

ANNUAL REPORT 2015 TUARASCÁIL BHLIANTÚIL 2015



ombudsman
do leanaí • for children

The Right to be protected from war.

If you live in a country where you are in danger, and live in fear due to violence it is often not your fault that you are in this situation. So it is important that you can be protected.



We want children to be able to express themselves and not just keep stuff that they want to tell people to themselves and that people will listen to them and not judge for who they are.



A Nationality

no one should be treated badly just because they are from a different country or place. Everyone should be equal.

NO MATTER WHAT

stick figures = equal

I think it's important to have clean water. Our whole world revolves around water and we couldn't survive without water. We also need clean water to wash ourselves and use in everyday life. If we had dirty water you could get bad bacteria and life-threatening diseases.

That's why everyone should have a right to clean water.

OMBUDSMAN FOR CHILDREN

ANNUAL REPORT 2015



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MESSAGE
FROM THE
**OMBUDSMAN
FOR CHILDREN**



I am pleased to submit to the Oireachtas my annual report for the period January 1 to December 31 2015 pursuant to Section 13(7) of the Ombudsman for Children Act, 2002.

As I was appointed by His Excellency President Higgins in February 2015 I am delighted to provide an outline of my first, almost, full year in Office. The amount and quality of work done this year has been tremendous. This report will outline that it has been a record

breaking year for complaints received. It will show that Education, Child and Family Welfare and Health are still the three main areas of concern for children, parents and advocates. This is a strong indicator that the general public are becoming more aware of the availability of our Office and that the public service still has a lot of lessons to learn in relation to working with children's best interest in mind. The report also highlights the work undertaken to fulfil our other statutory obligations with regard to educating children, young people and adults around children's rights and also offering advice and guidance to government around legislation and policies which impact on children.

Ongoing Work of the OCO

With an 8% increase in the number of complaints we received, our Complaints and Investigations team, despite being short staffed, worked extremely hard to respond efficiently and effectively. The learning from all of the complaints received is vital for the overall work of the Office as it provides insight in to the way the public service is interacting with children and their families. Where it is appropriate we can draw lessons from the way an individual child is treated and use them to highlight systemic flaws to the relevant Department. This then generates changes which will save many more children from experiencing the same flawed structure in the future. It is this transfer of knowledge, from the individual to the collective, that is a vital component of my mandate as Ombudsman for Children.

In 2015, I am delighted to report that this Office has continued to work on growing relationships with the public bodies where we have statutory oversight, so that any complaints we receive can be put through a quick and appropriate process for a timely and satisfactory resolution. When the focus is the best interest of the child time can often be of the essence and therefore it is important that, with the agencies we interact with regularly, there is a clear process for dealing with complaints and effecting resolution. This relationship building does not negate robust and determined debate or argument because we are obliged, by law, to be neither an advocate for the child nor an adversary to the public body. Therefore fairness is a crucial part of our complaint handling process. This is the standard against which we measure our work and it is how we deliver a full and fair assessment of a complaint.

Despite our limited staffing levels across the year, I am delighted that the Office still got to meet with over 850 children and young people from schools and youth services in 14 counties, all of whom visited the Office to learn about their rights and the rights of all children across the world. They got the chance to reflect on their own day to day lives and consider which rights are being afforded to them from the time they wake up to the time they go to sleep – this can be quite revolutionary for many of them who might never have considered this before. They are then asked to consider who it is, in their own lives, who protects and secures those rights for them? This too can be an eye opening moment for the young people as they recognise those who are “in their corner” whether that is parents, relatives, teachers or coaches. I am delighted that the Office was also able to do a small number of outreach workshops across Cavan, Donegal, Monaghan, Louth and Waterford. It is by raising the awareness of children’s rights among children and young people themselves that we will ultimately grow a proper, sustainable culture of children’s rights in all that we do.

Such a culture is also enhanced by our Post Graduate seminars, which have been running now since 2012 and which, in 2015 included seven seminars for 130 students training in the areas of education, child protection, social work and social care. These seminars seek to enhance those future professionals’ understanding of children’s rights in general but also more specifically how they relate to the work they will be undertaking in the future. We seek to take it out of the theoretical and ground it in reality. We also encourage the attendees to develop a style of working which is child centred and to always consider the best interest of the child or children they will be working with in the future. The students, who came from University College Cork, NUI Galway, NUI Maynooth, University College Dublin, Trinity College Dublin and Athlone Institute of Technology, were all very complimentary of the seminars and we look forward to building on our offering for 2016.

A crucial element of my statutory obligation is to consider new legislation and policies which relate to children and over the course of 2015 we have made submissions and provided advice on a range of topics. We have been asked by both Government Departments and Oireachtas Committees to contribute to the thinking and clarification of various pieces of legislation. These include Reform of Guardian ad Litem Arrangements; General Scheme of the Criminal Law (Sexual Offences) Bill 2014; Education (Admission) to Schools Bill 2015; General Scheme of the International Protection Bill 2015; Criminal Justice (Victims of Crime) Bill 2015 and General Scheme of the Adoption (Information and Tracing) Bill 2015.

Each of these is outlined in more detail within the body of this Annual Report and it is clear from the breadth of issues this Office continually interacts with, that it is vital to have an Office such as this acting as an independent, statutory agent giving voice to the rights and concerns of all of Ireland's children in these laws and policies. It is a critical part of our democratic maturity that Ireland is now able to offer a strong, free to the public, reliable and autonomous body that can interact with Government in a way that is recognised as being in the child's best interest. This provides a large measure of oversight so that the rights of children are not overlooked or disregarded by those in power who are drafting and voting on new legislation. An aspect of this work that we will aim to do more of is to track the progression of legislation on which we have given advice through the legislative process in the Houses of the Oireachtas and to highlight where provisions of legislation are not in line with advices given by this Office.

I see this part of my mandate as critical in the overall objective of promoting and protecting children's rights, because it is here that I can take the lessons of past failures, as we see them within our complaints department, and the concerns of our children, as we hear them across our education and participation workshops and seminars, and ensure that new laws and policies take these into consideration. This is the prevention element of the work we do – it affords us the opportunity to change the future for our children by learning from the errors of the past. When it comes to children in Ireland that is something the State has always been very slow to do.

In June of 2015 the Working Group on Protection Processes including Direct Provision and supports to asylum seekers, which was chaired by retired Judge Dr. Bryan McMahon, produced its final report. The Report included some 40 sets of proposals, with a total of 173 recommendations, for improvements across three areas - a) the existing determination process, b) the living conditions in the Direct Provision accommodation centres around the country and c) the range of supports available to those in the system – financial, educational and medical etc. In his speech presenting the report to the Minister for Justice and Equality, Francis Fitzgerald TD, Dr. McMahon spoke of how important it was for the group to meet and speak with those in Direct Provision. He said that the group heard "*vividly the pain of dislocation and dispossession, in words and language which resonate deeply with Irish people everywhere*". So it was with those words echoing in their heads that the expert group made the 173 recommendations to better serve those who have found themselves in Ireland seeking asylum and being accommodated in a totally inappropriate and soul destroying system. It has been a longstanding position of this Office that all children, including those international protection applicants in the Direct Provision system, should have access to the Ombudsman for Children's Office. I was delighted that the Working Group agreed with that position and recommended that:

The remit of the Office of the Ombudsman for Children should include complaints relating to:

- *Services provided to residents of Direct Provision accommodation centres, and transfer decisions following a breach of the House Rules.*

- *Recourse to the Office should be available to a complainant who is dissatisfied with the final outcome of the RIA (Reception and Integration Agency) complaints procedure. (Recommendation 4.135)*

It is a fervent hope of the Office that this recommendation will be taken onboard and agreed by the Department of Justice and Equality so that there will no longer be this huge, indefensible, discrimination between the children living in Ireland who have a defined status and those who are awaiting a decision on same. I expect that before the end of 2016 ALL children in Ireland will have equal access to this Office, whenever they believe that they are being adversely affected by an action of the State.

This year saw the ongoing re-building of the Oberstown Campus. Good progress appears to have been made with regard to establishing all the relevant Governance which will be necessary to run the Campus as one entity rather than as three separate school settings. This will greatly assist in the consistency of care and oversight required to provide these young people, both male and female, with the adequate support to begin to look at their situations and consider how they might change their behaviours into the future. After all, that is the purpose of the huge investment of over €50 million. It is not to build shiny new units and better leisure facilities and improved security – they are a means to an end. The purpose is to create an atmosphere of support and caring which will offer those teenagers who wish to change the best possible opportunity to do so. This cannot be done in a vacuum and will involve greater liaison with the people and services outside of the campus who encounter the young people before and after their time in Oberstown e.g. An Garda Síochána, Housing Authorities, Employment services, Tusla, HSE, Psychiatric and Addiction services, as well as family and friends.

While the finalisation of the building has taken longer than expected, I look forward to 2016 being the landmark year when Oberstown will be sufficiently developed and staffed to allow the move of all 17 year olds on committal to the campus. This will allow our country to finally leave behind the dark ages where we, as a society, allow children to be detained in adult prisons. The use of Wheatfield as a place of detention for 17 year olds was meant to be a short term (12 months) project when, in July 2012, St. Patrick's Institution was deemed no longer suitable. However, we have now reached the stage where we are approaching four years with a daily occupancy of between 10-14 young people being held in Wheatfield. That means that, as a temporary measure, Wheatfield adult prison has held over 200 seventeen year olds who would have been more appropriately placed in the Oberstown Campus. By virtue of the fact that they are sentenced at 17 years of age instead of 16 years those young people have been faced with a totally different regime, one that is built around confinement and punishment rather than growth, support and positive change. This is a form of discrimination which is absolutely indefensible and I call on the Government to redouble its efforts to ensure that the Oberstown campus is fit to receive all 17 year olds, whether on remand or sentenced, as soon as possible.

In 2015 I was honoured to be invited to speak in front of three Oireachtas Committees and thereby show the level of transparency and responsibility which is befitting of an Office which is only accountable to the Oireachtas. The number and variety of committees is a clear indication of the breadth of the remit under which the Office works and it properly reflects the way in which children's lives cannot be compartmentalised but rather are messy and all encompassing. A child who is homeless will also have issues around education, health and leisure; the child with a severe intellectual disability will likely need assistance with special accommodation, transport and education. Therefore, as Ombudsman for Children it is appropriate that I spoke with the Public Services and Oversight Committee in March, the Committee for Health and Children in May and the Committee on Education and Social Protection in October 2015. In each case the discussions were searching and informative, with each committee member clearly well informed about the role of the Office and eager to learn about the various aspects of our work. I was always encouraged by the very positive support that each committee offered to our Office and to the work that is done here.

This has been a very difficult year for the Office as many of our experienced and long serving staff members moved on to pastures new leaving a reduced staff compliment for most of the year. At one stage we were down 50% of our recommended staff compliment and yet, as you will see from this Report, the Office continued to successfully cope with an increase in complaint numbers as well as delivering positively on all of our other statutory obligations around education and policy development.

The staff has risen to the enormous task of maintaining standards while covering a number of vacant positions. Each and every one of my colleagues showed tremendous dedication to the Office and delivered a fantastic service throughout 2015 despite the pressure of numbers, and this Report highlights the level of their output. I wish to thank all of them, and those who joined over the course of the year, for their commitment to children's rights and their professionalism throughout the year. I also want to acknowledge the support of the Department of Children and Youth Affairs who were quick to show their backing for the Office when I applied to fill the vacancies in our staffing. Their sanctioning of my proposals allowed me to begin building a new team and meant that I was nearly able to re-establish the full staff compliment by the end of 2015. While this negotiation with the Department has been a positive one, I feel it is important to re-iterate the necessity for this Office, as an independent human rights institution, to receive its funding directly from the Oireachtas rather than through a Department.

OCO presentation to the United Nations Committee on the Rights of the Child (UNCRC)

The United Nations Committee on the Rights of the Child (UNCRC) is a group of 18 international, independent experts who meet in Geneva, Switzerland to examine the records of all UN member states in relation to upholding and progressing children's rights. In June 2015 I travelled to Geneva to present to the Committee in their pre-sessional meeting as they gathered evidence on the progress, or otherwise, of children's rights in Ireland. This was a very important event for the children of Ireland as no review of the Irish State, in this area, had been carried out since 2006. It provided an opportunity for the Office to outline the positive developments in relation to children's rights in Ireland, as well as the areas where progress is still required to enhance the lives of all the children in Ireland.

My observations to the Committee suggested that the realisation of children's rights in Ireland is an unfinished project. That is not to say progress has not been made since 2006. Among the positive developments is a constitutional amendment, approved by the people in 2012, and finally signed into law in April of 2015. This affirms the natural and imprescriptible rights of all children and places children's views and best interests at the centre of court proceedings regarding care, adoption, guardianship, custody and access. There have been legislative developments on important issues affecting children, including family relationships and school admissions. A senior Minister for Children and Youth Affairs has been appointed and a Department of Children and Youth Affairs established. A National Policy Framework to guide the development, coordination and implementation of policies and services for children has been published (Better Outcomes Brighter Futures). There is a dedicated Child and Family Agency, with statutory responsibility for child protection and welfare services. A free pre-school year has been introduced. A new national children's hospital is due to be built. A phased cessation to the untenable practice of detaining young people under 18 in prison is underway.

All of these constructive developments are welcome. However, none is a panacea, and more significant change is needed in some areas. The economic crisis that has beset Ireland for much of the period under review has had serious adverse consequences for many thousands of children. Data available in March 2015, indicated that some 138,000 children were living in consistent poverty. Despite the efforts of many professionals to deliver effective services, resource deficits have contributed to protracted delays in dealing with child protection concerns and impeded children's access to vital health services and education supports. One third of young people requiring inpatient care for mental health difficulties are still being accommodated in adult facilities. In March of 2015, 1,054 children in 471 families were homeless [and that has continued to grow throughout 2015]. Meanwhile, approximately 1,400 children are spending the formative years of their lives in direct provision, in circumstances that inhibit their potential to thrive and curtail their full enjoyment of basic rights.

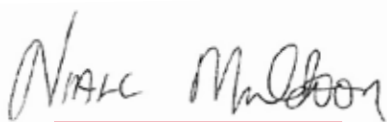
Having highlighted such a range of issues I went further and called on the UNCRC to look at the Education system and the many areas where children's rights are not being protected or fully realised. I described it as manifestly unsatisfactory that children with a religion get preferential access to publicly funded schools of their religion, and raised my serious concerns regarding Ireland's compliance with its non-discrimination obligations under the Convention. I reiterated our call for the removal from the Equal Status Act of the exemption for schools.

Education is the biggest focus of complaints in this Office and as a result of examining those complaints I have formed the view that the degree of autonomy afforded to Irish Schools has operated in such a way that the State has not been able to exercise responsibility and oversight in the manner required of it as a duty-bearer under the Convention. In speaking with the Committee I urged them to have the State recalibrate the balance between schools' autonomy and oversight by central Government to ensure that the State assumes the appropriate level of responsibility for advancing and protecting children's rights within the education system.

I went on to point out that the State must address delays in the provision of social housing and ensure emergency housing is appropriate to children's needs. To vindicate Traveller children's rights, I stated that the State must recognise Traveller ethnicity without further delay and take concrete and measurable steps to tackle the serious challenges facing Traveller children, especially in health and education.

It is clear to me that a deficit in resources, however acute, does not adequately account for shortfalls in Ireland's protection of children's rights. A State that respects human rights is one that prioritises the human rights of its citizens, including children, in budgetary, legislative and administrative decision-making. Failings in this regard are evident in different areas of public administration concerning children, where policy implementation has dominated over children's rights and best interests. Such practices are about culture, and their consequences for children are easily recognisable in the accounts of children and parents whose complaints my Office has examined, and whose stories I published in *A Word from the Wise* – a complimentary resource issued to the UNCRC to let them "hear directly" from those most affected in Ireland. It was made available both as a CD and a publication and included the stories of seven different complainants with a variety of issues ranging from homelessness, to needing special accommodations to complete the Leaving Certificate exam. In creating this resource I was inspired by the writer Brian Friel, who said that "*words are the weapons of the dispossessed*" – no one can re-tell a story with the same power and passion as those who have lived it.

