ach nach sásaíonn critéir na scéime.

Ba mhaith leis an Oifig seo a nótaíl go bhféadfaí dul i ngleic go pointe áirithe leis na cúiseanna imní a d'ardaigh tuismitheoirí dá mbeadh próiseas níos oscailte agus níos soiléire cumarsáide ann ag céim níos luaithe. Molaimid go gcuirfeadh SEC réasúnaíocht shoiléir i scríbhinn ar fáil agus cinneadh á chur in iúl. Tá sé ina phrionsabal lárnach freisin den cheartas aiceanta go mbeadh fhios ag achomharcóir cén bonn atá le cinneadh roimh an achomharc ar cinneadh é a bhfuil cead aige nó aici achomharc a dhéanamh ina choinne. Chuir SEC in iúl dúinn go bhfuil próiseas i bhfeidhm chun uathobriú a dhéanamh ar

sholáthar réasúnaíochta do chinntí SEC. Ní raibh sé sin ar fáil, ámh, don scoilbhliain iomlán 2014/2015.

### **Tacaí do leanaí a bhfuil Riachtanais Speisialta Oideachais Acu**

Ó bunaíodh an Oifig, tá gearáin faighte faoi rochtain ar acmhainní do leanaí a bhfuil riachtanais speisialta oideachais acu. De ghnáth, baineann na gearáin sin leo seo a leanas:

- Rochtain ar uaireanta teagaisc acmhainne/minicíocht íseal riachtanas speisialta faoi Chiorclán na Roinne Oideachais agus Scileanna;
- Leorgacht na dtacaí atá ar fáil faoin tSamhail Ghinearálta Leithdháileacháin; agus
- An próiseas atá ann chun leibhéal an riachtanais do thacaí a chinneadh agus a mheas.

I mí Bealtaine 2013 chuir an Oifig imscrúdú i gcrích maidir le soláthar tacaí teagaisc do leanaí le Siondróm Down. An tráth úd, rinne an Oifig roinnt moltaí leis an Roinn maidir lena fháil amach cé chomh himleor is a bhí an soláthar lena n-áirítear an modh soláthair do leanaí le Siondróm Down agus an gá atá le socruithe chun monatóireacht lárnach a dhéanamh ar thionchar na mbeart tacaíochta breise. Chuir an Roinn in iúl go raibh sé tar éis meitheal a bhunú chun togra a fhorbairt don tsamhail nua le haghaidh leithdháileadh acmhainní a dhíreoidh ar acmhainní breise a leithdháileadh do leanaí de réir a leibhéil riachtanais seachas de réir na catagóire míchumais

In 2014, chuir an mheitheal NCSE tuairisc ar fáil agus d'fhógair an tAire Oideachais agus Scileanna go dtabharfaí isteach samhail nua chun tacaí múinteoirí breise a leithdháileadh ar gach leanbh a bhfuil riachtanais speisialta oideachais acu. Athróidh an tsamhail nua an chaoi a ndéantar acmhainní a leithdháileadh ar scoileanna agus molann sé go mbeadh scoileanna uathrialaitheach i ndáil le cinneadh conas a dhéanfaí na hacmhainní a leithdháileadh. Cuireadh tús le próiseas comhairliúcháin le príomhpháirtithe leasmhara agus tá sé i gceist an tsamhail nua a thabhairt isteach i mí Mheán Fómhair 2015.

### **Cúram agus Oideachas Luath-óige (ECCE)**

In 2013, chuir an Oifig tuairisc ar fáil maidir le himscrúdú ar ghearán ó thuismitheoir linbh a bhfuil riachtanais speisialta oideachais aige i ndáil le soláthar ECCE – infhaighteacht dara bliain agus tacaí chun cuidiú leis an leanbh imeascadh sa réamhscoil. Bhí an leanbh ag freastal ar an réamhscoil ag an uair ach ní raibh an leanbh in ann freastal go lánaimseartha toisc nach raibh na tacaí riachtanacha ar fáil.

Bhain saincheist lárnach a sainithníodh tríd an imscrúdú le neamh-chomhréireacht sa leibhéal tacaíochta atá ar fáil ar bhonn náisiúnta, go háirithe tacaíocht cúnaimh réamhscoile chun a chinntiú go bhféadfadh leanaí faoi mhíchumais imeascadh chomh hiomlán agus is féidir.

Mar tháta ar an imscrúdú, mhol an Oifig go nglacfaí céimeanna chun dul chun cinn a dhéanamh ar nithe a d'eascair ó thuarascáil a chuir meitheal trasearnála ar fáil in 2011 a bunaíodh chun creat a fhorbairt do leanaí faoi mhíchumas i suíomhanna réamhscoile. Mar fhreagra air sin, mhol an Oifig go mbunófaí foghrúpa ar a mbeadh an Roinn Sláinte, Leanáí

agus Gnóthaí Óige, an Roinn Oideachais agus Scileanna agus bunaíodh an grúpa sin i mí Bealtaine 2013, chun scrúdú a dhéanamh ar na moltaí go sonracha. Ó shin i leith, chuir an Oifig in iúl cúpla uair míshástacht an Ombudsman do Leanaí i ndáil leis an easpa dul cun cinn a rinneadh ar dhul chun cinn agus réiteach cheist imeasctha leanaí faoi mhíchumas i suíomhanna príomhshrutha réamhscóile agus an mhoill shuntasach ar dhul cinn a dhéanamh ar an gceist seo.

Choinnigh an Oifig síuil ar an gceist seo le linn 2014. Cé go raibh an foghrúpa a bunaíodh chun an cheist seo a iniúchadh in ainm is a chuid oibre a bheith i gcrích faoi Fhómhar na bliain 2013, bhí moill shuntasach leis an dul chun cinn. Cuireadh in iúl dúinn i mí Aibreáin 2014 go raibh an grúpa ar tí an obair a chur i gcrích agus gcuirfidís tuairisc ar fáil go luath lena mholtaí. I mí Lúnasa 2014, cuireadh in iúl don Oifig go raibh an dréacht dheireanach beagnach ullamh agus go scaipfí é ar na baill le go bhféadfaidís a dtuairimí a chur in iúl sula gcuirfí an tuairisc faoi bhráid na foirne trasearnála. I mí Dheireadh Fómhair 2014, cuireadh in iúl go raibh an dréacht-tuairisc scaipthe chun tuairimí a fháil agus ullmhaíodh dréacht leasaithe den tuairisc.

Is cúis mhór imní don Ombudsman do Leanaí an mhoill leis an dul chun cinn ar an gceist seo agus d'ardaigh an cheist go díreach leis an Aire Leanaí agus Gnóthaí Óige agus leis an Aire Sláinte. Sna tuairiscí is déanaí cuireadh in iúl agus aontaíodh go mbeadh an Roinn Leanaí agus Gnóthaí Óige ag stiúradh na ceiste seo. Is cúis imní é i gcónaí a ardaíonn tuismitheoirí leis an Oifig sna gearáin a dhéantar agus tá sé tábhachtach go dtabharfaí soiléiriú ina leith ó thaobh cur chuige beartais de agus samhail indéanta a mholadh chomh luath agus is féidir.

### **Leanaí ag fágáil cúraim sa Stát**

Na gearáin a rinneadh i ndáil leis seo chuimsigh siad roinnt saincheisteanna a ndearna an Oifig déileáil leo go rialta le 10 mbliana anuas, lena n-áirítear

- Oiriúnacht na socrúcháin;
- Moill ar aistriú socrúcháin (go háirithe i gcás leanaí atá in ionaid ardtacaíochta ar feadh tréimhse níos faide ná mar is gá);
- Teagmháil theoranta le hoibrithe sóisialta;
- Easnamh oibrithe sóisialta sannta;
- Gan aon ghuth a bheith ag leanaí sa chinnteoireacht;
- Easpa socrúcháin oideachais a aimsiú;
- Socrúcháin iolracha; agus
- Cúiseanna imní faoi rochtain do shiblíni/teaghlaigh.

Tháinig gearáin i gcónaí faoi sholáthar iarchúraim in 2014 agus rinneamar déileáil leosan ar bhonn indibhidiúil. Cibé scéal é, baineann ceann de na saincheisteanna a tháinig chun cinn le hinfhaighteacht tithíochta/cóiríochta do dhaoine óga ag fágáil cúraim. I gcás amháin, rinne fágálaí cúraim teagmháil leis an Oifig ar son a naonáin ag cur in iúl go raibh siad fós ag cónaí i socrúcháin cónaitheach do leanaí toisc go raibh sé deacair teacht ar thithíocht oiriúnach. Cé go raibh an duine óg buíoch go raibh sí in ann fanacht san aonad cónaitheach,

bhí sí den tuairim nach raibh an socrú sin oiriúnach di féin ná dá mac. Luaigh sí nach raibh aon socrúchán iarchúraim iomchuí ann d'fhágáilthe cúraim a raibh leanaí acu féin agus an t-aon bhealach praiticiúil rochtain a fháil ar thithíocht Údarás Áitiúil go gasta ná a chur in iúl go raibh tú gan dídean, ach ní raibh sí sásta é sin a dhéanamh.

Cé gur réitíodh an scéal don duine óg áirithe seo, d'ardaigh sé ceist níos leithne maidir le tithíocht d'fhágáilthe cúraim. Is cúis imní é go bhféadfaí daoine atá ag fágáil cúraim a chur sa suíomh ina mbeidh orthu ligean orthu go bhfuil siad gan dídean d'fhonn cóiríocht a fháil.

Scríobh an Oifig chuig Tusla chun eolas chun dáta a fháil i ndáil leis an obair a bhí ar siúl i gcomhar leis na bainisteoirí Cathrach agus Contae i ndáil le comhphróctal a fhorbairt maidir le tithíocht d'fhágáilthe cúraim.

Mar fhreagra, chuir Tusla in iúl go raibh feabhas á chur aige ar a sheirbhísí iarchúraim chun a chinntiú go bhfreastalódh an tseirbhís orthusan a chomhlíon na critéir incháilitheachta, go háirithe iadsan a bhféadfaí a rá go raibh siad leochaileach agus i mbaol a bheith gan dídean. Luaigh Tusla go ndéantar an baol níos measa fós toisc go bhfuil easpa tithíochta ann, agus cé nach mbaianeann sé go sonrach leosan atá ag fágáil cúraim, bhí tionchar mór aige ar an ngrúpa áirithe daoine óga seo le déanaí. Mhol Tusla go mbunófaí meitheal agus tá an próiseas á chur i gcrích. Luaigh Tusla freisin go bhfuil siad i mbun meithleacha idirghníomhaireachta a bhunú a fhéachfaidh ar an gcur chuige idirghníomhaireachta do leanaí atá ag fágáil cúraim.

Grúpa daoine óga atá leochaileach ach go háirithe is ea na fágáilthe cúraim, agus is minic iad i mbaol a bheith gan dídean. Tá sé tábhachtach go gcuirfí chun cinn an cur chuige idirghníomhaireachta chomh gasta agus is féidir chun a chinntiú go mbeadh gach gníomhaireacht iomchuí a bhíonn i mbun seirbhísí a sholáthar do dhaoine óga ag obair i gcomhar lena chéile chun tacaíocht imleor a sholáthar d'fhágáilthe cúraim. Tá sé ríthábhachtach go rachfaí i ngleic le riachtanais tithíochta na bhfágáilthe cúraim mar chuid den phróiseas seo.

### **Seirbhísí do leanaí le Gortú Faighte Inchinne**

Rinne an Oifig imscrúdú ar ghearán a rinneadh thar ceann duine óg a fuair Gortú Faighte Inchinne (ABI) ag aois 14 tar éis timpiste gluaisteáin. Le linn an imscrúdaithe, tháinig aimhrialtacht chun solais i ndáil leis an soláthar seirbhísí. Is é go sonrach a bhí i gceist, is cosúil ón fhaisnéise a cuireadh ar fáil don Oifig seo go raibh easpa seirbhísí tiomnaithe ann do dhaoine óga idir 13 agus 17 a fhaigheann ABI. I gcás na ndaoine sin os cionn agus faoi bhun na n-aoiseanna sin is féidir leo rochtain a fháil ar na seirbhísí iomchuí níos éasca. Sa chás seo chuir an mháthair in iúl i gcás fhormhór na n-eagraíochtaí ar imigh sí i dteagmháil leo maidir le tacaí síciatracha agus síceolaíochta ní raibh sé ar a gcumas cúnaimh a sholáthar di, agus luaigh siad go mbeidís in ann dá mbeadh a mac faoi bhun 12 nó cóngarach do 18 mbliana déag d'aois.