I would like to conclude by saying that myself, and the team at the Ombudsman for Children's Office, are totally committed to continuing to fulfil our statutory obligations on behalf of the, approximately 1.2 million children of Ireland. To that end I will be working extremely hard in 2016 to develop a new strategic plan which lays out the areas of main focus for the Office over the next three years. One of the areas that I know will be part of that focus is the emotional health of children and young people. This is an area where I believe the State has made some progress, the establishment of the Office for Suicide Prevention for example, but there is a huge amount of work still to be done. I feel that the nation as a whole, and young people specifically, have started to come out of their shell and are beginning to talk about their mental health. In light of the rights of children to a) have their voices heard (and they are clearly telling painful stories) b) have their best interest taken into account when decisions are being made and c) the right to good health, it is incumbent on the State to provide a meaningful response to this growing conversation about emotional and mental wellbeing.

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

Niall Muldoon
Ombudsman for Children



OCO
@OCO_ireland

Dr Niall Muldoon receiving his Warrant of Appointment from President Michael D. Higgins tonight at Áras an Uachtaráin



RETWEETS LIKES

10

8

11:15 AM - 17 Feb 2015

OCO Retweeted



SPECS Bray @SpecsBray · 2 Dec 2015

A big thank you to @SimonHarrisTD and Dr. Niall Muldoon @OCO_ireland for launching our SPECS service on Monday.



SECTION 1
**2015 AT
A GLANCE**



OCO @OCO_ireland · 30 Mar 2015

Dr Niall Muldoon with Sr. Stanislaus Kennedy @YSINow & Mercy College, Coolock students at #SpeakOut event in Dublin



The Young Social Innovators (YSI) Dublin 'Speak Out' event took place recently at the Mansion House.

Pictured: at the event with Sr. Stan and Dr. Niall Muldoon, Ombudsman for Children, were participants from Mercy College, Coolock (from l-r: Laura Harris, Samantha Keoghan, Caithlin Keegan and Sabina Gurjeva. PHOTO: Derek Speirs



IrishRefugeeCouncil

@IrishRefugeeCo

.@OCO_ireland will focus on ensuring that "children are at the forefront of decision-making, and not an afterthought" @noelbaker1

RETWEETS

2

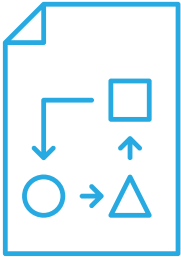
LIKES

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11:58 PM - 13 Feb 2015

January



Niall meets with the Working Group on Protection Processes including Direct Provision and supports to asylum seekers, chaired by Dr. Bryan McMahon

February



Niall takes over as Ombudsman for Children and goes to *Áras an Uachtaráin* to be officially appointed by President Higgins

May



Niall attends Tipperary Peace award

Niall appears before the Oireachtas Joint Committee on Health and Children

June

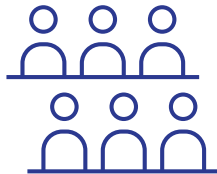


Niall presents OCO report to the UN Committee on the Rights of the Child in Switzerland

Niall attends European Forum on Rights of the Child in Brussels

September

Niall attends ENOC conference Amsterdam

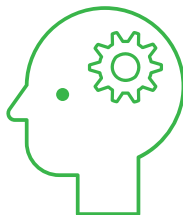


October

Submission by the Ombudsman for Children on the General Scheme of the Criminal Justice (Victims of Crime) Bill 2015

March

Niall launches
Children's Mental
Health Coalition
Annual Report



Niall appears before Joint
Oireachtas Committee on Public
Service Oversight and Petitions

April

Ombudsman for Children's Report
to the UN Committee on the Rights of
the Child

Meeting with Minister for Health,
Leo Varadkar

Meeting with Minister for Justice,
Frances Fitzgerald about Direct Provision

July

Niall speaks at
Young Ballymun
event



Niall speaks at
Making Rights Real for Children:
A Children's Rights Audit of Irish Law

August

Launch of OCO report
into standards at
private and voluntary
residential care centres



November

Submission by the Ombudsman for Children on
the General Scheme of the Adoption (Information
and Tracing) Bill 2015

Niall sets the scene at the Irish Primary Principals
Network Conference — "Putting Emotional
Wellbeing At the Heart of Schools"

December



Niall speaks
at Parents
Plus National
conference

SECTION 2

**WHO WE ARE
AND WHAT
WE DO**

The Ombudsman for Children's Office (OCO) was set up in 2004 under a law called the Ombudsman for Children Act 2002

- 1 to look into complaints made by or for children and young people about the actions of public organisations;
- 2 to promote the rights and welfare of children and young people under 18 years old living in Ireland.

An Ombudsman is an independent person who protects the rights of individuals or a group in relation to the powers and action of government and other public organisations.

Ombudsman comes from a Scandinavian word meaning defender of rights, and that is what the OCO is all about.

The OCO's work to promote children's rights and welfare includes:

- finding out what children and young people are concerned about and highlighting their opinions to the Government and other people who make decisions that affect them
- supporting people, including children and young people, to find out about children's rights and how those rights can be respected, protected and realised
- giving advice to the Government and others to help make sure laws and plans affecting children and young people respect children's rights
- encouraging public organisations to work in ways that promote children and young people's rights and welfare
- carrying out research to get a better understanding of issues that are important in children and young people's lives.

In our Office we also look at the impact that poor administration has on a child and seek the child's views of their experiences. We also consider how this may have impacted on the rights of the child.

A key element of promoting and protecting the rights of children and young people involves ensuring good administration.

A fundamental right to good administration is enshrined in Article 41 of the Charter of Fundamental Rights of the European Union. Since the entry into force of the Lisbon Treaty in Ireland in 2009, this Charter has the same legal value as all the Treaties of the EU. As a result, everyone is now legally entitled to good administration of his or her affairs.

Ombudsmen and human rights commissions all over the world use the concept of good administrative practice. Good administrative practice is a tool used by Ombudsmen to measure, influence and develop the relationship between citizens and public administration.

However, the Ombudsman for Children in Ireland also has a wider duty to promote the rights and welfare of children and therefore we also look at public administration through a child's rights perspective which can be very insightful and tells us a lot about how poor administrative practice negatively impacts on the rights of children. It can also tell us how good administration can make things better for children.

In this section we have highlighted some of the key issues linking the rights of the child and good administrative practice, or in some cases the lack thereof:

1. The obligation of the administration to give reasons for its decisions

Communicating information in a way that helps people make informed decisions is a basic function of good administration. While we found some examples of when this worked well in 2015, we also found numerous occasions when this did not occur and had an adverse effect on the children. It is important that public bodies are fully transparent about their decision making. These two case studies demonstrate the adverse effect when there is a lack of transparency in decision making by public bodies and the impact this can have on children.

The State Examinations Committee (SEC): Reasonable accommodations for Leaving Certificates

Summary of complaint

Johnny* who was due to sit his Leaving Certificate in June 2015 and his parent made a complaint to us about the decision by the SEC to refuse the reasonable accommodations which the young person had sought. Johnny had a diagnosis of a Specific Learning Difficulty (SLD) in the form of Dyslexia and Dyscalculia and was seeking the support of a reader and a spelling and grammar waiver for the exams. The accommodations had been refused and an appeal to the SEC's Independent Appeals Committee had been unsuccessful.

The parent had not been given any reason why the accommodations were refused. We advised the complainant to re-contact the SEC and seek a rationale for the decisions made. When this was provided to the parent by the SEC the parent remained of the view that the decisions that had been made were unfair and made a complaint to this Office.

OCO examination of the complaint

We examined the complaint by seeking a response from the SEC to the complaint and whether the matter could be resolved by a review of the application. They reviewed all the information on Johnny's files and discovered that the school had mistakenly assessed Johnny using the wrong reading material. The reading material used was not at the 'appropriate level'. He was assessed using ordinary level papers even though he was going to take some higher level examinations.

Outcome

The SEC therefore asked that the school re-do the test with the pupil and use the appropriate material. The results of this second test indicated that Johnny did meet the criteria for the accommodations sought. The SEC subsequently awarded a reader, a spelling/grammar/punctuation waiver, and the use of a special centre for this pupil.

The school, parents and their son were made aware of the accommodations awarded in advance of the commencement of the Leaving Certificate and they were able to prepare accordingly.

** The name of the child involved in this case has been changed to preserve anonymity.*

This is one of a substantial number of complaints received on this issue and unfortunately not all reach successful conclusion. This particular complaint has raised two specific concerns for us. One, which is a common theme in all complaints, is that the reason for original refusal is not being given unless specifically sought in writing from the SEC.

Parents therefore go into the SEC Appeal process without fully knowing the basis of the decision that they are appealing. The other concern is that the errors noticed through review of this complaint, upon request from this Office, were not picked up at appeal stage, and in effect the appeal process failed this complainant.

For this pupil the complaint was successfully concluded in advance of his Leaving Certificate. However, we were concerned about how other children may be affected. Therefore we decided to gather all our information and complaints about the SEC received in 2014 and 2015 in order to provide an overview of the issues relating to the SEC and to determine how best we can effect change for all other children that may be affected by these administrative issues. We plan to publish this report in 2016.

2. Obligation to provide sufficient information about services

A common theme in relation to services, especially services for children with a disability is the lack of signposting of services. Parents struggle to navigate the system and the needs of their child across many different public sector bodies and services within public bodies.

For example a child with a disability may require hospital appointments, community speech and language services, school transport, special educational assistance and respite care from the HSE. There is no national advocacy service for children with a disability and parents oftentimes learn more from other parents about how to access services for their child than they do from "the system".

The risk is that poor administrative practices, such as poor sharing of information and delays in getting decisions, all contribute to creating an adverse effect on a child and this can impact on their development and other needs.

Navigating services for children with a disability

The parents of twin boys Aidan* and Sean* with Autistic Spectrum Disorder complained to the OCO regarding the automatic allocation by the Department of Education and Skills of shared Home Tuition provision for siblings.

Their sons, then aged 2 years and 8 months, were awarded the maximum 10 hours Home Tuition by the Department of Education and Skills in January 2013 to be shared between them. This subsequently increased to 20 hours shared provision when the boys turned 3. The parents appealed this decision, arguing that the boys could not be tutored together as they had different needs. Supporting information from a HSE Psychologist stating that the boys be considered individually in planning future supports was also provided to the Department. However, the Department argued that the school grouping principal, based on a teacher-pupil ratio of 1:6 plus 2 SNAs, applied as home tuition is an interim measure intended to compensate for school based provision.

OCO Investigation

Following an investigation of this complaint, the OCO concluded that in the school year 2012/2013, there was no written provision or basis for shared allocation for siblings in the Home Tuition Circular, 'job guide' (internal procedure/guidance for the processing of applications by staff) or application form. Further, there was a lack of transparency, in relation to the availability of individual Home Tuition allocations for siblings and the information required to access these individual allocations. There was also no process to guide the Department's actions when considering applications for siblings.

The OCO also found that the boys in this case were discriminated against by the Department as their parents were not given an opportunity to negotiate alternative group Home Tuition arrangements, whereas other families with siblings with special needs and with children who are not related would appear to have this option.

The absence of transparent and fair procedures for families to access group arrangements made it difficult for this family, and any other families, to access information about such arrangements and how to avail of them.

Finally, the OCO found that there was a lack of record keeping and delays in relation to the handling of the parents' appeal of the original allocation of shared Home Tuition provision, that the Department did not seek further information about the boys needs when they had an opportunity to do so and that the allocation of shared provision was based on incomplete information.

Outcome

On foot of the recommendations made by the OCO in this case, the Departmental Circular governing Home Tuition – Special Education Component was amended.

This Circular provides that, in recognition of the differing needs of siblings, requests for individual allocations will be considered on a case by case basis. The Circular also provides that increased allocations for siblings of up to 50% can be requested without the provision of further supporting information.

In addition, a revised job guide has been issued internally in the Department to support this approach. Information on grouping arrangements contained in the Department's Circular, are notified to parents in the letters issued in response to applications for Home Tuition and Special Education Needs Officers (SENOs) are encouraged to discuss different arrangements with parents when making applications to the scheme.

In recognising that the issue of provision for siblings had not been addressed in their Circular at the time the parents made their original applications, the Department sanctioned an additional 550 hours tuition to the boys in this case and an additional 30 hours per week until the end of October 2014.

Finally, in addressing the OCO's recommendation that the Department expedite the national policy on autism, the Department obtained policy advice from the NCSE on this policy in 2015.

** The names of the children involved in this case have been changed to preserve their anonymity*

OCO Retweeted



Youth Information @YouthInfoDub - 26 Nov 2015

Great talk by Paraic Walsh of @OCO_ireland at the @ChildRightsIRL seminar on Turning Wrongs to Rights.



Today FM News

@TodayFMNews

Childrens Ombudsman wants HIQA to inspect residential care homes for children
todayfm.com/Childrens-Ombu ... via @todayfm

RETWEETS
3

LIKES
3



5:15 AM - 7 Aug 2015

3. Public administration and specific children's rights

The link to public administration and children rights has been highlighted by this office in past annual reports and we are committed to pursuing the actualising of children's rights in a very real way with those in public administration who make decisions about children. This includes those that set government policy and write our legislation. For example, in the next case there were administrative obstacles to overcome in order to ensure that Article 7 of the UNCRC, a child's right to a name and nationality, and Article 8 the right to preservation of identity, were upheld.

A right to their name

A complaint was received which related to a parent's efforts to have the birth of her child registered with the General Register Office (GRO) and also to obtain a PPS number for the child from the Department of Social Protection (DSP). The child's mother was married but separated from her husband for a number of years.

Under current legislation it is presumed the husband is the father of the child unless it can be proved otherwise in court. The complainant explained the efforts she has made to show her husband is not the father and she had been seeking to have the child's birth registered without a father's name, as she did not know the identity of the father.

Adverse effect

The implications of the child's birth remaining unregistered included, the inability for the child to obtain a PPS number from the Department of Social Protection, the inability to claim Children's Allowance, and the inability for the child to be registered as the mother's dependent, which was affecting the availability of local authority housing to her, as a single parent.

The complaint also raises the question of the State's obligation to comply with Article 8 of the UN Convention on the Rights of the Child in relation to a child's right to an identity.

While the complainant may have had recourse through the courts, Legal Aid Board waiting lists meant that any potential resolution would have been delayed by at least nine months. The child could potentially reach the age of two without his birth being registered or a PPS number being issued.

OCO examination of the complaint

We engaged, through preliminary examination, with the GRO regarding potential resolution to the birth registration issue. The tenet of the response was that there was an obligation on the complainant to comply with S.46 of the Status of Children Act 1987 and the birth must be registered in accordance with S19 of the 2004 Act (Civil Registration Act).

This basically meant that the birth should be registered with her husband's name as the father, under the presumption of paternity rule, and this presumption could be overruled and amended at a later stage when enough evidence is presented. However, the complainant had already tried to do this but was refused by the local GRO office.

We re-engaged with the GRO, pointing out the previous efforts that had been made, and at that stage it was accepted that GRO, Joyce House, were now willing to have the birth registered (with husband's name as father, which could be amended at a later stage). An advocate for the parent then brought the child's mother through this registration process.

In relation to the PPS number issue we also engaged with the Department of Social Protection, Client Identity Services (CIS). CIS responded positively and it was agreed that the case would be looked at again at the highest level, if the complainant or advocate provided all the details of the case. Consideration would be given to issuing a PPS number in the absence of a birth cert. This initiated a process where the PPS number was eventually issued to the child, based on all the relevant evidence of the birth being presented (but without the presence of a birth certificate, which was being processed separately).