Anuas ar an mbearna sna seirbhísí don aoisghrúpa áirithe seo, luaigh an gearánach easpa eolais, comhairle agus tacaí stocaireachta do thuismitheoirí leanaí le gortuithe faighte inchinne. Ba chosúil ón eolas a fuair an Oifig, go raibh rochtain ar na seirbhísí iomchuí ag

brath ar thionscnaíocht na dtuismitheoirí/na gcaomhnóirí agus ar ghairmithe indibhidiúla leighis, seachas, iad a bheith curtha ar fáil ar bhonn níos comhleanúnaí, níos comhordaithe. Chuir FSS in iúl go raibh céimeanna áirithe á dtógáil chun dul i ngleic le saincheisteanna a tháinig chun solais, lena n-áirítear i ndáil le cur i bhfeidhm an Bheartais agus na Straitéise Náisiúnta maidir le Néar-athshlánú. Cibé scéal é, tá imní fós ar an oifig faoin éagothroime atá dealraitheach idir grúpaí éagsúla daoine óga, le gortuithe tráma mar seo, a bheith in ann rochtain a fháil ar sheirbhísí iomchuí. Mar sin, scríobh an tAire Sláinte chuig an Roinn ag iarraidh ar an Roinn scrúdú a dhéanamh ar an tsaincheist ag féachaint le dul i ngleic leis na deacrachtaí a sonraíodh.

### **Tusla – Tuarascálacha Ráithiúla Náisiúnta Gníomhaíochta Feidhmíochta le haghaidh 2014**

Rinne an Oifig athbhreithniú ar an obair a rinneadh i ndáil le moltaí faoi imscrúdú ar ghearán a rinne ball den Mheitheal Shóisialta sa Laoi Thuaidh. Cuireadh an t-athbhreithniú i gcrích in 2014. San imscrúdú bhíothas tar éis roinnt cúiseanna imní tromchúiseacha a lua, lena n-áirítear cumas na Foirne Oibre Sóisialaí agus leibhéal iomchuí iarchúraim le haghaidh atreoruithe a bhain le leas leanaí agus cosaint chomh maith le tráthúlacht d’fhiosruithe toraigh agus measúnuithe tosaigh i ndáil le líomhaintí de mhí-úsáid leanaí.

Mar chuid den imscrúdú, d’ardaigh an Oifig cúiseanna imní faoin ngá le tráthúlacht faisnéise maidir le feidhmiú an chórais cosanta leanaí d’fhonn cuidiú le pleanáil le haghaidh seirbhísí. Mar chuid den phróiseas athbhreithniúcháin, luaigh Tusla na céimeanna a bhí glactha aige i ndáil leis seo trí na tuarascálacha Náisiúnta Gníomhaíochta Feidhmíochta, a ullmhaítear gach ráithe.

Cé go n-adhmaíonn an Oifig gur ghlac Tusla céimeanna dearfacha chun faisnéis níos nuashonraithe a sholáthar, is cúis mhór imní é go léiríonn na sonraí ráithiúla a d’eisigh Tusla in 2014 go raibh céatadán de mheasúnuithe tosaigh a bhí á gcur i gcrích laistigh den amscála de 21 lá. De réir thuarascáil Gníomhaíochta Feidhmíochta Náisiúnta Ráithe 2, ní raibh ach 21% (544 as 2580) de leanaí sa tír a raibh measúnú tosaigh de dhíth orthu, tar éis fiosrú tosaigh, a bhí tar éis ceann a fháil laistigh de 21 lá ó fháil an atreoraithe.

Tá an Oifig tar éis an cheist seo a ardú le Tusla agus cuireadh in iúl dúinn go raibh roinnt beart curtha i bhfeidhm chun dul i ngleic leis an scéal. Ní miste a mheabhrú go raibh an easpa acmhainneachta seo soiléir sular cuireadh tús leis an mBille Tús Áite do Leanaí a dhéanfaidh éigeantach é mí-úsáid leanaí a thuairisciú. Tá imní ar an Oifig faoi agaí freagartha i gcásanna mar seo agus faoin acmhainneacht measúnú tráthúil a sholáthar ar riosca agus ceisteanna sábháilteachta leanaí sna suíomhanna sin. Tá sé ríthábhachtach go bhfreastalófaí ar aon leanbh a luaite atá i mbaol mí-úsáide ar an mbealach is fearr agus is féidir agus go bhfaigheann siad an tseirbhís is fearr san am is gasta de réir a riachtanas agus seo an chaoi a dhéanaimid íoslghdú ar fhad an ama a bhfuil siad leochaileach lena linn.

## Ceartas agus Coinneáil Ógánach

I ndáil le cúrsaí ceartais agus coinneála ógánach, bhí aistriú suntasach ann in 2014 san fhócas sa réimse seo don Oifig. Tar éis deireadh a chur le coinneáil leanaí 16 bliana d'aois i bhForas Naomh Pádraig in 2012 agus gealltanas an Rialtais gach leanbh 17 mbliana d'aois a bhogadh chuig Baile an Oibricigh chomh gasta agus is féidir, mhéadaigh an Oifig a leibhéal rannpháirtíochta le Baile an Oibricigh. Bhí an fócas go dtí seo go príomha ar ghearáin a scrúdú a fuarthas i ndáil le daoine óga arna gcoinneáil i gcóras príosún na hÉireann agus go háirithe foras Naomh Pádraig. Cé go raibh Baile an Oibricigh i gcónaí faoi scáth na hOifige, is beag gearán a fuarthas roimhe seo i ndáil le daoine óga arna gcoinneáil ann.

Le fairsingiú suntasach ar Champas Bhaile an Oibricigh, an rún a bhí ann ná go mbeadh sé ina áit náisiúnta coinnteála do gach duine óg ar gearradh pianbhreith air nó uirthi nó daoine óga a bhí ar athchur, chuir an Oifig tús le rannpháirtíocht níos réamhghníomhaí leis an gCampas ar an talamh ag céim luath, sa mhéid go bhfuil an mórthionscadal seo á chur i bhfeidhm go céimneach. Measadh go mbeadh sé tábhachtach do gach ball foirne, daoine óga agus a dteaghlaigh, agus eagraíochtaí neamhrialtasacha eile agus eagraíochtaí tacaíochta, a bheith in iúl ar ról maoirseachta na hOifige i ndáil le gnéithe den choinneáil agus sainchúram gearán agus imscrúduithe i ndáil leis an gcoinneáil sin.

Chuir sin, bhí plé ag an Oifig le Bainisteoir an Champais, agus lena fhoireann le linn 2014. Tá baill den fhoireann gearán agus imscrúduithe tar éis teagmhálacha a bhunú le lucht bainistíochta Bhaile an Oibricigh agus réachtáladh cruinnithe comhroinnte leo. Chomh maith leis sin, tá foireann ón Oifig tar éis roinnt cur i láthair a dheanamh faoinár n-obair do dhá ghrúpa d'fhoireann nua-earcaithe.