Outcome

Through intervention from this Office, the two public bodies concerned with the complaint agreed to review the matter and ultimately act in a discretionary and child-centred capacity, which had positive outcomes for the child. In this case, initial decisions had been made at local departmental level which, although they may have been administratively correct, did not allow for the special circumstances of the case and did not appear to take into account how the child was being negatively impacted by those decisions.

The main stumbling block to this child having his birth registered was the 'presumption of paternity' rule. We saw in this case how difficulties with this rule impinged on this child's right to an identity as enshrined in Article 8 of the UN Convention on the Rights of the Child.

The presumption of paternity remains in legislation (Status of Children Act 1987, S46). The Civil Registration Act 2004, S19 currently also remains in force and this spells out the requirement to register all births. It appears that the Civil Registration (Amendment) Act 2014 will provide some scope for discretion to be used by the GRO in registering a birth, where exceptional circumstances exist which may be hindering registration. The 2014 Act will allow discretion to be used to register the birth to avoid 'undue hardship'. Although this Act has been passed, the relevant provisions have not been commenced to date.

SECTION 3

**COMPLAINTS &
INVESTIGATIONS**

Under the Ombudsman for Children Act 2002 (as amended) 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. Complainants can submit their complaint by letter or through an on-line complaint form. Every complainant is assigned a specific case-worker as a contact person.

The complaints and investigations function of the office is core to our operations, with the investigations team kept extremely busy with a variety of complaints.

How complaints are processed at the Ombudsman for Children's Office

We make 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 our work, in line with international Ombudsman principles.

When a complaint is outside our remit, or if there is insufficient grounds to examine the complaint then we will provide advice about other bodies that might be able to help. We may also decide to transfer complaints to other bodies, for example to the Office of the Ombudsman, if the complainant agrees.

When we decide to examine a complaint we first consider whether the grievances can be resolved quickly. The case worker may directly call the body in question to discuss the possibility of a quick resolution in the best interest of children.

We regularly 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 a matter is complex and adequate resolution has not been provided, then we may proceed to an investigation whereby we 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, we may close the case but we would always retain the discretion to follow through with an investigation if it were a systemic issue which may affect more children. This is something we have done on a number of occasions in the past.

A full investigation may take some time to complete, and while every effort is made to expedite the process, we are 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.

Specifically, the process of examination and investigation looks at the matter of adverse effect on the child, as well as whether the administrative 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 examination of complaints continues to provide valuable insights into the experiences of children and families in dealing with public services.

It also shows positive actions by public bodies to make amends for mistakes or indeed examples where the public bodies have acted appropriately.

The best interests of children

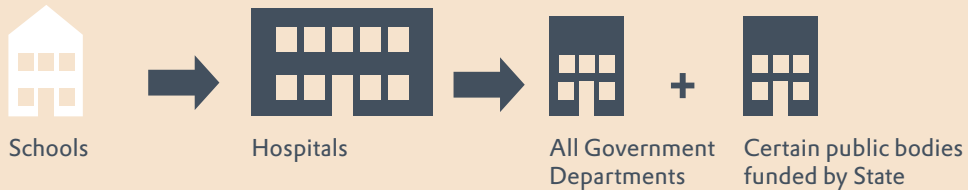
The Act also sets out a range of specific legislative provisions which take account of the particular vulnerability of children and that the Ombudsman for Children in the performance of their complaints function, shall have regard to the best interests of the child.

HOW TO MAKE A COMPLAINT

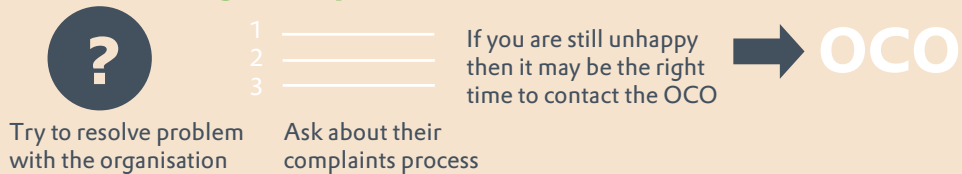
The following people can bring complaints on behalf of children and young people.



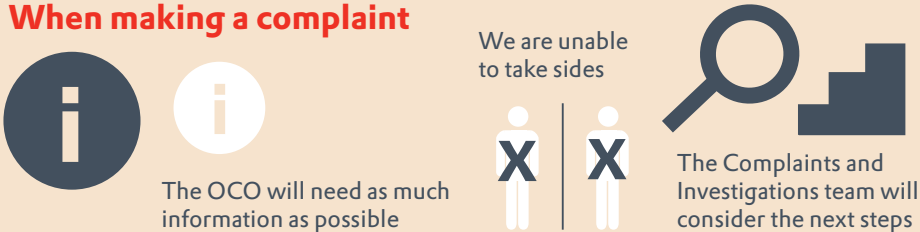
1 Who can I complain about?



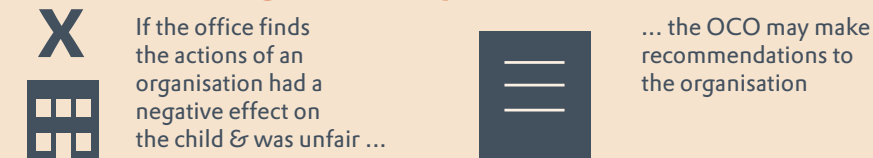
2 Before making a complaint



3 When making a complaint



4 If further investigation is required



5 How do I contact your office?

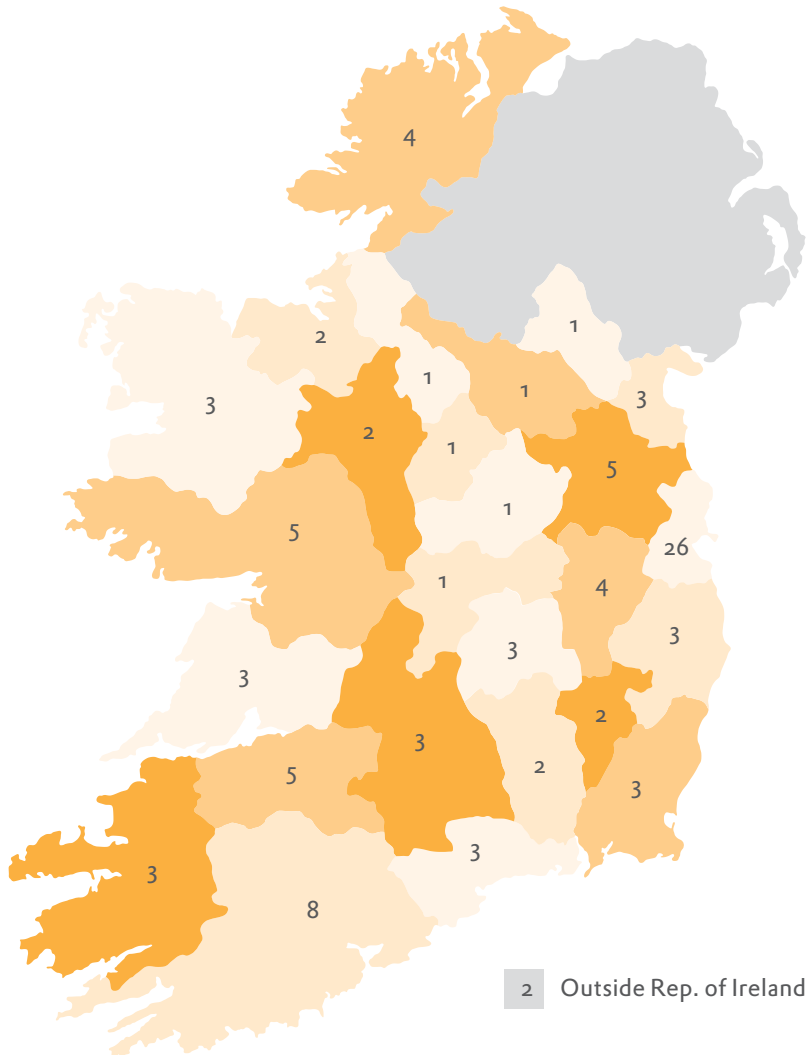


3.1. Complaints dealt with in 2015

2015 was an exceptionally busy year. We received 1639 new complaints which made it the busiest year since our Office opened in 2004. We received 119 more new complaints than 2014 which is an increase of **8%**.

3.2. Where do our complaints come from in Ireland?

Table 1: Complaints by County % in 2015



As you can see we receive complaints from both urban and rural areas across Ireland. As the highest populated area it is to be expected that we receive the highest number of complaints from Dublin (26%). Complaints from the remaining counties are equally distributed.

Table 2: Who contacts us?

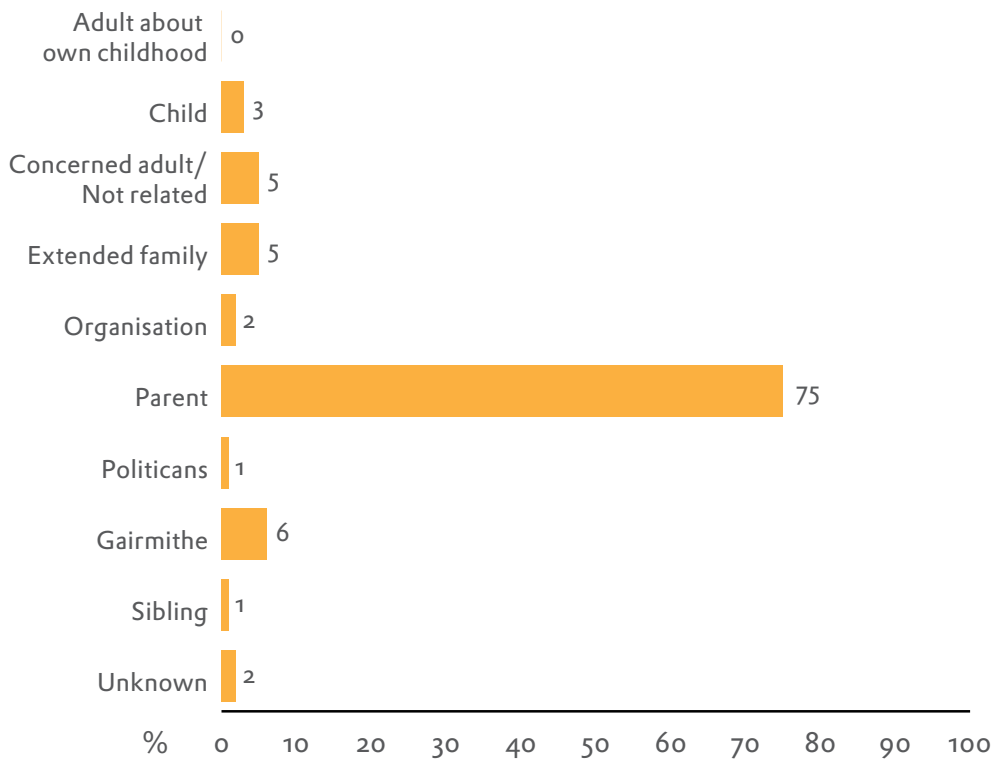


Table 2 shows that we were contacted by a parent, a sibling and or an extended family member in 81% of complaints. This demonstrates the critical role that family has in seeking redress for children where they believe they have been failed by a public service including schools.

It is also important to note the number of professionals contacting this office to advocate on behalf of children. This Office has been contacted by numerous different professionals throughout 2015 including teachers, principals of schools, social workers, and residential care staff and guardians ad litem. Non-statutory organisations involved with children with disabilities, children that are members of the travelling community and children in care also made contact when they were concerned about a child’s rights and/ or welfare due to the actions or in some cases, the inactions of public bodies.

This, once again, demonstrates the breadth of Irish society that contacted this Office to raise concerns about public services on behalf of children. As an Office we welcome all such contact on behalf of children. By highlighting issues facing children, when accessing or using public services, we can effect real change not only for individual children but also for children in wider society.

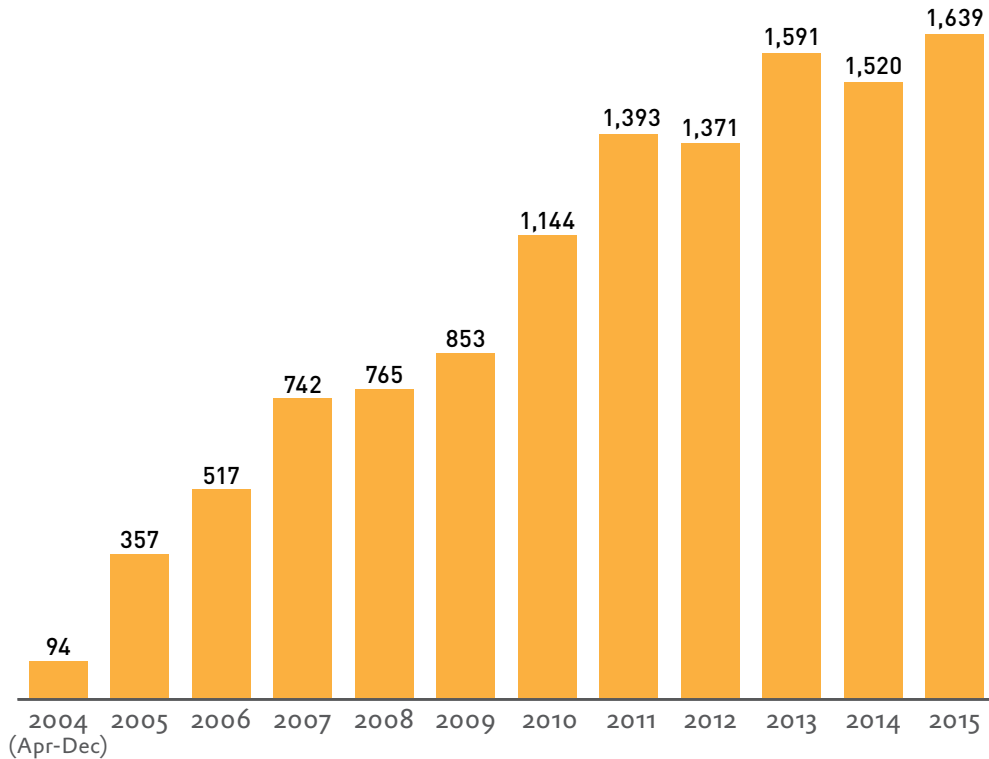
3.3. Increasing numbers of complaints

The numbers of complaints dealt with annually since 2004 has increased from less than 100 in 2004 to 1,639 in 2015.

Since our original Act was published, in 2002, our remit has been extended significantly. There is an increasing demand on our complaint and investigation unit as a result of increasing numbers and type of complaints as well as the inclusion of 200 additional public bodies into our remit since 2013. For example, the State Examination Commission came within our remit at that point and in 2014 and 2015 the Office received 132 complaints in relation to it, this led us to examine 40 individual cases and undertook a systemic analysis of the administrative issues.