Aithníonn lucht bainistíochta Bhaile an Oibricigh na sochair atá le baint as a oiliúint seo agus cheadaigh siad é a chur san áireamh san ionductú foriomlán a dhéantar ar an bhfoireann nua. Tá sé beartaithe againn roinnt cur i láthair eile a dhéanamh d'fhoireann nua agus d'fhoireann sheanbhunaithe de réir mar atáthar ag tabhairt an champais chun críche in 2015. Mar chomhartha ar ghealltanas na hOifige maidir le nithe a bhaineann le ceartas ógánach, rinne an Oifig urrú ar bhall den fhoireann tabhairt faoi Ard-diplóma sa Cheartas Ógánach in Óstaí an Rí do théarma 2014/2015.

Bíonn an Oifig ar fáil, mar a bhí i gcónaí chun bualadh le daoine óga i gcás gur tháinig cúiseanna imní chun cinn agus i mbliana, ag tógáil ar an obair a rinneadh in 2014, réachtálfaimid seisiúin eolais ag Baile an Oibricigh ionas gur féidir le gach duine bheith cothrom le dáta maidir le ról maoirseachta na hOifige maidir le coinneáil daoine óga.

Tríd is tríd in 2014 cuireadh feabhas ar an gcaoi a gcaitheann an Stát le daoine óga faoi bhun 18 mbliana d'aois atá ar athchur nó a fhaightear ciontach i gcion. Cibé scéal é, tá sé tábhachtach go mbeadh an reachtaíocht agus na hacmhainní riachtanacha ann chomh luath agus is féidir chun a chinntiú go mbogtar na daoine óga sin go léir chuig Champas Bhaile an Oibricigh agus amach as an gcóras do dhaoine fásta. Amach anseo tá sé beartaithe ag OCO a chinntiú go bhfanfaidh cearta an ghrúpa seo de dhaoine óga ina fhócas ag an Oifig.





# 4

## BEARTAS AGUS REACHTAÍOCHT

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### Scéim Ghinearálta an Bhille um Leanaí agus Cóngais Teaghlaigh

D'fhoilsigh an tAire Dlí agus Cirt agus Comhionannais Scéim Ghinearálta an Bhille um Leanaí agus Cóngais Teaghlaigh an 30 Eanáir 2014. Is í aidhm shainráite na reachtaíochta beartaithe ná struchtúr dlíthiúil a chur i bhfeidhm a bheadh mar bhonn is taca do chásanna éagsúla tuismitheoireachta agus soiléire dhlíthiúil a sholáthar ar chearta agus freagrachtaí tuismitheoireachta i gcásanna dá leithéid.

Forálann Alt 7 den Acht um Ombudsman do Leanaí 2002 go gcuirfidh an tOmbudsman do Leanaí comhairle ar fáil d'Airí Rialtais maidir le haon cheist a bhaineann le cearta agus leas leanaí - lena n-áirítear an éifeacht dhóchúil a bheadh ag cur i bhfeidhm tograí reachtaíochta – i gcás go n-iarrfadh Aire orthu déanamh amhlaidh. Lorg an tAire Dlí agus Cirt agus Comhionannais barúlacha ón Ombudsman do Leanaí maidir leis an Scéim Ghinearálta agus ar an gcaoi a raibh sé i gceist dul i ngleic le leas leanaí. Cuireadh comhairle an Ombudsman do Leanaí ar fáil don Aire i mí Bealtaine 2014.

I gcomhairle don Rialtas roimhe seo maidir le tograí chun gnéithe de dhlí leanaí agus teaghlaigh a leasú – go háirithe maidir leis an mBille um Páirtnéireacht Shibhialta 2009 agus an Bille Uchtála 2009 – leag Oifig an Ombudsman do Leanaí béim ar an ngá a bhí ann do reachtaíocht a chuirfeadh san áireamh an réaltacht ina bhfuil leanaí ag cónaí.

D'fháiltigh Oifig an Ombudsman do Leanaí roimh na tograí arna leagan amach ag an Aire Dlí agus Cirt agus Comhionannais, a raibh mar thúsphointe acu an gá atá ann foráil don ilchineálacht teaghlaigh inar féidir leanaí a thógail in Éirinn agus leas is fearr an linbh a chur ag croílár na reachtaíochta.

Mar sin féin, luaigh OCO go raibh roinnt réimsí ina bhféadfaí feabhas a chur ar an reachtaíocht chun freastal níos fearr ar leas leanaí agus oibleagáidí idirnáisiúnta na hÉireann a chomhlíonadh i réimse na gceart daonna.

Mhol OCO go leasófaí an Scéim Ghinearálta chun cearta céannachta leanaí agus daoine óga a chosaint, ar an mbonn gur chóir go mbeadh sé de cheart ag daoine óga a gineadh trí atáirgeadh cuidithe agus trí mháthairionadaíocht rochtain a fháil ar fhaisnéis faoina mbreith agus faoina mbunús. I ndail leis seo, thug OCO chun cuimhne go bhfuil drochttheist go dtí seo ag Éirinn ó thaobh an chirt sin a chosaint i ndáil le daoine a uchtáladh agus nár chóir an earráid sin a dhéanamh arís i ndáil le leanaí a gintear trí atáirgeadh cuidithe agus máthairionadaíocht.

Chomh maith leis sin, mhol OCO go mbeadh dlíthe na hÉireann chomh soiléir agus is féidir maidir le socruithe máthairionadaíochta a dhéanann daoine thar lear – bíodh sin ar bhonn tráchtála nó neamhtráchtála – agus an tionchar a bheadh ag na socruithe sin ar stádas dlíthiúil leanaí a saolaítear mar thoradh orthu. Níor chuir an Scéim Ghinearálta soiléire ar fáil maidir leis sin.

Cé go dtacaíonn OCO leis an gcosc dlisteanach ar mháthairionadaíocht tráchtála, mhol OCO go gcinnteodh an tOireachtas nach dtarlódh sé go bhfágfaí leanaí i suíomh leochaileach ó thaobh an dlí de i gcás go ngearrfaí smachtbhannaí ar thuismitheoirí a bhriseann an dlí.

D'fhoráil an Scéim Ghinearálta do raon beart a thacaíonn le cearta leanaí aithne a chur ar a dtuismitheoirí agus go ndéanfadh a dtuismitheoirí cúram díobh. Tá OCO den tuairim, ámh, gur chóir don reachtaíocht dul níos faide ná sin i réimsí ar leith, go háirithe maidir leis an gceart a bheadh ag leanbh aithne a bheith aige/aici ar an athair agus go ndéanfadh an t-athair cúram den leanbh sin.

D'fháiltigh Oifig an Ombudsman do Leanaí freisin roimh fhorálacha na Scéime Ginearálta a bhain le moltaí a rinne an Oifig roinnt blianta ó shin i ndail le páirtneireacht shibhialta agus uchtáil, sa mhéid go gcuirfidís ina gceart an t-easnamh atá ann ón reachtaíocht ábhartha i ndáil le leanaí.

### **Tionscadal maidir le Rialtas a Thacaíonn leis an Leanbh**

Le linn 2014, bheartaigh Oifig an Ombudsman do Leanaí tabhairt faoin thionscadal maidir le rialtas a thacaíonn leis an leanbh agus réachtáladh an tionscadal le tacaíocht ó Institiúid Idirnáisiúnta Ombudsman.

Is é aidhm an tionscadail seo tuiscint a fháil ar eispéireas leanaí agus teaghlach ó thaobh rochtain a fháil ar sheirbhísí poiblí, agus na deacrachtaí a bhíonn acu agus conas mar a shamhlófaí rialtas atá tacúil don leanbh sa riarachán poiblí agus sa chinnteoireacht. Go háirithe, bhí an tionscadal ag breathnú ar phróisis chinnteoireachta – an bhfuil siad ann agus conas a thugtar fúthu agus conas a d'fhéadfaí próisis chinnteoireachta a chomhshnaidhmeadh le Coinbhinsiún NA um Cheart an Linbh agus le caighdeáin eile um chearta leanaí. Tá sé ag breathnú freisin ar théamaí i ndail le comhlachtaí poiblí, a bhí ag leagan béime ar ghearáin gus obair imscrúdaithe OCO agus áirítear ann:

- Tráthúlacht na bpróiseas cinnteoireachta do leanaí;
- Comhtháiteacht na seirbhísí;
- Cumarsáid le leanaí agus teaghlaigh; agus
- Infhaighteacht sásaimh áitiúil agus láimhseáil gearán agus achomharc.

An rud a spreag an tionscadal seo ná an t-easnamh a bhí ann sna cuir chuigí a thacaíonn leis an leanbh – easnamh a tháinig chun solais agus Oifig an Ombudsman do Leanaí i mbun scrúduithe agus imscrúduithe ar ghníomhartha na gcomhlachtaí poiblí, ó bunaíodh an Oifig in 2004.

Cuireadh tús leis na chéad chéimeanna den taighde go déanach in 2014, lena n-áirítear athbhreithniú deisce ar an litríocht chuí agus comhairliúchán le leanaí agus a dteaghlaigh maidir leis na constaicí atá ann a mbíonn ar leanaí agus teaghlaigh a shárú chun rochtain a fháil ar sheirbhísí. Tá an tionscadal seo ar siúl ar bhonn leanúnach.

### **Treoirínte an Bhinse Achomhairc do Dhídeanaithe maidir le hiarratasóirí do Stádas Teifigh ar Leanaí iad**

I mí Bealtaine 2014, d'iarr an Binse Achomhairc do Dhídeanaithe (RAT) ar an Ombudsman do Leanaí comhairle a sholáthar maidir le dréachtfhoilseachán dá chuid *Draft Guidelines in relation to Child Applicants for Refugee Status*.

Ar na feidhmeanna reachtúla ag OCO faoi alt 7 den Acht um Ombudsman do Leanaí 2002 tá comhlachtaí poiblí a spreagadh chun beartais, cleachtais agus gnáthaimh a fhorbairt a bhfuil mar aidhm leo cearta agus leas leanaí a chothú. I gcomhthéacs na feidhme sin, d'fháiltigh OCO roimh an deis a tuairimí a chur in iúl maidir leis na Dréacht-Treoirínte sin i ndáil le hiarratasóirí do stádas teifigh ar leanaí iad.

Chuir OCO tuairimí ar fáil maidir le raon saincheisteanna a d'eascair ó na Dréacht-Treoirínte, lena n-áirítear: na prionsabail uileghabhálacha ar chóir iad a bheith ina mbonn is taca leis na treoirínte; tosaíochtaí a roghnú sna cásanna a bhaineann le leanaí; oiliúint d'fhoireann RAT; faisnéis imleor iomchuí a sholáthar do dhaoine óga; agus an cur chuige maidir le ceistiú arna ghlacadh ag RAT.

### **Coise um Chosc ar Chéasadh**

Mar chuid de mhisean a tíre chuig Éire i mí Mheán Fómhair 2014, bhuail baill den Choiste Eorpach um Chosc ar Chéasadh nó Táiríde nó Pionós (CPT) le hOifig an Ombudsman do Leanaí.

Leag OCO béim ar na cúiseanna imní leanúnacha atá ann maidir le staid na leanaí faoi choinneáil, lena n-áirítear: Foras Naomh Pádraig a bheith á úsáid fós do bhuaicailí 17 mbliana d'aois atá á gcoinneáil ar athchur; deacrachtaí a bhí ann tráth ar cuireadh seirbhísí teiripeacha ar fáil do dhaoine óga a bhí dá gcoinneáil ar champas Bhaile an Oibricigh; agus saincheisteanna ag eascairt ó leanaí i gcúram speisialta.

### **Feidhmiú Acht an Ombudsman do Leanaí 2002**

#### *Soláthar Díreach*

Ceann de na saincheisteanna a d'ardaigh OCO arís is arís eile ná fur fágadh ar lár óna sainchúram imscrúdaithe réimse an tearmainn agus inimirce. Mar a luadh i dTuarascáil Bhliantúil dheireanach na hOifige seo, forálann alt 11 (1)(e)(i) den Acht um Ombudsman do Leanaí 2002 nach ndéanfaidh an tOmbudsman do Leanaí imscrúdú ar ghníomh arna dhéanamh i riar an dlí a bhaineann le tearmann, inimirce, eadóirseacht nó saoránacht. Mar thoradh air sin, titeann roinnt gníomhartha de chuid na Roinn Dlí agus Cirt agus Comhionannais lasmuigh de shainchúram imscrúdaithe na hOifige seo. Féadfaidh na

gníomhartha nó an neamhghníomhartha beachta sin a d'fhéadfadh a bheith faoi réir an Ombudsman do Leanaí a bheith ag brath ar na cúinsí.

Níl comhthuisicint aontaithe ag an Roinn Dlí agus Cirt agus Comhionannais agus OCO maidir le raon an eisiaimh sin. Tá OCO den tuairim gur chóir go mbeadh rochtain ag daoine óga – lena n-áirítear na daoine óga sa Soláthar Díreach – ar an Ombudsman do Leanaí ar an gcaoi chéanna is atá ag gach leanbh eile in Éirinn, agus nár chóir aon rud a fhágáil as an áireamh ach amháin na gnáthaimh chun sainiú agus cinntiú a dhéanamh ar cibé acu an bhfuil duine i dteideal stádas áirithe nó nach bhfuil, agus ní soláthar na seirbhísí féin. Tá sé seo ag teacht le seasamh an Aire Leanaí ag an uair a raibh an Bille um Ombudsman do Leanaí á dhíospóireacht san Oireachtas in 2002. Tá an Roinn Dlí agus Cirt agus Comhionannais den tuairim, gurb a mhalairt is cóir, nár chóir do OCO údarás a bheith aici scrúdú agus imscrúdú a dhéanamh ar ghearáin faoi leanaí i Soláthar Díreach nó thar ceann na leanaí sin.