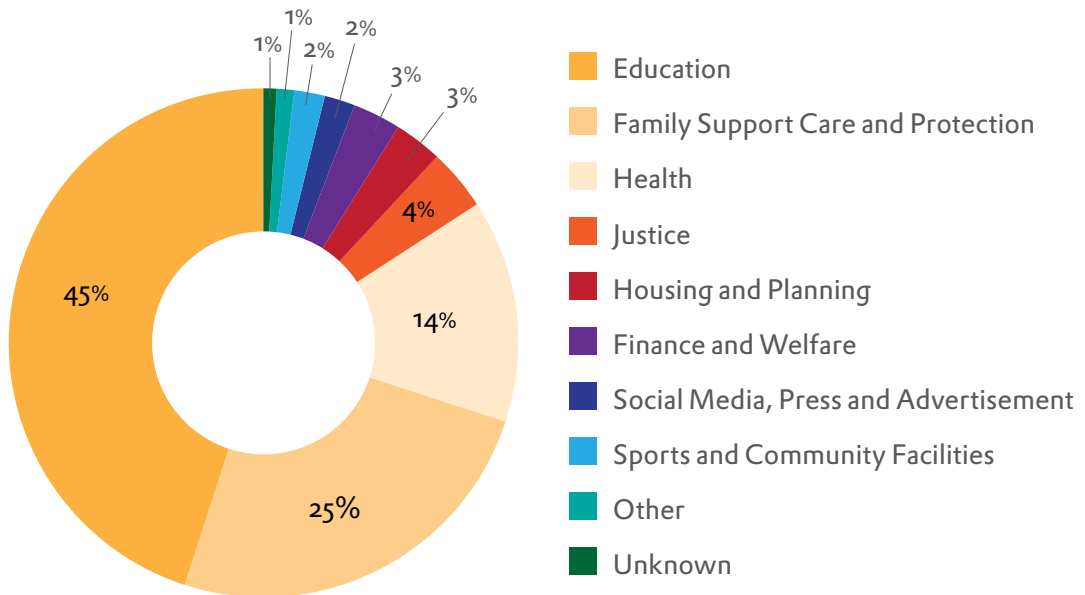
Table 3 shows how the demand for our services has increased dramatically from 94 cases in 2004 to 1639 in 2015.

Table 3: Number of new complaints per year 2004 – 2015



3.4. What did we receive complaints about in 2015?

Table 4: Percentage of times a sector was complained about in 2015



As can be seen from **Table 4** above, the education sector (45%) was one of the most complained about sectors, **Family Support, Care and Protection Services featured in 25% of complaints to us** and **14%** related to complaints about **health services**.

This is in comparison to 2014 when complaints in relation to education accounted for 47% of complaints, Family Support, Care and Protection Services featured in 25% of complaints and 11% of the complaints we received related to health.

3.5 Education Sector

In 2015, **45%** of complaints to the Office related to children and their education. It must be noted that these complaints were not only about individual schools but also about administrative decisions by a range of educational bodies that fall within the remit of the Ombudsman for Children's Office such as the Department of Education and Skills, the National Council for Special Education and the State Examinations Committee. This is a decrease of 2% compared to 2014.

This relates to a small decrease in the number of complaints about schools. Of note is the decrease in the number of complaints about inappropriate professional conduct, which could be linked to a greater awareness of issues outside the remit of this office in this regard.

Education Complaints in 2015 (45% of all complaints received)

Table 5: Breakdown of complaints relating to education in 2015

The top sub categories of complaints for education are as follows:

Handling of allegations on inappropriate professional conduct

Handling of peer bullying concerns

Examinations results and accommodations

Complaint handling, decisions and policy

Expulsion, suspension and enrolment

For example, as seen from the Table 5 above the top sub category of complaints about education is the handling of allegations about inappropriate professional conduct of teachers and school staff.

The Office is specifically precluded from looking at issues of professional conduct and continues to advocate for the implementation of Part 5 of the Teaching Council Act (2001) as it is unfair for parents, children and schools that there is no robust mechanism in place to complain about the conduct of a teacher. 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 must be commenced without any further delay.

We examined complaints across a wide range of areas of education affecting children such as the administration of the **reasonable accommodation** scheme for students at **Leaving Certificate Examinations**, resource allocation for **children with disabilities** and the **provision of home tuition**. Each year we also deal with complaints about **school transport**.

This sectorial wide remit is one of the unique strengths of the Office as it allows us to examine administrative actions impacting on the education of children that may be outside of the control of individual schools.

This provides the Office with an overview of the strengths, as well the challenges, across our education sector. This process is illustrated by the example below.

School transport case

Ann* has been in receipt of the special needs transport grant to enable her to attend her local school. However, when her family moved house her school was no longer her nearest school. The application for a grant to maintain her current school placement was refused as it was deemed by the School Transport Appeals Board (STAB) not to be the nearest school to her new home. Her nearest school was now a Gaelscoil which was unsuitable due to her special needs and also because Ann could not speak Irish.

Furthermore her family had moved house previously and the application for special needs transport has been supported on that occasion. STAB advised that transport may be applied for on a concessionary basis. However this was deemed unsuitable for Ann due to the lack of supervision on such transport.

Ann herself wished to remain in her current school as she was happy there and had made great progress especially socially.

OCO examination of the complaint

We examined the complaint by seeking a response from the Department of Education and Skills in relation to this case including the rationale for the decision and querying previous approval for this grant when the family had moved house before.

Outcome

The Department of Education and Skills reviewed the case and discovered that Ann's eligibility for school transport was originally considered under the terms of the School Transport Scheme for Children with Special Educational Needs and under the terms of this scheme she was ineligible for school transport.

However the Department determined that as Ann was attending a post primary school they felt that the criteria used to determine eligibility for school transport should reflect the same criteria used to determine eligibility under the Department's Post Primary School Transport Scheme. Under the terms of this scheme children are eligible for school transport if they meet the distance criterion and are attending their nearest education centre. An education centre can be comprised of a number of post primary schools.

Therefore Ann's school was eligible and as there was no suitable transport service, the Special Transport Grant was offered to her parent to fund the cost of her private transport arrangements.

The Department also told the OCO that these eligibility criterion will apply to all cases similar to Ann.

** The name of the child involved in this case has been changed to preserve anonymity*

3.5.1. Complaints about primary and post primary schools

In 2015 **29%** of all complaints to the Office were about schools.

A common issue we deal with is parents contacting us who simply do not know where to turn when they have a complaint about a school as there is no information available to them about the complaints process. Other parents may have made complaints but receive no response or they experience long delays from schools in responding to their complaint. Neither of these indicate good administrative practices.

In other cases, the Office actively engaged with schools and complainants to address the issues including meeting directly with parents and members of Board of Management, seeking key written information and ultimately negotiating and influencing the relevant parties to reach a conclusion.

In the majority of these cases our Office has successfully influenced local resolutions between the complainant and the school. An example of the impact of our role in these individual cases include both parties agreeing to mediation, and in some cases children returning full-time to school placement.

In the longer term, there is often a very positive impact following our engagement. In these cases, many Board of Managements and School Principals have accepted and implemented suggested areas for improvement as identified by our office.

Examples include schools that have reviewed and improved their complaints and bullying policies, improved their record keeping, started engaging directly with families at an early stage and provided greater transparency in complaints management through sharing information with parents on how to make complaints. In such cases it is not only the individual child and their parents who benefit from the involvement of the Office but the whole school community including those who will attend the school in the future. These systemic changes are essential in driving improvements in the best interest of children in schools.

Example of a complaint about a school

Summary of complaint

Sean* was on a school trip when another child took a photo of him and shared it via a social media App accompanied with a derogatory comment. Although the school managed the incident at the time, Sean's parents complained to us that the school had not given them an adequate explanation about why they were not informed immediately about the incident.

OCO examination of the complaint

We examined the complaint by seeking a response from the principal of the school about the delay, from the board of management on the policies available at the time to guide practice in the use of mobile phones and whether there was any learning for the board of management to inform any future such events. We found that the school had provided a rationale and apology to Sean's parents about the delay. While we found no grounds of maladministration by the school we asked whether there was any learning from the incident to prevent a re-occurrence.

Outcome

- The board of management revised their mobile phone policy and agreed to review it annually.
- The school, with the cooperation of the Parents' Council, arranged an open lecture for parents on internet safety.
- All parents now sign agreement forms acknowledging that mobile phones and digital cameras are not permitted on school tours.
- The board of management introduced new procedures for teachers in charge of school trips on managing such incidents.

** The name of the child involved in this case has been changed to preserve anonymity*

3.6. Family Support, Care and Protection

25% of complaints received related to Family Support, Care and Protection. This represents all those areas within the remit of the Child and Family Agency and the Department of Children and Youth Affairs.

Family support, care and protection in 2015 (25% of all complaints received)

Table 6: Sub categories of complaints about family support and child protection

The top sub categories of complaints for Family support, care and protection are as follows:

Child protection concerns handling and services

Alternative care

Family Support

Other Social Work Services

Child Care, pre-school and early childhood care and education (ECCE) scheme

The majority of complaints about family support, care and protection were about TUSLA the Child and Family Agency. The main source of complaints were about the management of child protection concerns including insufficient information, lack of transparency about decision making and the implementation of *Children First: National Guidance for the Protection and Welfare of Children* and national policies to safeguard children and promote their welfare.

Services for children in care were also a concern especially in relation to planning for their future and the availability of a range of placements to meet their needs. These complaints range from teenagers in care who do not feel their views are heard when decisions are made about them to insufficient services, poor inter-agency working and lack of response to complaints. These were common themes in the complaints about TUSLA, the Child and Family Agency.

We also experienced repeated and significant delays by TUSLA, the Child and Family Agency in responding to us. This issue is one we raised with the agency and which we intend to monitor closely as it is unfair to children and others that come to us with their complaint. When this Office is the last resort for parents and children with a complaint, it is incumbent on us to deliver a result as quickly as possible and if that is not possible because of delays on the part of the public body complained about then that is totally unacceptable. We will consider all of our options, including via our legislation, to ensure quicker response times from public bodies in 2016.

Example of a complaint about TUSLA, the Child and Family Agency

Summary of complaint

Jack* was a teenager and was admitted into the care of Tulsa and placed in emergency accommodation as there was no other placement for him. He had been informed that, due to his age when being admitted into care, he would not receive aftercare services when he turned 18 years of age.

Jack told us that as a result of residing in homeless services he had nowhere to be or to go during the days.

He was unhappy that he could only access his bed at certain times and that as a result he chose to spend a night wandering around the city centre rather than stay in the emergency accommodation.

OCO examination of the complaint

In their response to our preliminary examination Tulsa stated that a residential placement had been sourced but there was a delay in moving Jack due to concerns about the behaviour of young people at that centre. It was regretted that another placement had not been sourced quicker and Tulsa acknowledged the 'limitations' of the emergency accommodation placement.

Tusla also stated their view that extensive work and support with the young person had been offered but that the young person had not always engaged.

Outcome

During our preliminary examination of the complaint, a suitable placement was identified and the young person was subsequently moved out of emergency accommodation.

The social work department explained that the young person was ineligible for Aftercare Services under TUSLA's Leaving and After Care National Policy as young people are required to be in care for 12 consecutive months prior to their 18th birthday. However, in this case, the social work department successfully sought to have this qualifying criterion set aside and to provide supports to him as a young adult. The Office intends to raise concerns about this qualifying criterion more generally within our broader remit in relation to policy issues.

** The name of the child involved in this case has been changed to preserve anonymity*

3.7. Health

14% of our complaints were about the health sector which includes **hospitals** and **HSE primary care** services for children including **mental health**.

Complaints to the office about the health sector increased from 11% in 2014 to 14% in 2015. The majority of complaints were about primary care services. Parents told us about a lack of information about where and how to get services for their children and the impact that this had on their children's well-being and health.

We received complaints about waiting lists for services such as hospital procedures as well as for primary care services such as mental health, speech and language therapy, and psychology. Other parents spoke to us about the challenges of navigating the sector to obtain services for their children, especially children with disabilities.

The top sub categories of complaints for health are as follows:

Primary care health services

Hospitals

Mental health services

Example of Complaint about Health Services

Emily* was a teenage girl awaiting treatment for recurring ear and throat infections in a local hospital. Her condition became more chronic and more serious due to the lack of treatment and her hearing was severely compromised. She had also developed stomach problems due to antibiotic overuse in treating constant ear and throat infections.

The HSE had national targets set by the National Treatment Purchase Fund (NTPF) that no new patient was to wait longer than one year for an out-patient Consultant appointment. At the time of the complaint Emily had been waiting for over two years.

Emily eventually received treatment two years and 11 months after her original referral, nine months after her initial Consultant's appointment and five months after she was assessed by the Consultant. She had grommets fitted in both ears and a tonsillectomy and her hearing improved considerably following the surgery.

Actions by OCO

The OCO undertook an investigation as Emily was adversely affected by the administrative actions of the HSE. These actions relate specifically to the lack of planning that occurred in relation to meeting the national waiting list targets and the absence of clear care pathways following her assessment that contributed to a delay in her treatment. These actions resulted in extended waiting periods for assessment in particular.

Further, we found that Emily may have been adversely affected by the lack of information provided to her mother in respect of the Cross Border Initiative¹ (CBD), thereby denying Emily's parent the opportunity to consider, in a fully informed way, treatment for their daughter abroad.

Outcome

The hospital in question has advised that it is working closely with the Hospital Group and in line with HSE at national level in the on-going development of plans and procedures to address capacity and waiting list breaches. It is currently reducing waiting lists through outsourcing and additional theatre sessions and is developing plans to provide additional theatre and outpatient capacity.

The hospital advised that in planning and delivering any current or future waiting list initiatives, no patient would be disadvantaged.

The hospital also advised that routine notification of the CBD is not in place in the hospital but the manager of the hospital will formally bring the OCO recommendation in this regard to the attention of Hospital Group for their attention and necessary action.

¹ The Cross Border Initiative allows for patients that are normally resident in Ireland and availing of public health services to be referred to and avail of healthcare funded publicly in Ireland in another EU/EEA* member state.

The HSE advised that in developing strategies to manage waiting lists, an outsourcing programme for patient scheduled care has been put in place. This includes out-patient diagnostics and treatment and a review of a complete package of care. This is designed to support public hospitals address the long-term waiting lists and meet the national wait time targets. They have also informed this Office that in the current arrangement with the NTPF, the full package of care is provided for in respect of each patient referred to a private hospital for an outpatient appointment.

The HSE also advised that it is fully supportive of ensuring that patients and their families are properly informed of their options to avail of cross border initiatives and that the National Director of Acute Hospitals will raise the importance of promoting and marketing the CBD with all the hospital groups. The recommendations and learning from the Ombudsman's report will be circulated to all relevant stakeholders.

** The name of the child involved in this case has been changed to preserve anonymity*

3.8. Juvenile Justice and Detention

The Ombudsman for Children visited Oberstown Detention Campus and Whetfield Prison during 2015. The Ombudsman was also in contact with the Director of the campus and with the Department of Children and Youth Affairs about this centre.

The Office remains concerned that due to on-going delays Oberstown is still not fully operational and the impact is that young people remain detained in adult facilities in Wheatfield Prison and a small number of young people have been remanded to St. Patrick's institution during 2015. These matters will continue to be pursued by the Office.

Sample of a complaint about Oberstown Detention Campus

The Complaint

An anonymous complaint was received about James* who was living in Oberstown. The complainant raised a number of serious concerns in relation to James's self-harming behaviour and contended that there was a lack of psychiatric support and supervision being provided to him. In addition, the complainant alleged that staff were not provided with sufficient training and support to deal with the mental health needs and incidents of self-harm by the young people on the campus.

OCO Examination

The OCO conducted a preliminary examination of the complaint and sought details from Oberstown in relation to the assessment of James's mental health and the measures being taken to meet his mental health needs. The OCO also met with James and staff members and sought their views on the matter.

A review of this information showed that James had been assessed by a psychiatrist in Oberstown and separately in hospital following admissions to A&E. He was found to have behavioural difficulties but not to have a psychiatric condition. Therapeutic intervention by the Oberstown Assessment Consultation Therapy Service (ACTS) team and increased supervision was recommended by the psychiatrists involved. At the time of the OCO's examination the therapeutic intervention recommended in these assessments was being provided by the ACTS team in Oberstown. Support for staff was being addressed through the provision of inputs from the ACTS team and staff counselling.

However, in the course of the preliminary examination, the OCO became aware that no medical records from the hospital were contained in his medical files held by Oberstown.

It is the view of the OCO that holding complete and up-to-date records is essential for the on-going treatment and care of the young people residing in Oberstown and is good administrative practice. The Office encouraged Oberstown to request the young man's medical reports from the hospital and ensure that these are placed on his files. Further, the Office encouraged Oberstown to ensure that reports are obtained in respect of all incidents of medical care availed of in external settings while a young person is detained there under the Children Act 2001.

Outcome

Oberstown sought the medical reports of the young man's assessments by the hospital. In addition, Oberstown introduced a standard operating practice whereby the clinical nurse manager now sources the relevant medical files from external settings so as to ensure relevant information on the young people is maintained on file.

** The name of the child involved in this case has been changed to preserve anonymity*

3.9. Housing sector

Housing authorities were the focus of 3% of all this year's complaints. We anticipate that this number will grow due to the increasing numbers of homeless children and their families especially in the Dublin region.

Example of Complaint about a County Council

The OCO received a complaint from a mother on behalf of her children. It was explained that the family had been forced to leave their home due to serious anti-social behaviour which had culminated in an assault on the mother, witnessed by the children.

Following this the Council housed the family in a hotel and granted priority to the family under the Exceptional Social Grounds Scheme. During this period the family home was broken into, damaged and much of the family's belongings were lost due to vandalism and theft.

After four months in the hotel accommodation the Council informed the family that the house was to be refurbished and that they would then be expected to move back in. The family did not feel that this would be possible due to on-going and increased threats that they were being subjected to by those in the area. They understood that to stop the move back the Council were requesting a letter from An Garda Síochána to state that the lives of the family were in danger. While a letter from the Gardaí was provided it did not go so far as to state that the family's lives were in danger. The mother sought to appeal the decision of the Council but expressed that it was not clear how they were expected to do so. Frustration at the communication with the Council during this period was expressed.

The family also felt that the extended stay in hotel accommodation was having a negative effect on the family, including the children's school attendance and extra-curricular activities, which they could no longer continue. In addition, it was stated that the children's pet dog had to be given up. In complaining to the OCO the mother sought a delay to the proposed move to the family home as well as a long-term housing solution.

Outcome

Following a preliminary examination by the OCO the Council first agreed to delay the proposed move back to the home where the family had suffered the anti-social behaviour. Following this, the Council then approved a property for the family and subsequently provided them with the keys. The family were delighted with the outcome and felt that they would be safe and secure in the area that they moved to.



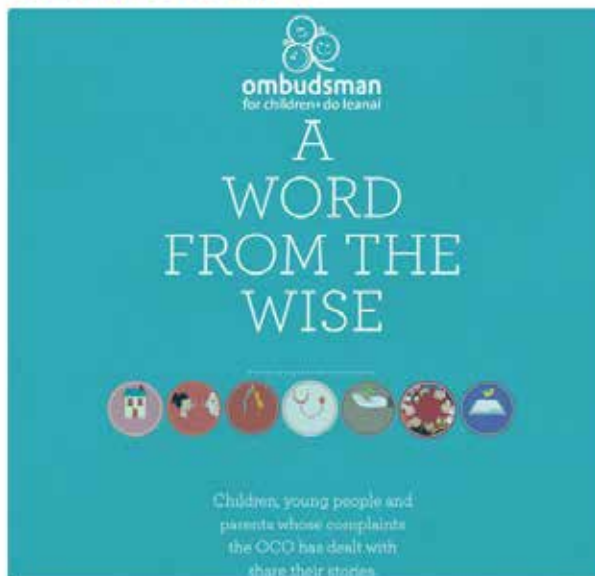
'A Word from the Wise': Emma (17) "someone who didn't know me made a decision that turned my life upside down"
soundcloud.com/combined-media ...

RETWEET 1 LIKES 3

3:22 AM - 22 May 2015



The purpose of 'A Word from the Wise' is to have childrens voices heard, loud and clear:
oco.ie/wp-content/upl ...



RETWEET 1 LIKE 1

1:22 AM - 22 May 2015



Ombudsman for Children welcomes the abolition of Defence for Reasonable Chastisement.

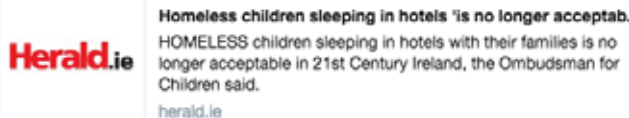
oco.ie/2015/10/welcom ...

RETWEETS 4 LIKE 1

9:09 PM - 21 Oct 2015



Homeless children sleeping in hotels 'is no longer acceptable' [@herald_ie](http://herald.ie/news/homeless-via) #childrensrights



RETWEETS 7 LIKES 2

11:40 PM - 23 May 2015

OCO @OCO_ireland - 12 Oct 2015

Ombudsman for Children delighted to launch Web Safety Survey results @DonegalYouthSvc in Letterkenny this morning.



RETWEETS 0 LIKES 5



."@OCO_ireland will focus on ensuring that "children are at the forefront of decision-making, and not an afterthought" @noelbaker1

RETWEETS 2 LIKES 2

11:58 PM - 13 Feb 2015

SECTION 4
**PROMOTING
CHILDREN'S
RIGHTS AND
WELFARE**

4.1. Statutory Function to promote Children’s Rights and Welfare

In addition to our complaints-handling role, the Ombudsman for Children’s Office (OCO) has a complementary role under Section 7 of the Ombudsman for Children Act 2002 to “promote the rights and welfare of children”. Under this statutory function, the Ombudsman for Children has the following positive obligations:

- to advise any Minister of the Government on the development and coordination of policy relating to children (7(1)(a));
- to encourage public bodies, schools and voluntary hospitals to develop policies, practices and procedures designed to promote the rights and welfare of children (7(1)(b));
- to collect and disseminate information on matters relating to the rights and welfare of children (7(1)(c));
- to promote awareness among members of the public (including children) of matters (including the principles and provisions of the Convention on the Rights of the Child) relating to the rights and welfare of children and how those rights can be enforced (7(1)(d));
- to highlight issues relating to the rights and welfare of children that are of concern to children (7(1)(e));
- to exchange information and cooperate with the Ombudsman for Children (by whatever name called) of other states (7(1)(f));
- to monitor and review generally the operation of legislation concerning matters that relate to the rights and welfare of children (7(1)(g));
- to monitor and review the operation of this Act and, whenever, he or she thinks it necessary, make recommendations to the Minister or in a report under section 13(7) or both for amending this Act (7(1)(h));
- to consult with children and give due weight to their views in accordance with their ages and understanding (7(2)(a) and 7(2)(b));
- to advise any Minister of the Government on any matter (including the probable effect on children of the implementation of any proposals for legislation) relating to the rights and welfare of children (7(4)).

Furthermore, Section 7(3) of the 2002 Act provides that the Ombudsman for Children may undertake, promote or publish research into any matter relating to the rights and welfare of children.

Changes in staffing and corresponding staff shortages during 2015 curtailed the Office's capacity to implement our obligations under Section 7 of the 2002 Act as fully as we would otherwise have been in a position to do. Notwithstanding the challenges, 2015 was a very productive year as regards the OCO's work to promote children's rights and welfare. The Office's activities in this regard included:

- working directly with over 850 children and young people and 130 postgraduate students through our rights awareness and education programme;
- completing the first phase of development of the Office's *It's Your Right* platform as a rights information hub for children and young people;
- making submissions to Government and the Oireachtas on proposals for four pieces of legislation affecting children as well as providing a submission to the Department of Children and Youth Affairs on its proposals for reforming guardian *ad litem* arrangements; *and*
- engaging with international monitoring mechanisms, in particular with the UN Committee on the Rights of the Child in the context of its review of Ireland's progress with implementing its obligations to children under the UN Convention on the Rights of the Child and with the Human Rights Council's Universal Periodic Review process.

Further details of the Office's work to promote children's rights and welfare during 2015 are provided below.

4.2. Rights Awareness and Education Programme

Rights Education Workshops for Children and Young People

During 2015, regular education workshops on children's rights were delivered to groups of children and young people visiting the Office. A core strand of the OCO's rights awareness and education programme, these workshops are 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 focus of this dialogue changes, it always centres on fulfilling two main aims: to develop children and young people's awareness of children's rights and to hear children and young people's views on matters relating to children's rights that are of interest and concern to them.

Over 850 children and young people from schools and youth services in 14 counties visited the OCO in 2015 to learn about children's rights and to explore how children's rights surface in the context of their daily lives. They also had an opportunity to discuss and express their views on why they feel particular rights that children have are important. A selection of the opinions they shared are highlighted opposite.

WHY ARE CHILDREN'S RIGHTS IMPORTANT?

CHILDREN & YOUNG PEOPLE SHARE THEIR VIEWS

Getting Information
I think getting information is important because... children should be allowed to find out facts and listen to the news to know about current events. They have the right to know if their not allowed to say, do or watch certain things.

A NATIONALITY
It's important to be allowed to express your nationality freely with out (being) feeling tethered, having a say and being listened to

THE RIGHT TO REST AND RECOVER
VERY IMPORTANT FOR CHILDREN AS THEY HAVE SO MANY TO DO TOO MANY ACTIVITIES.

Every Parent/Guardian Should
do what's Best for their CHILDREN!!

FOOD
you buy your food for what children across world DONT have it

PROTECTION FROM WAR
WARS ARE DANGEROUS
No child deserves to be put in danger
#protectthechildren

Having a say and being listened to. because just because you're a child doesn't mean you should be ignored.

Be yourself, everyone's taken!
#Expressyourself.

BOYS AND GIRLS SHOULD BE RAISED EQUALLY!!

'Having a say' is important because if people don't know they have the right to speak they will NEVER be HEARD

During the year, the Office also delivered a number of equivalent workshops on an outreach basis to young people and professionals working with them in child and youth services in Cavan, Carrickmacross, Letterkenny, Drogheda and Waterford.

It's Your Right (www.itsyourright.ie)

Initiated in the context of the Office's tenth anniversary in 2014, *It's Your Right* is an online platform, which takes a transmedia approach to raising awareness of children's rights among children and young people in Ireland and aims to complement the OCO's direct work with children and young people in the context of our rights awareness and education programme.

During 2015, the Office completed the first phase of the planned development of *It's Your Right* into an online hub for child and youth-friendly information relating to children's rights, with a particular focus on children's rights in Ireland.

Work completed in this regard included a reconfiguration of the *It's Your Right* website, which focused on facilitating visitors to the site to access information about specific rights that children and young people have under the UN Convention on the Rights of the Child directly from the home page. The Office also created and populated new content areas in relation to each right highlighted on the site. The three sub-sections concerned focus respectively on providing factual information in relation to specific children's rights ('Do you know?'); highlighting children and young people's perspectives on particular children's rights ('What children and young people are saying'); and giving details of where children and young people can go to find out more about specific rights that children have ('Find out more').

As part of this phase of the site's development, the OCO also integrated two new short videos onto the site. Following Niall Muldoon's appointment as Ombudsman for Children in 2015, the first of these videos aims to raise awareness among children and young people of who Ireland's Ombudsman for Children is. The second video highlights children and young people's views on what children's right to speak their own language means to them in the context of their own lives.

Seminars for Postgraduate Students

In line with its statutory obligations under Section 7 of the 2002 Act, the Office developed and delivered a series of rights education seminars for postgraduate students during 2015.

This strand of the OCO's rights awareness and education programme was first piloted in 2012 and, following positive evaluations by participants, was delivered to a larger and more diverse cohort of students in 2013 and 2014.

During 2015, the Office held seven seminars, which were attended by over 130 students pursuing postgraduate qualifications in social work, social care, education and child protection in six third level institutions (University College Cork, NUI Galway, NUI Maynooth, University College Dublin, Trinity College Dublin and Athlone Institute of Technology).

Delivered by OCO staff between September and December 2015, the seminars focused on raising awareness of the Office's statutory functions and corresponding areas of work; developing participants' understanding of children's rights and the relevance of children's rights to their own professional practice; and encouraging child-centred practice and decision-making, including through the examination of case studies arising from the OCO's investigative work.

As with previous years, the 2015 series of seminars was positively evaluated by participants. The OCO envisages implementing a similar series during 2016.

4.3. Advice on Developments in Legislation and Public Policy

During 2015, the Ombudsman for Children's Office provided advice, made submissions and otherwise engaged with proposed legislation regarding sexual offences, school admissions, international protection, victims of crime, and adoption information and tracing. The Office also made a submission in relation proposals to reform guardian *ad litem* arrangements in care proceedings under the Child Care Act 1991.

General Scheme of the Criminal Law (Sexual Offences) Bill 2014

The Minister for Justice and Equality published the General Scheme of the Criminal Law (Sexual Offences) Bill 2014 on 27th November 2014. The Bill aims to implement the EU Directive on combating the sexual abuse and exploitation of children and child pornography as well as paving the way for Ireland to ratify the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Abuse. The Bill proposes reforms of the law, including stronger sanctions aimed at protecting children from sexual exploitation, child pornography and online grooming.

The Office prepared advice on the General Scheme in response to a request from the Minister for Justice and Equality for observations on the Scheme and on the manner in which it seeks to address children's interests.

In its advice, the Ombudsman for Children's Office noted that the General Scheme addressed new forms of sexual abuse and exploitation of children and introduced new protection measures for child complainants. The OCO welcomed these developments as a significant step forward in the protection of children's rights and welfare.

In particular, we welcomed the inclusion of new measures in the General Scheme, which had been recommended by the Office in previous advices. These measures include: the amendment of the defence as to the age of the complainant in the offence of defilement of a child; the inclusion of supplementary offences relating to grooming; the introduction of a legislative provision to address the issue of disclosure of third party therapy and counselling records; and a prohibition on personal cross examination of a child witness by the accused.

In its advice, the Office noted that there was no amendment to section 5 of the Criminal Law (Sexual Offences) Act 2006, which continues to solely protect female children under the age of 17 years from being prosecuted for engaging in an act of sexual intercourse. The OCO's advice also highlighted a number of areas in which the proposed legislation could be enhanced to better serve the interests of children and to conform more fully with Ireland's international human rights obligations. Our recommendations included:

- the provision of safeguards against the criminalisation of peer to peer consensual sexual acts, while ensuring that a bar to prosecution is not created for young sex offenders;
- an amendment of the term "child pornography" to a term that more accurately reflects the grave nature of the content;
- the substitution of the term "defilement" for a more suitable term, which does not reflect adversely on the victim;
- an extension of special protection measures for child witnesses to ensure consistency for all children under 18 years of age;
- the provision of pre-trial preparation services for children who are required to attend court, including the appointment of a suitably qualified person to support a child witness through the legal process; *and*
- the provision of training to all people working with children in the criminal justice system.

On the 23rd of September 2015, the Minister for Justice and Equality published the Criminal Law (Sexual Offences) Bill 2015. There are a number of positive features of the Bill, including the substitution of the term "defilement" for "sexual act". However, the OCO is concerned that the majority of the recommendations outlined above have not been incorporated into the Bill. The OCO will follow the on-going legislative process of this Bill.

Education (Admission) to Schools Bill 2015

In April 2015, the Minister for Education and Skills published the Education (Admission to Schools) Bill 2015. Following a review of the Bill, the Ombudsman for Children wrote to the Minister for Education and Skills in May 2015 to make a number of observations on the draft legislation, taking into account the Office's previous advice on the General Scheme of the Education (Admission to Schools) Bill 2013.

The 2015 Bill addressed several concerns that the Office had raised in our advice on the 2013 General Scheme. In this regard, the Office welcomed in particular that the 2015 Bill:

- excluded a provision contained in the General Scheme as regards the proposed power of schools to refuse admission on the basis of the opinion of the HSE or An Garda Síochána in relation to the effect of admitting particular children on the safety of other students;
- retained the competence of Section 29 appeals committees to consider appeals relating to enrolment; *and*
- included provisions requiring the National Council for Special Education and the Child and Family Agency respectively to have regard to the wishes of the child and the child's best interests when designating a school for the child concerned.