Is ar an gcúis sin gur mhol an tOmbudsman do Leanaí cúpla uair don Oireachtas Acht 2002 a leasú agus an cheist a réiteach agus a chinntiú nach bhfuil aon bhac ar leanaí agus teaghlaigh sa Sholáthar Díreach teacht ar chomhlacht neamhspleách láimhseála gearán.



# 5

## OIDEACHAS AGUS RANNPHÁIRTÍOCHT

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Tugann Alt 7 d'Acht an Ombudsman do Leanaí, 2002 sraith uathúil cumhachtaí don Ombudsman do Leanaí a thacaíonn le hobair na hOifige imscrúdú a dhéanamh ar ghearáin agus cuireann sé dualgas dearfach ar an Oifig monatóireacht a dhéanamh ar chearta agus leas suas go 18 mbliana d'aois. Tá sé mar aidhm le clár oideachais agus rannpháirtíochta na hOifige éifeacht a thabhairt do roinnt feidhmeanna reachtúla faoi Alt 7 d'Acht 2002 .

I measc na bhfeidhmeanna sin tá siad seo a leanas:

- Beartais, gnáthaimh agus cleachtais a spreagadh a chuireann chun cinn cearta agus leas leanaí;
- Feasacht a spreagadh i measc an phobail (leanaí san áireamh) faoi chúrsaí a bhaineann le cearta agus leas leanaí (lena n-áirítear Coinbhinsiún NA um Chearta agus Linbh) agus an chaoi ar féidir na cearta sin a fhorfheidhmiú; agus
- Struchtúir a bunú chun comhairliúchán a bheith ann le leanaí chun béim a leagan ar shaincheisteanna a bhaineann le cearta agus leas leanaí ar saincheisteanna iad is cúis do an leanaí iad féin.

### Ceardlanna Oideachais faoi Cearta

Le linn 2014, reáchtáladh ceardlanna oideachais maidir le cearta leanaí ar bhonn seachtainiúil do ghrúpaí leanaí agus daoine óga a thug cuairt ar na Oifig. Tá na ceardlanna seo ina gcoirchuid de chlár oideachais OCO maidir le cearta agus is deis luachmhar iad don Oifig plé go díreach le leanaí agus daoine óga de gach aois, ar bhonn leanúnach, atá ina gcónaí in áiteanna éagsúla ar fud na tíre agus i gcúinsí ilchineálacha.

Dearadh na ceardlanna chun tacú leis an bplé idir OCO agus na leanaí. Cé go n-athraíonn cineál agus béim an phlé sin, bíonn sé dírithe i gcónaí ar dhá aidhm: feasacht agus tuiscint na leanaí a fhorbairt maidir le cearta leanaí agus tuairimí na leanaí féin a chlosteáil ar chúraí a bhaineann le cearta leanaí ar spéis leo féin iad.

In 2014, tháinig breis is 1,100 leanbh agus duine óg ar cuairt chuig OCO ó scoileanna agus seirbhísí óige ó 16 chontae chun a fháil amach faoi chúrsaí ceart leanaí i gcmohthéacs a saoil laethúil féin agus chun breithniú a dhéanamh ar na freagrachtaí atá ar dhaoine éagsúla as cearta leanaí a urramú, a chosaint agus a chomhlíonadh.

## Tuairimí Leanaí agus Daoine Óga ar Chúrsaí Oideachais

Bhí an 20 Samhain 2014 ar an gcomóradh 25 bliana den dáta ar ghlac Comhthionól Ginearálta le Coinbhinsiún NA um Chearta an Linbh (UNCRC). Tá Airteagal 29 den Choinbhinsiún seo dírithe ar shainiú a dhéanamh ar chroí-aidhmeanna d'oideachas leanaí. I measc na n-aidhmeanna sin tá *"fhorbairt phearsantacht, thallanna agus chumais mheabhreacha agus fhisiceacha leanaí a mhéid is féidir"* agus *"meas a fhorbairt ar chearta daonna agus ar shaoirsí bunúsacha"*.

In 2014, cuireadh an deis ar fáil i gceardlanna arna réachtáil ag OCO do ghrúpaí leanaí agus daoine óga éascú a dhéanamh ar fhóram ina bhféadfadh leanaí a dtuairimí a chur in iúl ar na nithe a bhraht siad ag aidhm don oideachais do leanaí ag cónaí in Éirinn. Ghlac breis is 700 leanbh agus duine óg ó 30 bunscoil agus iar-bhunscoil ar fud na tíre páirt sna ceardlanna sin agus chuir siad a dtuairimí in iúl, agus thapaigh roinnt mhaith díobh an deis ní hé amháin labhairt faoin oideachas, ach tuairimí a nochtadh ar ghnéithe éagsúla den oideachas, mar shampla nithe a bhaineann le timpeallacht iomlán na scoile, an curaclam agus measúnú.

D'eascair roinnt téamaí ó dhearccháí na leanaí agus na ndaoine óga. Bunaithe ar a n-eispéiris féin mhol siad go dtabharfaí tús áite san oideachas foirmiúil do raon réimsí ar leith, eadhon:

- Forbairt scileanna saoil (litearthacht airgeadais, scileanna don mhaireachtáil neamhspleách, ullmú don saol oibre);
- Sláinte agus folláine (cothú, oideachas fisiceach, oideachas meabhreach ;
- Forbairt phearsanta agus shóisialta (féinmheas agus féinmhuinín, a bheith dearfach, caidrimh mhaithe le daoine eile);
- Scileanna cumarsáide a fhorbairt;
- Forbairt scileanna TFC agus litearthacht dhigiteach; agus
- Cruithaitheacht a chothú, lena n-áirítear tríd an oideachas san ealaíon.

Chomh maith leis in, labhair roinnt leanaí faoin tábhacht a bhaineann le cur chuige cuimsitheach, cothromasach a ghlacadh agus iad ag aithint go bhfuil spéiseanna agus tallanna éagsúla ag leanaí éagsúla, lena n-áirítear roghanna éagsúla a thabhairt do leanaí óna bhfoghlaiméoidh siad. Maidir leis seo, tháinig inscne i roghnú ábhair chun cinn mar ábhar plé – mar shampla, bhí grúpa buachaillí ó rang a sé i mbunscoile den tuairim, ó thaobh scileanna don mhaireachtáil neamhspleách a fhorbairt, go bhfuil sé chomh tábhachtach céanna do bhuaicillí eacnamaíocht bhaile a dhéanamh is atá do chailíní.