In a number of other important areas, the concerns and corresponding recommendations of the Office were not addressed by the 2015 Bill. In this regard, the Ombudsman for Children recommended that further consideration should be given to several matters, including issues relating to proposed derogations in cases of oversubscription. Key recommendations made by the Office included firstly, that there should be no provision made for obtaining derogation in relation to past-pupil criterion due to the potential for indirect-discrimination. Secondly, the Office raised concerns in relation to the exception arising under Section 7 of the Equal Status Act which allows for a child to be given preferential access to publicly funded education on the basis of their religion.

While appreciating the challenges entailed in addressing these matters, the Office continues to be of the view that the approach taken to their resolution needs to fully consider children's rights and dignity and to take appropriate account of Ireland's international obligations under the UN Convention on the Rights of the Child and specifically: the right of all children not to be discriminated against on any grounds (Article 2) and to have their best interests treated as a primary consideration in all actions concerning them, including the actions of legislative bodies and administrative authorities (Article 3).

General Scheme of the International Protection Bill 2015

The Minister for Justice and Equality published the General Scheme of the International Protection Bill 2015 on 25th March 2015. The stated aim of the proposed legislation was to introduce a single procedure for the examination of applications for international protection (or asylum) in Ireland, incorporating eligibility for refugee status and eligibility for subsidiary protection status. This also included the assessment of any other grounds being presented by the applicant for permission to remain in the State.

In our submission to the Minister for Justice and Equality and the Oireachtas Committee on Justice, Defence and Equality, the Office welcomed the publication of the General Scheme and its stated overall purpose to introduce a single application procedure for international protection applicants.

The OCO's submission focused on highlighting a number of areas in which the proposed legislation could be enhanced to better serve the interests of accompanied and unaccompanied children and to conform more fully with Ireland's international human rights obligations.

In respect of the General Scheme as a whole, the Office recommended that, in order to provide for a child rights-based approach, the principle of treating the best interests of the child as a primary consideration in all actions concerning children and the principle of hearing and affording due weight to children's views should be appropriately integrated as positive obligations in all relevant sections of the proposed legislation.

The OCO also proposed that professionals who have duties towards and make decisions affecting accompanied and unaccompanied children must have received and continue to receive appropriate training, including training on how to implement a child rights-based approach to their practice and decision-making.

With regard to unaccompanied minors, the Office recommended that the proposed legislation should incorporate an internationally recognised definition of 'unaccompanied minor' and that it should provide for the appointment of an independent guardian to unaccompanied minors, where the role of such a guardian would be to advise, advocate and represent the child throughout the process.

In relation to accompanied minors, the OCO recommended that that the General Scheme should be amended to provide for a mechanism to enable an accompanied child to make an application in her/his own right, having regard to the particular circumstances of the case and the best interests of the child concerned. The Office further recommended that the proposed legislation should provide for separate consideration of a child in cases where the child is part of a family application and where such separate consideration is or may be in the child's best interests.

On the issue of ambiguity as to age, the Office noted inconsistencies in the General Scheme as regards the operation of a presumption that the applicant is a child in cases where there is ambiguity as to age. The OCO recommended that the proposed legislation should make explicit and consistent provision for the operation of a presumption that a person is a child in cases where there is ambiguity as to age, with the corresponding protections afforded to such persons in accordance with international standards. Furthermore, the Office recommended that, in cases where doubt remains as to the age of an applicant following a medical examination, the presumption that the applicant is under the age of 18 years should apply.

In our submission, we also recommended that the proposed legislation should ensure that appropriate recognition is given to diversity of family types and that the Minister may prioritise cases, as appropriate, by reference to the age of an applicant or her/his status as an unaccompanied minor. The OCO also made recommendations in relation to the proposed procedures concerning the use of a medical examination to determine the age of an unaccompanied minor; the taking of fingerprints to determine if an applicant has made a previous application in another EU State; personal interviews; *and* the detention of an applicant.

The International Protection Bill was subsequently published on 19 November 2015 and was signed into law on 30 December 2015. While there were some positive amendments made to the Bill in relation to children, there are a number of areas where the advice of this office was not adhered to in terms of ensuring compliance with the key principles of the UN Convention on the Rights of the Child. While the Act provides limited references to the best interests of a child as a primary consideration in specific sections, it does not apply in relation to the decision-making process for a protection determination or to deportation decisions. The best interests of the child should be a primary consideration in all aspects of the protection procedure.

The Act does not include a positive obligation to hear and afford due weight to the voice of the child. In particular, while provision is made for circumstances in which an employee of the Child and Family Agency can make an application for international protection for an unaccompanied minor, there is no requirement for the appointment of an independent guardian to advocate for and represent the child through the process. In addition, the Act does not incorporate an internationally recognised definition of 'unaccompanied minor'.

Furthermore, the Act does not permit an accompanied child to make an application in his or her own right, or provide for separate consideration of a child within a family application. The OCO also has concerns in relation to the age assessment process as stipulated in the Act and the possibility for children to be detained under section 20(7) of the Act.

Criminal Justice (Victims of Crime) Bill 2015

Ireland was required to transpose into Irish law EU Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime by the 16th November 2015. In light of this, the Minister for Justice and Equality published the General Scheme of the Criminal Justice (Victims of Crime) Bill 2015 on 14th July 2015.

The Ombudsman for Children's Office welcomed the General Scheme and its stated aims in respect of the rights of victims and their families. In accordance with our statutory mandate under Section 7(4) of the Ombudsman for Children Act 2002, the Office focused its submission on child victims of crime and proposed a number of ways in which the Scheme could be strengthened to take fuller account of the rights and welfare of child victims of crime.

In relation to the best interests of the child, the OCO welcomed the inclusion of the best interests principle in respect of certain measures provided for under the General Scheme. However, noting that the best interests principle had not been applied to and in other sections of the Scheme relevant to child victims, the Office recommended that the principle of treating the best interests of the child as a primary consideration in all actions concerning children should be more fully integrated as a positive obligation in the proposed legislation.

Similarly, while welcoming the provision for a victim personal statement, the Office recommended that the right of child victims to express their views freely in the context of a criminal process affecting them and to have weight given to their views, in accordance with their age and maturity, should be integrated appropriately as a positive obligation in the proposed legislation.

The OCO also recommended that provision should be made for children and their parents to be informed of the rights children have with regard to the criminal process and that information furnished to child victims should be child-friendly.

With regard to special measures, the Office welcomed the inclusion of special measures for child victims. However, we proposed that consideration should be given to strengthening the special measures for child victims, including by providing for:

- the appointment of a dedicated person whose role is to support the child throughout the criminal process;
- pre-trial preparation services for child victims; *and*
- child-friendly court proceedings.

The OCO also recommended that the proposed legislation should provide that all persons who have professional duties towards and/or make decisions affecting child victims must receive, and continue to receive, appropriate training, including training on how to implement an approach that is consistent with and sensitive to the needs and rights of child victims.

General Scheme of the Adoption (Information and Tracing) Bill 2015

The Minister for Children and Youth Affairs published the General Scheme of the Adoption (Information and Tracing) Bill 2015 on 27th July 2015. In accordance with the Ombudsman for Children's statutory mandate, the OCO focused our submission to the Minister for Children and Youth Affairs on those aspects of the General Scheme that concern children.

In our submission, we welcomed the publication of the General Scheme and its stated overall purpose to provide a statutory basis for the provision of information related to adoption. Specifically, the OCO welcomed the inclusion of the following provisions in the General Scheme, which had been recommended by the Office in our advice on the Adoption Bill 2009:

- a general presumption in favour of disclosing information to adopted people regarding their birth and adoption;
- a right of access to an original birth certificate and to the information contained in any relevant adoption records or files for adopted people over the age of 18;
- clarification of the rights of other parties in relation to the disclosure of identifying information, giving the Adoption Authority and the courts clear statutory guidance when called upon to balance competing rights;
- the establishment of the National Adoption Information Register of Ireland.

While welcoming references made in the General Scheme to the best interests of the child being a paramount consideration, the Office highlighted that the Scheme was otherwise silent on the rights of children as regards the provision of information relating to their adoption.

In respect of the General Scheme's provisions regarding information for adopted persons in cases where an adoption order has been made prior to or, alternatively, following the commencement of the proposed legislation, the Office noted that an "adopted person" refers to a person over the age of the 18 years.

While appreciating that the right to information about birth parents is not an absolute right and that information about and contact with birth parents is a highly sensitive issue, the OCO expressed concern that the General Scheme did not specifically articulate the right of adopted children to information concerning their birth and origins. Pointing out that the UN Committee on the Rights of the Child has recommended that information regarding the date and place of an adopted child's birth and her/his genetic parents should be preserved and, where possible, made available to the child upon request and when it is in her/his best interests, the Office recommended that:

- The right of adopted children to information about their birth and origins should be clearly and unambiguously set out in all relevant sections of the proposed legislation.

- Heads 13 and 14 should be extended to include the right of adopted children to access their birth certificate. In this regard, provision should be made for a “sufficient maturity” test rather than specifying an age at which information may be obtained by an adopted child.
- The general presumption in favour of disclosing information regarding their birth and adoption to adopted people should be extended to adopted children.
- Provision should be made for children’s views to be heard and taken into account, in accordance with their age, maturity and specific circumstances, when a decision is being made on whether to afford an adopted child access to their birth certificate.

As regards the provision of information in relation to an adopted child to the birth parent and adoptive parent respectively (Heads 16 and 17), the Office noted that the proposed legislation made no reference to children’s right to be heard and to have their views taken into account. Accordingly, the OCO recommended that the principle of hearing and affording due weight to children’s views, according to their age, maturity and individual circumstances, should be integrated as positive obligations in the context of the Child and Family Agency making a determination about disclosing requested information.

In relation to the provision of information to an adoptive parent about an adopted child under the age of 18 years, the Office recommended that consideration should be given to removing the provision in the General Scheme, which permits a birth parent to refuse the release of non-identifying information relevant to the child’s health. The Office further recommended that provision could be made to allow the Child and Family Agency to redact identifying information contained in medical documentation, if necessary, and in order to ensure that an adopted child has access to information relevant to their health and medical history.

The Joint Oireachtas Committee on Health and Children published its Report on the Pre-legislative Scrutiny of the General Scheme of the Heads of the Adoption (Information and Tracing) Bill in November 2015. Government approved the drafting of an amended Bill to take account of this Report in December 2015. This office will monitor developments when the updated draft Bill is published.

Reform of Guardian ad Litem Arrangements

In November 2015, the Ombudsman for Children’s Office submitted a response to a Consultation Paper by the Department of Children and Youth Affairs (DCYA) regarding a proposed policy approach to the reform of guardian *ad litem* (GAL) arrangements in proceedings under the Child Care Act 1991.

Child care proceedings are of a very serious and sensitive nature. The children affected by such proceedings can be extremely vulnerable; the proceedings themselves can be long, complex and adversarial; and decisions arising from child care proceedings can have profound and lasting implications. The OCO's observations on the DCYA's proposals were made in the interests of ensuring that the rights of children affected by care proceedings under the 1991 Act are appropriately considered, promoted and safeguarded.

In this regard, the Office expressed the view that, notwithstanding the fact that guardians *ad litem* are court-appointed, the policy approach taken to reform of GAL arrangements under the 1991 Act needs to be underpinned by a recognition of guardians *ad litem* as being primarily a service for children, where this service is a vital mechanism for promoting the rights of children in the context of care proceedings affecting them.

Welcoming the proposal to establish a unitary guardian *ad litem* service that is nationally managed and available in all child care proceedings under Parts IV, IVA and VI of the Child Care Act 1991, the Office proposed that the principles and policies underpinning the new service must provide for a service that is: child-centred and child rights-based; independent; accessible in principle to any child affected by care proceedings under the 1991 Act; accountable; transparent; and sustainable. In relation to the principle of independence, the OCO believes that the proposed national service needs to be fully independent. In this regard, the Office considers that funding of the national service and payment of guardians *ad litem* should be from an independent governmental source and that the Child and Family Agency should not have any role in disbursing payments.

In respect of the appointment of guardians *ad litem*, the Office expressed concern that the DCYA's Consultation Paper appeared to frame the appointment of GALs in a way that is more discretionary and prescriptive than either Article 42A.4 of the Constitution or Articles 3 and 12 of the UN Convention on the Rights of the Child contemplate. While not suggesting that a GAL should automatically be appointed in every case, the Office is of the view that there should be a presumption in favour of appointment. In this regard, the Office considers that case-by-case decision-making regarding the appointment of a GAL in care proceedings should ultimately be driven by two considerations: the need to ensure that the best interests of the child are treated as the paramount consideration and the need to ensure that the views of the child are ascertained in the case of any child who is capable of forming her/his own views and wishes to express her/his views. Furthermore, the OCO proposed that in any case where a court decides not to appoint a guardian *ad litem*, it should be required to give reasons for its decision.

Among the recommendations made by the Office in relation to a range of additional issues raised in the DCYA's Consultation Paper were:

- In its deliberations regarding the possibility of a child being able to have her/his own legal representative and a guardian *ad litem* at the same time, the DCYA might look at the approach provided for under the Children Act 1989 in England and Wales.

- Further consideration should be given to the issue of party status for the child and, in particular, to the question of the child becoming a party to care proceedings affecting her/him through the appointment of a guardian *ad litem*.
- The status, role, powers and duties of the guardian *ad litem* should be clearly defined in law and regulations, as appropriate.
- The primary role of the GAL should be understood as being to represent the child by ascertaining and informing the court of the views of the child and by recommending to the court what course of action she/he believes would be in the best interests of the child.
- The independence of guardians *ad litem* must be fully safeguarded in order to mitigate against any risk that their capacity to act effectively for a child could be compromised.
- The parameters in respect of the professional disciplines which could be eligible for appointment as guardians *ad litem* should not be unduly narrow or limited.
- The proposal to address the matter of a child's entitlement to receive a copy of her/his GAL's report in the legislation is welcome. In framing such a provision, an important consideration will be to ensure that children are appropriately supported to understand the information contained in the report.

4.4. Engagement with International Monitoring Mechanisms

Participation in the UNCRC Monitoring and Reporting Process

Following its ratification of the UN Convention on the Rights of the Child (UNCRC) in 1992, Ireland is required to submit periodic reports to the UN Committee on the Rights of the Child on the measures it is taking to implement its obligations to respect, protect and fulfil children's rights under the Convention.

During 2015, the UN Committee on the Rights of the Child considered the combined third and fourth periodic report of Ireland. As part of this monitoring and reporting process, the Committee also considers alternative reports prepared by independent human rights institutions and civil society organisations.

In April 2015, the Ombudsman for Children's Office submitted our alternative report to the UN Committee on the Rights of the Child. This report was informed primarily by the statutory investigations undertaken by the Office; trends emerging from complaints made to the Office by or on behalf of children; the advice given by the Office to Government on legislative changes affecting children; and the OCO's direct work with children and young people.

Covering the period from the UN Committee's last examination of Ireland in 2006 to the end of March 2015, the Office's report provided an independent analysis from a children's rights perspective on a diverse range of issues affecting the rights and welfare in Ireland. Among the areas addressed by our alternative report were:

- Ireland’s constitutional and legislative framework;
- public policy and strategy concerning children and the coordination of policy affecting children;
- budgetary planning, coordination and evaluation in relation to children;
- awareness raising and education in relation to children’s rights;
- consent to medical treatment;
- the age of criminal responsibility;
- the voting age;
- issues relating to the principle of non-discrimination, including in the context of education;
- the need to mainstream the principles of treating the best interests of the child as a primary consideration and respecting children’s views in law, policy, procedure and practice affecting children;
- children’s civil rights and freedoms, including matters relating to birth registration, gender identity, freedom of religion, and children’s access to information and protection from material that is harmful to their wellbeing;
- violence against children, including issues concerning child abuse and neglect, corporal punishment and bullying;
- family law reform and matters regarding children in alternative care and relating to adoption;
- supports and services for children with disabilities;
- health and health services for children, including in the area of mental health;
- child poverty; homelessness among children, young people and their families;
- education, including matters affecting children with special educational needs;
- special protection measures, in particular as regards children in conflict with the law, children belonging to minorities, children seeking asylum and migrant children.