Moladh freisin an luach a bhaineann le modheolaíochtaí éagsúla a úsáid sa teagasc agus foghlaim – seo moladh a tháinig go háirithe ó dhaoine óga san oideachas iar-bhunscoile. Agus na ceisteanna seo á n-ardú acu, labhair na daoine óga faoin ngá atá ann stíleanna éagsúla foghlama daoine a aithint agus tacú leis na stíleanna éagsúla sin chomh maith leis an bhfiúntas a bhaineann le modhanna measúnachta a úsáid, a dhíspreagann foghlaim de ghlanmheabhair, agus cuidiú le daoine a bhfoghlaim a léiriú chuig barr a gcumais féin.

Tá sampla de na tuairimí agus na smaointe a roinnt leanaí agus daoine óga le feiceáil thíos.

*“Fionnachtain...Ba chóir duit tuilleadh a fhoghlaim fút féin tríd an oideachas... Mar shampla cad iad na buanna agus scileanna atá agat, seachas rudaí a bheith éigeantach i gcónaí...Is mór an brú a bhaineann leis sin... Ní minic a fhaigheann tú rudaí amach fút féin tríd an oideachas.”*

Duine óg as Co. Lú

*“Measaim gur chóir dúinn a bheith níos dírithe ar IT. Is dóigh liom gur chóir dúinn foghlaim conas bogearraí ríomhaireachtaí a chruthú agus conas ríomhchlárú a dhéanamh.”*

Duine óg as Co. Mhaigh Eo

***“Ranganna cosúil le heacnamaíocht baile ba chóir go mbeadh ort iad a dhéanamh. Scileanna saoil atá ann.”***

Duine óg as Dún na nGall

***“Ceapaim gur chóir do dhaoine ar scoil a bheith níos leathan-aigeanta. Ba chóir go mbeidís níos mó in iúl ar chultúir dhaoine eile.”***

Duine óg as Co. na hIarmhí

***“An rud is tábhachtaí a fháil onár n-oideachas, dar liom, ná meabhairshláinte mhaith.”***

Duine óg as Baile Átha Cliath

*“Measaimse gur chóir don chorroideachas a bheith bainteach le conas a oibríonn na codanna éagsúla den chorp agus cén bia is gá chun fanacht sláintiúil agus folláin.”*

Duine óg as Co. Luimnigh

*“Athraigh an chaoi ina bhfuil tú ag foghlaim. An chuid is mó den am bítear ag foghlaim rudaí de ghlanmheabhair. Ní gá duit fhios a bheith agat conas a oibríonn sé. Níl i gceist ach foirmlí nó téacs a fhoghlaim.”*

Duine óg as Co. Átha Cliath

*“Is cóir níos mó tábhachta a bheith ag baint le ceol ar scoil. Measaim go mbeadh na daltaí níos féinmhuiníní dá mbeadh orthu níos mó ceoil agus drámaíochta a dhéanamh ar scoil. Ansin bheidís níos fearr ar an stáitse agus ní bheidís chomh neirbhíseach.”*

Duine óg as Co. Mhaigh Eo

*“Ba chóir go múinfeadh an t-oideachas níos mó dúinn faoin bhfíorshaol, mar shampla cúram a dhéanamh de ghaolta má tá siad tinn.”*

Duine óg as Co. Chill Chainnigh

***“Tá daoine áirithe ann a bhfuil sé níos éasca orthu iad féin a chur in iúl trí cheol agus ealaín ná trí mhata agus Béarla.”***

Duine óg as Loch Garman



“Gné eile ar chóir do scoileanna a bheith ag obair air ná iompar na ndaltaí sa rang agus mórtimpeall na scoile, mar gur fadhb an-mhór í an bhulaíocht sa lá atá inniu ann. Mar sin, a mhúineadh do leanaí conas caitheamh le daoine eile – mar ba mhaith leo go gcaithfeadh daoine leosan.”

Duine óg as Co. Liatroma

“Ba chóir don oideachas cuidiú le daoine óga foghlaim conas déileáil le haon rud a tharlódh dóibh agus iad fásta.”

Duine óg as Co Longfoirt

*“Is dóigh liomsa gur chóir níos mó corpoideachais a dhéanamh ar scoil agus go bhfaighfeá pointí san Ardteist má tá tú aclaí.”*

Duine óg as Co. Loch Garman

*“Tá cuimhní cinn an-tábhachtach ... An chuimhne chinn is fearr liomsa ná bheith ag imirt peile sa rang mar go bhfuil cairde agam a imríonn liom.”*

Duine óg as Co. Átha Cliath

*Is maith liom an teicneolaíocht...agus ba mhaith liom dá mbeadh sin ina ábhar scoile.”*

Leanbh as Co. Loch Garman

“Is éard atá i gceist le hoideachas ná bheith sóisialta, bheith féinmhuiníneach, bualadh le daoine nua, foghlaim conas réiteach le daoine eile.”

Duine óg as Co. Átha Cliath

*“Gan an t-oideachas ní bheadh daoine in ann a gcuid smaointe a chur in iúl do dhaoine eile agus is féidir leis sin coinbhleacht a chruthú idir daoine. Mar sin, measaim go gcuidíonn an t-oideachas le daoine gan a bheith chomh foréigneach.”*

Duine óg as Co. na Gaillimhe

“Déanaimidne corpoideachas agus don chorpoideachas bíonn ort muinín a bheith agat as daoine eile. Murar féidir leat muinín a bheith agat as daoine eile ní fheabhsóidh tú ag rudaí.”

Daoine óga as Co. Loch Garman

“Níos mó oibre i ngrúpaí ...chun féinmhuinín a chothú labhairt le daoine eile nó labhairt amach.”

Duine óg as Dún na nGall

**“Foghlaimíonn gach duine ar bhealach éagsúil. Mar sin, b’fhéidir gur chóir measúnú a dhéanamh ar an gcaoi is fearr a fhoghlaimíonn duine. Foghlaimíonn roinnt daoine trí bheith ag scríobh agus daoine eile trí bheith ag déanamh rudaí.”**

Duine óg as Co. Mhaigh Eo

**“Ba chóir go bhfágfadh gach leanbh an scoil le féinmhuinín. Ba chóir go ndíreodh an t-oideachas ar fhorbairt phearsanta agus ní ar chúrsaí acadúla amháin.”**

Duine óg as Co. Mhuineacháin

**“Measaimse gur chóir níos lú ábhar ionas go bhféadfá díriú ar an ábhar a bheidh ar siúl agat nuair a fhágfaidh tú an scoil.”**

Duine óg as Co. Átha Cliath

**“Ní bhaineann an t-oideachas le scríobh agus léamh amháin. Baineann sé le bheith ag foghlaim agus bheith mar chuid d’fhoireann.”**

Leanbh as Co. na Gaillimhe

**“Gnóthaíonn tú a lán scileanna cumarsáide tríd an spórt agus trí chluichí foirne. Agus is gá a lán scileanna cumarsáide chun go n-éireodh leat sa saol.”**

Duine óg as Co. Loch Garman

**“Measaimid gur chóir do gach leanbh san oideachas scileanna a fháil...mar shampla conas iasacht bainc a fháil, conas billí a íoc... agus cócaireacht...conas oideas a leanúint.”**

Leanbh as Co. Loch Garman

**“Dar liomsa, ba chóir do gach leanbh a bheith mórálach agus iad ag fágáil na scoile – mórálach as a bhfuil bainte amach acu.”**

Duine óg as Co. Longfoirt

**“Measaim gur chóir do dhaoine óga a fháil amach ar scoil céard atá ag tarlú mórthimpeall an domhain. Ba chóir go mbeadh níos mó béime ar chúrsaí reatha.”**

Duine óg as Co. na Gaillimhe

## Is é do Cheart É

Agus muid in iúl ar na teorainneacha a bhaineann leis na líon leanaí ar féidir leo cuairt a thabhairt ar na Oifig agus an líon leanaí ar féidir leis na Oifig déileáil leo trína cheardlanna oideachais maidir le cearta, chuir OCO leis na glár trí ábhair acmhainne oideachais a fhorbairt, a bhfuil mar aidhm leo plé do díreach le saincheisteanna ceart leanaí a chónaíonn in Éirinn i comhthéacs an teagaisc agus na foghlama tríd an gcuraclam agus an fhoghlaim a tharlaíonn freisin tríd an earnáil neamhfhoirmiúil oideachais. Forbraíodh na hacmhainní I mBéarla agus i nGaeilge araon agus tá gníomhaíochtaí san áireamh d'aoisghrúpaí éagsúla, chomh maith le hábhair acmhainne dála *What do you say?* (2010) agus *Small Places* (2012) agus scaipeadh an t-ábhar sin ar scoileanna na tíre agus cuireadh iad ar fáil le híoslódáil ar shuíomh gréasáin OCO.

I gcomhthéacs a chomóradh 10 mbliana in 2014, chuir an Oifig tús le tionscadal nua chun feasacht a spreagadh maidir le cearta leanaí agus daoine óga in Éirinn. Cuimsíonn sé seo suíomh tiomnaithe agus aip saor in aisce don iPad, *It's Your Right* – a ghlacann cur chuige trasnheáin chun feasacht a spreagadh i measc leanaí faoi chearta leanaí agus é sin i raon formáidí agus ar ardáin idirnasctha, lena n-áirítear, Vimeo agus Audioboom. Trí chroí-ábhar a sholáthar i mBéarla agus i nGaeilge is féidir gnéithe den chur chuige piarfhoghlama a chomhshnaidhmeadh ann do leanaí agus daoine óga, díríonn an chéad chéim de *It's Your Right* ar fheasacht a spreagadh i measc leanaí faoi chearta leanaí faoi Choinbhinsiún NA um Chearta an Linbh agus leagtar béim ar dhearcthaí na leanaí agus na ndaoine óga iad féin atá ag cónaí in áiteanna éagsúla ar fud na tíre maidir lena gciallaíonn na cearta éagsúla arna sonrú faoin gCoinbhinsiún dóibh siúd.

Féadtar amharc ar an aip *It's Your Right* ag [www.itsyourright.ie](http://www.itsyourright.ie). Is féidir an aip eile a ghabhann leis don iPad app, aip a bhuaigh an duais airgid ag Appy Awards 2014, a íoslódáil saor in aisce ó iTunes app store.

Ba mhaith leis an Oifig buíochas a ghabháil leis na scoileanna, na seirbhísí óige agus eagraíochtaí eile, a chuidigh le forbairt an ábhair físe agus fuaime don suíomh le leanaí agus daoine óga. Tá an Oifig an-bhuíoch freisin de na leanaí agus daoine óga go léir a ghlac páirt sa tionscadal *It's Your Right* go dtí seo.

Tá sé beartaithe ag OCO an chéad chéime eile den tionscadal a chur i bhfeidhm le linn 2015, a dhíreoidh ar ardán *It's Your Right* a fhorbairt mar mhol ar líne do leanaí agus faisnéis a thacaíonn le leanaí tuiscint a fháil ar chearta leanaí in Éirinn a chur ar fáil ann.

## Seimineáir do Mhic Léinn Iarchéime

Ag teacht lena dhualgais reachtúla faoi Alt 7 d'Acht 2002, rinne an Oifig sraith seimineár faoi chearta oideachais a reáchtáil do mhic léinn iarchéime in 2012 agus 2013. I bhfianaise spéis na rannpháirtithe sna seimineáir seo agus i bhfianaise go ndearna siad measúnú dearfach orthu, bheartaigh an Oifig an clár a reáchtáil in 2014.

Le hairead ar shaincheisteanna a raibh an deis ag an Oifig plé leo trína fheidhmeanna reachtúla éagsúla, bhí na seimineáir a reáchtáladh le linn 2014 dírithe ar mhic léinn atá i mbun cáilíochtaí iarchéime san obair shóisialta, sa chúram sóisialta, san oideachas agus sa chosaint agus leas leanaí. Ghlac beagnach 200 mac léinn ó shé cinn d'institiúidí tríú leibhéal páirt iontu (OÉ Gaillimh, Coláiste Ollscoile Corcaigh, An Coláiste Ollscoile Baile Átha Cliath, Coláiste na Tríonóide, IT Átha Luain agus Coláiste Phádraig).

Chuir foireann OCO na seimineáir i láthair i mí na Samhna agus mí na Nollag 2014, agus dhírigh siad ar fheasach a spreagadh maidir le mandáid reachtúil, feidhmeanna agus réimsí gaolmhara oibre na hOifige; tuiscint na rannpháirtithe ar bhunphrionsabail ceart leanaí a thuiscint agus a gcur i bhfeidhm i gcomhthéacs a gcleachtas gairmiúil féin; agus cleachtas agus cinnteoireacht leanbhlanáithe a chothú, lena n-áirítear trí scrúdú éascaithe a dhéanamh ar chás-staidéir ag eascairt ó obair imscrúdaithe na hOifige.

Mar ab amhlaidh i gclár 2012 agus 2013, léirigh rannpháirtithe sástacht leis na seimineáir agus tá sé i gceist ag na Oifig clár comhchosúil a reáchtáil le linn 2015.





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