The OCO’s alternative report made over sixty corresponding recommendations on changes in law, policy, procedure and practice that we believe are needed in order to progress the implementation of Ireland’s obligations to children under the UNCRC and, with that, advance the realisation of children’s rights in Ireland.

In addition to this alternative report, the Office produced a complimentary publication called *A Word from the Wise*. Comprising a booklet and accompanying CD, *A Word from the Wise* sets out the stories behind seven cases that the Office has examined or investigated and that highlight systemic issues affecting children and young people in Ireland. Told in the words of the children and young people concerned, and in some cases of their parents too, these stories shine a light on some of the challenges that children, young people and their families can encounter in a number of key areas, including education, healthcare, housing and aftercare. Three of these stories are reproduced below, but you can find all of the stories at www.oco.ie/wp-content/uploads/2014/03/A-Word-from-the-Wise.pdf and the whole document at www.oco.ie/publications/reports-to-the-un/.

In June 2015, the Ombudsman for Children and OCO staff attended a pre-sessional meeting with members of the UN Committee on the Rights of the Child, which was held at the Palais des Nations in Geneva. This meeting was a valuable and constructive opportunity for the Office to update the Committee on a range of issues relating to children's rights in Ireland and to provide the Committee with an independent, child rights-based perspective on some of the main measures needed to further advance the realisation of children's rights in Ireland.

After this pre-sessional meeting, the UN Committee on the Rights of the Child published a List of Issues concerning Ireland's combined third and fourth periodic report, which Ireland replied to in October 2015.

Following this, and in advance of the plenary meeting between the UN Committee on the Rights of the Child and representatives of the Irish Government in January 2016, the Ombudsman for Children's Office made a supplementary submission to the UN Committee in December 2015. The purpose of this submission was to provide a brief update on a number of relevant developments, including with regard to international protection, child poverty, homelessness, child protection, and education.

Cait's Story

The OCO received a complaint from Rita, whose 15 year old daughter Cait had been admitted to a casualty department in a major regional hospital following a second attempted suicide.

Cait was then transferred to an adult psychiatric ward at the same hospital, pending a place becoming available in a more appropriate adolescent mental health unit. At the time of contacting the OCO, no place in the adolescent unit had been made available; Cait had been placed in the adult ward for two weeks and her mother complained that this was an inappropriate setting, that it was placing her daughter at further risk and that it was not in her best interests.

This complaint was one of a number received by the OCO in recent times relating to the placement of children with mental health difficulties in inappropriate adult units. These complaints have highlighted difficulties nationally and regionally in regard to children accessing appropriate mental health placements and supports.

Cait:

The first time I attempted suicide I think my real message was 'help me'. But there was no effective help for me. A&E was a nightmare. The adult unit was like prison. The counselling I got from CAMHS (Child and Adolescent Mental Health Services) wasn't right for me and it didn't work.

When I was in hospital after overdosing on paracetamol I was in bits. It was the worst pain I ever experienced. But I didn't want to go home because I was kind of afraid of myself and what I might do. My mam knew I needed residential. But there wasn't much on offer – just the adult unit.

It was not a good experience being in the adult facility. I was in a room by myself. I was being watched 24/7. I wasn't allowed in the main ward. I couldn't shower or go to the toilet by myself. Couldn't go to the shop – even with my mam. I stopped shaving my legs because they'd stare at me. I was very vulnerable. I'm so self-conscious – I can't stand people looking at my body.

The only exercise available was a treadmill. It was in a freezing cold room. I used it for a while out of boredom but then I just couldn't. It seemed wrong anyway. I had an eating disorder and I lost 3 kilos on the treadmill.

I know myself better than anyone knows me. It wasn't a good place for a young person like me. I was alone. I think it wasn't just the wrong place for me – it was a damaging place for me.

I feel I was let down. I needed help and it wasn't there. But some of the nurses were amazing. We had great chats. That's what saved me. Some of them trusted me. The nurses helped me during that time. Helped my thought process. It shows you what might work if they got it right.

I knew I could get better. My mam was fantastic supporting me but I knew I had to fight all the way for myself too. I'm still here now to prove it. That's when I became interested in the career myself. What if in the future I can help someone? I'm aiming to get into university to get the points. Even to make a small difference makes me happy.

I had a terrible experience and other teenagers shouldn't have to go through it. The facilities and lack of staff is kind of a disgrace. People are caring – lots of them are good at their job but there's not enough of them and not enough spaces for children and no out-of-hours response if it's needed. There should be specific wards for my age. The adult unit can't cope with children. That's not fair to us but it's not fair for the staff either.

I know a lot now about mental health. About the system and its faults. I know myself better now. I have a lot to say for myself in the world and about the world. I just wish the right people had listened at the right time.

Tracey and Keith's Story

Rose contacted the OCO in May 2014. Her complaint concerned the provision of housing by the local authority and how the local authority addressed her family's homelessness.

The initial complaint concerned the lack of provision of suitable accommodation for her children, Tracey and Keith. Rose told the OCO that she and her children were sharing a house in a Dublin suburb with her two brothers, one of whom had a pitbull dog which bit her daughter. Tracey was hospitalised and needed surgery. Rose also complained that she was unable to use the washing facilities in the house as the bath is in a state of disrepair.

Rose said that the local authority told her that she could no longer stay in the house with her brothers, due both to the threat to the children and because she did not have permission from the local authority to reside at that address. However, at that time the local authority had not provided the family with any alternative accommodation; Rose, Tracey and Keith became homeless.

Rose said that she and her children were placed in unsuitable emergency homeless accommodation. The family was then granted housing priority but difficulties were experienced in the processing of the application; the family was then penalised for anti-social behaviour which had occurred four years previously.



Tracey:

I don't have my own bedroom. We have bunk beds. I have my teddies.

It's freezing. Sometimes in the mornings we get our blankets and pillows and move into mammy's bed. But we're never late for school.

This isn't a normal house. Cos we're not allowed bring friends here. We're not allowed outside when other people are out there. I've never had a sleepover with friends since we came here.

When I imagine what a proper home it would have carpet up the stairs. When I close my eyes our kitchen is a normal size. It has a glass fridge. The sitting room has a three-seater couch. There's a fire in each room and it's cosy.

Upstairs I'd like 3 bedrooms. And two bathrooms. All the rooms have closets and heating.

I imagine a front garden with a dog. At the back there's a porch with chairs and a table. It's all glass and sunny. There's a back garden too with a trampoline – oh, and an apple tree.

Keith:

It's freezing. That's why I have this furry blanket. I share it with my mam and sister. I don't like when people bully me.

We have no upstairs. I've no space to play except in my room but that's full of clothes. I'm sad cos I can't have a dog here. The apartment we were in before was stinky and smelly. The people upstairs used to fight. One day he battered the pregnant girl outside our front door. We couldn't get past.

When I think of the house I'd like – OK, in the sitting room there's a doggie drinking water. The telly's on. Upstairs there's a black and white stripey rug in my room. I've two beds so my friend can sleep over. I've pictures on the walls – I can't have any in this house.

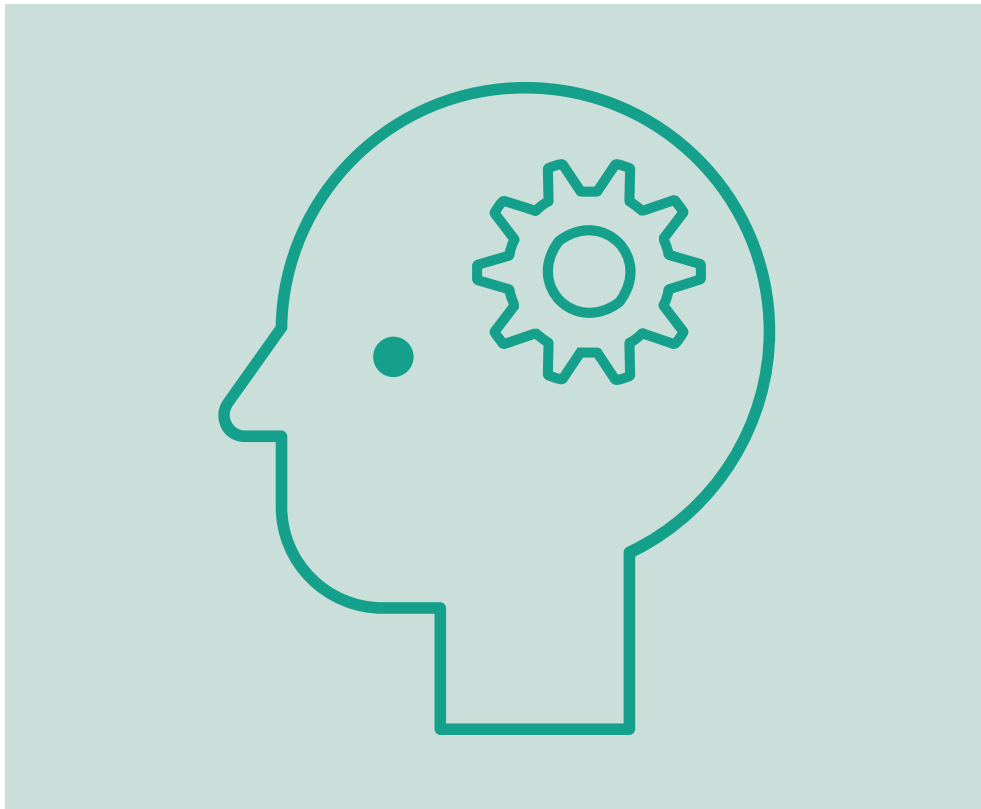
In the garden there's a flower pot there and a flower pot there. We've two guard dogs, a trampoline and a bouncy castle.

If we had that house we wouldn't have to move all the time. Mammy's cried over that.

Danny's Story

Sarah contacted the OCO in relation to her 16 year old son, Danny, who had sustained an Acquired Brain Injury (ABI) following a car accident at the age of 15. The complaint related to a lack of dedicated services for 13 to 17 year olds following an ABI, a lack of organised support available for Danny and his family, and the lack of a focal point with responsibility for providing assistance to families in these circumstances.

The complaint set out the difficulty and challenges faced by Danny and his advocates in seeking to secure psychiatric and psychological supports and services on his behalf. The complaint highlighted that the majority of the organisations that Danny's mother contacted would be in a position to help her son if he was 12 years old or younger, or if he was nearing 18 years of age, but that none would take responsibility for his particular age group. The complaint therefore highlighted a potential gap in health services for children of a certain age with ABI.



Danny:

I can't believe the struggle mammy needed to go on just to get the services I needed put in place. A young person's brain recovers faster and better than an older person's. The quicker you get the services in place, the quicker you get the most of your recovery. You shouldn't have to waste time fighting.

Other people aren't as lucky as me. If I didn't have mam fighting for me, I don't know what I'd have done. She had to give up her job. Not every family can do that.

I started a petition in all the schools in my county calling for services for teenagers with Acquired Brain Injury. That escalated into presenting the petition in the Dáil. Then we got onto the TV and radio. My younger brother Leo spoke for the first time about it all. He shocked me. The emotion in his voice. It just proves young people like us have something important to say.

I was so determined to recover. Will I ever get back to sport? That drove me on. I really applied myself to the therapies and it paid off.

Going back to school was tough. I was really looking forward to it. Some kind of normality. Seeing all my friends. But after one class I was exhausted. I felt my friends were minding me too much. I was being looked at through different eyes by the teachers. They just saw me as someone with a brain injury.

So I moved schools. It's pointless saying I wasn't scared, I was. But it was a great new beginning and people really accepted me. I've made some incredible friends. The teachers are amazing.

I believe young people shouldn't be forgotten. We're important. My younger brother Leo is amazing. He was only 12 at the time and he kind of became my protector. In a way he helped me find my independence again. I remember one day walking down the street and I was holding my mammy's hand. Leo took it on himself to get me to walk beside him in case other lads would see me holding hands with my mother.

I think it's only fair to say that I deserve every chance after what me and mammy went through to provide a future for myself. The scary thing is that someone else will have an injury like mine and they'll come up against the same brick walls.

I'd love if the person with a brain injury would wake up and every service is there available to them and to their family cos the outcome would be much better.

Universal Periodic Review

In 2016, the UN Human Rights Council will examine Ireland's human rights record for the second time in the context of its Universal Periodic Review (UPR) process.

The Ombudsman for Children's Office made a submission to the UPR in September 2015. In accordance with the OCO's role as an independent human rights institution for children in Ireland, the Office's submission focused on highlighting, and making corresponding recommendations, in relation to a range of issues concerning children's rights in Ireland. Child welfare and protection, youth justice, asylum and immigration, child poverty, homelessness, health services, and education were among the issues addressed in the OCO's submission.

The Office will continue to engage with the UPR process, as appropriate, during 2016.

4.5. Research

Child-friendly Administration

With support from the International Ombudsman Association, the OCO commissioned a consultation on child-friendly administration in 2014.

The impetus for this study was the barriers that children and their families can face in securing their rights in the area of public administration, as documented by the OCO through its examination and investigation of complaints regarding the actions of public bodies. Following a competitive tendering process, the contract for this study was awarded to the Child Law Clinic, School of Law at University College Cork.

Overall, this study aims to identify rights-based, child-friendly approaches to public administration, to investigate the barriers to the implementation of such approaches, and to inform the development of recommendations for reform.

During 2015, the following three pieces of work were completed as part of this study:

- an analysis of existing research and literature on child-friendly administration;
- an analysis of information from the OCO's complaints database concerning the difficulties identified by complainants that highlight systemic issues; *and*
- a consultation with children and their families on the barriers they face in accessing services and in their interactions with public bodies.

In light of the findings, the OCO has decided to extend the study to include a fourth element, namely a consultation with public bodies and service providers to seek their perspectives on the issues raised and how any obstacles to progressing child-friendly administration might be overcome. This piece of work will be completed by the Child Law Clinic during 2016/2017, after which the OCO plans to publish a final report about the study.

4.6. Engagement with International Networks

It is a function of the Ombudsman for Children under the 2002 Act to cooperate with the Ombudspersons for Children in other states. During 2015 we continued the Office's strong and active engagement with the European Network of Ombudspersons for Children (ENOC), as well as with the British and Irish Network of Ombudsman and Commissioners for Children.

In addition, the Ombudsman addressed a significant international children's rights conference in Portugal to celebrate the 25th Anniversary of that country's signing of the UNCRC.



A big thanks to young people from Calasanctius College & from The Daybreak Programme for visiting us this week



RETWEETS
3

LIKES
4



6:31 AM - 11 Nov 2015



Cmte on Health & Children discussing current work & future plans for the Office of the Ombudsman for Children here bit.ly/18xpJrI

RETWEETS
4

LIKES
2



10:40 PM - 27 May 2015

SECTION 5

RESOURCES

Financial Control

The budget of the Ombudsman for Children is allocated through the Department of Children and Youth Affairs. In 2015 the financial allocation of the Ombudsman for Children's Office was €1.949m.

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 2015 accounts took place in June 2016. 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 2014 are available at www.oco.ie.

Crowleys DFK Chartered Accountants provided accountancy services to the Office during 2015.

Media

Having held the position of Ombudsman for Children since the Ombudsman for Children's Office was established in 2004, Emily Logan, was replaced in 2015 by the new Ombudsman for Children, Dr Niall Muldoon. This major change of personnel resulted in significant media interest and widespread coverage. Niall appeared on numerous national media outlets and featured in all of the national newspapers, as well as online.

There was also extensive media interest in the work of the Ombudsman for Children's Office in 2015, particularly in relation to our appearance before three separate Oireachtas Committees at various stages throughout the year. In March we presented to the Joint Oireachtas Committee on Public Service Oversight and Petitions; in May we appeared before the Oireachtas Joint Committee on Health and Children, and in October we came before the Oireachtas Joint Committee on Education and Social Protection. All of these appearances, and our contributions, received widespread media coverage. In April we also published our report to the UN Committee on the Rights of the Child and in June we presented the report in Geneva. Both of these events garnered further media coverage for the work of the office.

Extending the remit of the OCO to include children in Direct Provision is an issue that this office has been raising at Government level for many years and which we emphasised again before the Dáil Joint Committee on Public Service, Oversight and Petitions who later generated a report recommending that our remit be extended in line with our request. The outcome of the committee's work and our reaction resulted in widespread media coverage.

In 2015 the European Committee of Social Rights ruled that Ireland is in violation of the European Social Charter as all corporal punishment of children is not prohibited. We have always been clear that we believe the European Social Charter should be fully implemented and this issue received significant media coverage.

In 2015, an investigation by the OCO found significant gaps in the approach to registering, inspecting and monitoring children's residential centres run by private and voluntary agencies. The publication of this report in August, and our recommendations were widely covered.

Public Affairs

The Ombudsman for Children reports directly to the Oireachtas and has a statutory mandate to give advice to Government Ministers on laws and policies that affect children.

In 2015, the Ombudsman for Children's Office continued to have a productive relationship with Ministers, Oireachtas Committees and key spokespeople. In addition to appearing before three Oireachtas Committees, we also made submissions and engaged with Ministers, department officials and legislators around a number of pieces of legislation. We made submissions on the Criminal Law (Sexual Offences) Bill 2014; the Education (Admission) to Schools Bill 2015; the General Scheme of the International Protection Bill 2015; the Criminal Justice (Victims of Crime) Bill 2015; the General Scheme of the Adoption (Information and Tracing) Bill and the Reform of Guardian ad Litem Arrangements.

Ireland is required to submit periodic reports to the UN Committee on the Rights of the Child on the measures implemented to respect, protect and fulfil children's rights. In April 2015, we submitted our alternative report to the UN Committee on the Rights of the Child. In June 2015, we attended a pre-sessional meeting with members of the UN Committee on the Rights of the Child in Geneva.



OCO @OCO_ireland · 1 Dec 2015

A big thanks to students from St Nathy's College, Ballaghaderreen for visiting us @oco_ireland today.



OCO @OCO_ireland · 24 May 2015

Ombudsman for Children honoured to attend presentation of #Tipperary Peace Award to @UN SG Ban Ki-moon #UNSGIreland



Human Resources

As a result of career progression there were a number of very significant staffing changes in 2014 / 2015 and a number of vacancies occurred. Sanction was received from the Minister for Children and Youth Affairs² in May 2015 to fill these and some existing vacancies in the Office. Recruitment to the various posts is carried out through the Public Appointments Service in relation to filling posts and while progress was made in some cases there were delays due to waiting for allocation from various panels which were established across a variety of grades.

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 continues 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.

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 2015, the Ombudsman for Children's Office used 65.475 MWh of electricity compared to 68.161 MWh in 2014. Energy usage is monitored on an ongoing basis. The OCO continues to operate a comprehensive internal recycling system.

² Under Section 21(1) of the Ombudsman for Children Act 2002 (as amended) "the Minister for Children and Youth Affairs may, with the consent of the Minister for Finance, appoint such and so many persons to be members of staff of the Ombudsman for Children as the Minister may determine".

TUARASCÁIL
BHLIANTÚIL 2015

OIFIG AN OMBUDSMAN DO LEANAÍ



ombudsman
do leanáí • for children

CLÁR ÁBHAIR

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TEACHTAIREACHT
ÓN
**OMBUDSMAN
DO LEANAÍ**



Is cúis áthais dom é mo thuarascáil bhliantúil don tréimhse an 1 Eanáir go dtí an 31 Nollaig 2015 a chur faoi bhráid an Oireachtais, de bhun Alt 13(7) den Acht um Ombudsman do Leanaí, 2002.

Sa mhéid gur cheap a Shoilse, an tUachtarán Ó hUiginn mé i m'Oifig i mí Feabhra 2015, is mór agam forléargas a thabhairt ar mo chéad bhliain iomlán, nach mór, in Oifig. Is mór mhéid agus chaighdeán na hoibre a rinneadh i rith na bliana. Sa tuarascáil seo tá cur síos ar na gearáin a fuarthas – níos mó ná

riamh i mbliana. Sonraítear ann freisin gurb leis na trí réimse – Oideachas, Leas Leanaí & Teaghlaigh agus Sláinte – is mó a bhain na cúiseanna imní le haghaidh leanaí, tuismitheoirí agus na daoine a dhéanann pléadáil ar a son. Tugann sé seo le fios go bhfuil an pobal ag éirí níos mó in iúl ar go bhfuil an Oifig ann agus ar a ndéanaimid san Oifig agus go bhfuil a lán fós le foghlaim ag an tseirbhís phoiblí faoi leas an linbh a chur san áireamh i gcónaí. Cuirtear síos sa tuarascáil freisin ar an obair a bhíonn idir lámha againn chun ár ndualgais reachtúla a chomhlíonadh i ndáil le hoideachas a chur ar leanaí, daoine óga agus daoine fásta, faoi chearta leanaí agus faoi comhairle is treoir a sholáthar don rialtas maidir le reachtaíocht agus beartais a mbíonn tionchar acu ar leanaí.

Obair Leanúnach OCO

Tháinig méadú 8% ar líon na ngearán a fuairamar, agus d'oibrigh ár bhfoireann Gearán agus Imscrúduithe go han-dian chun freagairt go héifeachtach agus go críochnúil don líon ardaithe gearán sin. Bíonn an méid a fhoghlaimimid ó na gearáin a dhéantar ríthábhachtach mar go dtugann sé léargas don Oifig ar an gcaoi a bhfuil an Oifig ag idirghníomhú le leanaí agus lena dteaghlaigh. I gcás gurb iomchuí é foghlaimimid ceachtanna ón gcaoi a gcaitear le leanbh indibhidiúil agus bainimid leas as sin chun béim a leagan ar laigí sa chóras don Roinn chúí. Eascraíonn athruithe as seo a chosnóidh a lán leanaí amach anseo ó bheith thíos le pé structúr lochtach a tugadh faoi deara. Is é an t-aistriú eolais seo, ón gcás aonair chuig an gceist ghinearálta, atá ar an ngné is ríthábhachtaí den sainchúram atá orm mar Ombudsman do Leanaí.

In 2015, is cúis áthais dom é a fhógairt gur lean an Oifig seo ag obair ar na caidrimh atá á gcothú againn le comhlachtaí poiblí a bhfuil ról maoirseachta reachtúla againn ina leith, ionas gur féidir linn na gearáin a fhaighimid a chur tríd chomh gasta agus is féidir linn é agus próiseáil chúí a dhéanamh ionas go dtiocfar ar réiteach sásúil agus tráthúil. I gcás gurb é leas is fearr an linbh an fócas is minic a bhíonn sé den riachtanas feidhmiú go gasta agus dá bhrí sin tá sé tábhachtach go mbeadh próiseas soiléir ann, leis na gníomhaireachtaí a mbíimid ag plé leo go rialta, chun déileáil le gearáin agus chun teacht ar réiteach éifeachtach. Ach, ní chuireann na caidrimh mhaithe sin ar ceal an dualgas dlíthiúil atá orainn díospóireacht stuama chinntitheach a chothú, sa mhéid nach pléadáláí muid don leanbh ar thaobh amháin de, agus nach lucht freasúra muid i gcoinne na gcomhlachtaí poiblí ach oiread. Mar sin, tá cothroime ina cuid riachtanach dár bpróiseas láimhseála gearán. Is leis an gcaighdeán sin a ndéanaimid ár gcuid oibre a thomhas agus ar an gcaoi sin déanaimid measúnú iomlán cothrom ar ghearán.

D'ainneoin ár leibhéal theoranta foirne le linn na bliana, is cúis áthais dom é a chur in iúl gur éirigh leis an Oifig casadh le breis is 85 leanbh agus duine óg ó scoileanna agus seirbhísí óige in 14 chontae, agus thug siad uile cuairt ar an Oifig chun foghlaim faoina gcearta agus faoi chearta leanaí ar fud an domhain. Fuair siad an deis machnamh a dhéanamh ar a ngnáthlá féin agus ar na cearta a bhí á bhfáil acu – ó bhreacadh an lae go ham codlata. Cuidíonn sé seo go mór, go mion minic, leosan nach bhfuair an deis riamh machnamh a dhéanamh ar a leithéid. Fiafraítear díobh cé is mó a chosnaíonn iad i rith an lae? Is féidir leis sin léargais nua a thabhairt dóibh ar na daoine atá 'ar a dtaobh' – bíodh sin tuismitheoirí, gaolta, múinteoirí nó cóitseálaithe. Tá ríméad orm go raibh an Oifig seo in ann roinnt oibre for-rochtana a dhéanamh freisin sna contaetha seo: An Cabhán, Dún na nGall, Lú agus Port Láirge. Trí fheasacht a spreagadh faoi chearta leanaí i measc leanaí agus daoine óga iad féin beimid in ann cultúr ceart, inbhuanaithe de chearta leanaí a chothú san uile ní a dhéanaimid.

Treisiúntar an cultúr sin i seimineáir larchéime, atá ar siúl ó bhí 2012 ann, agus in 2015 reáchtáladh seacht seimineár le haghaidh 130 mac léinn a bhí dá n-oiliúint sna réimsí seo: oideachas, cosaint leanaí, obair shóisialta agus cúram sóisialta. Sna seimineáir seo féachaimid le feabhas a chur ar an tuiscint atá ag gairmithe ar chearta leanaí i gcoitinne agus conas a bhaineann siad leis an obair a bheidh ar siúl acu amach anseo. Féachaimid leis sin a aistriú ón teoiric chuig an bhfíorshaol. Spreagaimid na rannpháirtithe chun stíl oibre a chothú atá lárnaí ar an leanbh agus leas is fearr an linbh nó na leanaí a mbeidh siad ag obair leo a chur san áireamh i gcónaí. Bhí na mic léinn a ghlac páirt an-mholtach faoi na seimineáir, mic léinn ó na hinstiúidí seo a leanas: Coláiste na hOllscoile, Corcaigh, OÉ Gaillimh, OÉ Maigh Nuad, An Coláiste Ollscoile, Baile Átha Cliath, Coláiste na Tríonóide, Baile Átha Cliath agus Institiúid Teicneolaíochta Bhaile Átha Luain. Táimid ag súil cur leis an rath sin in 2016.

Ar na gnéithe is bunriachtanaí de mo dhualgas reachtúil tá breithniú a dhéanamh ar reachtaíocht agus beartais a bhaineann le leanaí agus le linn 2015 rinneamar roinnt aighneachtaí agus chuireamar comhairle ar fáil ar raon topaicí. D'iarr idir Ranna Rialtais agus Choistí Oireachtais orainn cur leis an smaointeoireacht agus soiléiriú a dhéanamh ar roinnt píosáí reachtaíochta. Áirítear ina measc sin: Athchóiriú ar na Socrúithe maidir le Caomhnóir ad litem; Scéim Ghinearálta an Bille um an Dlí Coiriúil (Cionta Gnéasacha), 2014; An Bille Oideachais (Ligean Isteach i Scoileanna), 2015; Scéim Ghinearálta an Bhille um Chosaint Idirnáisiúnta, 2015; an Bille um an Dlí Coiriúil (Íospartaigh na Coireachta) 2015 agus Scéim Ghinearálta an Bhille Uchtála (Faisnéis agus Rianú), 2015.

Déantar cur síos níos sonraí ar gach ceann díobhsan sa Tuarascáil Bhliantúil seo agus is léir ó fhairsinge na saincheistanna a mbíonn ar an Oifig a bheith ag plé leo i gcónaí, go bhfuil sé ríthábhachtach Oifig dála na hOifige seo a bheith ann, atá ag feidhmiú go neamhspleách, ar bhonn reachtúil chun guth a thabhairt do chearta agus cúiseanna imní leanaí ar fud na hÉireann sna dlíthe agus sna beartais seo. Tá sé ina chuid ríthábhachtach dár n-aibíocht dhaonlathach go mbeadh Éire in ann comhlacht poiblí láidir a bheith ann a chuireann seirbhísí ar fáil saor in aisce don phobal, ar féidir brath air agus atá neamhspleách agus ar féidir leis idirghníomhú leis an Rialtas ar bhealach a thugann tús áite do leas is fearr an linbh. Cuireann sé seo tomhas mór léargais ar fáil ionas nach ndéanfaidh na daoine i gcumhacht neamhaird de chearta leanaí agus iad ag dréachtú reachtaíocht nua. Gné amháin den obair a bhfuil sé i gceist againn níos mó de a dhéanamh ná rianú a dhéanamh ar dhul chun cinn reachtaíochta ar thugamar comhairle ina leith trí phróiseas reachtach i dTithe an Oireachtais agus béim a leagan ar aon chás nach bhfuil forálacha na reachtaíochta sin ag teacht leis an gcomhairle a chuir an Oifig seo ar fáil.

Breathnaím air seo mar chuid bhunriachtanach den sainchúram atá orm sa chuspóir foriomlán cearta leanaí a chosaint agus a chur chun cinn, mar gurb ann ar féidir linn foghlaim ó theipeanna a tharla san am atá caite, mar a fheicimid iad inár roinn gearán, agus cúiseanna imní leanaí, de réir mar a chloisimid iad inár gceardlanna agus ár seimineáir oideachais, agus a chinntiú gur gcuirfear iad san áireamh i ndlíthe agus i mbeartais nua. Tá sé seo ar an ngné choiscitheach dár gcuid oibre – tugann sé an deis dúinn an todhchaí a athrú dár leanaí trí fhoghlaim ó na hearráidí san am atá caite. Maidir le leanaí in Éirinn, is rud é sin a raibh an Stát mall á dhéanamh go dtí seo.

I mí an Mheithimh 2015, chuir an Mheitheal um Próisis Chosanta lena n-áirítear Soláthar Díreach agus tacaí d'iarrthóirí tearmainn, faoi chathaoirleacht an Dr. Bryan McMahon, a tuarascáil deiridh ar fáil. Áirítear sa Tuarascáil sin isteach is amach le 40 togra, agus 173 mholadh san iomlán, faoi conas feabhsúcháin a chur i bhfeidhm sna trí réimse seo – a) an próiseas chun cinntí a dhéanamh, b) coinníollacha maireachtála sa chóiríocht don Soláthar Díreach agus c) raon na dtacaí atá ar fáil dóibhsean sa chóras – tacaí airgeadais, oideachais agus leighis etc. Ina óráid chun forléargas a thabhairt ar thuarascáil don Aire Dlí agus Cirt agus Comhionannais, Francis Fitzgerald TD, labhair an Dr McMahon ar a thábhachtaí is atá sé don ghrúpa teacht le chéile agus labhairt leosan atá ag cónaí sa Soláthar Díreach. Seo a bhí le rá aige faoin méid a chuala an grúpa *"vividly the pain of dislocation and dispossession, in words and language which resonate deeply with Irish people everywhere"*. Is ar bhonn a raibh cloiste ag an ngrúpa go ndearna siad na 173 mholadh chun freastal níos fearr orthusan a bhí a lorg tearmainn in Éirinn agus atá i gcóiríocht nach bhfuil oiriúnach ar chor ar bith agus a chothaíonn ísliú meanma. Bhí sé i gcónaí ina sheasamh ag an Oifig seo gur chóir go mbeadh rochtain ag gach leanbh, lena n-áirítear iadsan a lorgaíonn cosaint idirnáisiúnta sa Soláthar Díreach, ar Oifig an Ombudsman do Leanaí. Ba chúis mhór áthais dom é gur aontaigh an Mheitheal leis an seasamh sin agus go ndearna sí na moltaí seo a leanas:

Áiríonn sainchúram Oifig an Ombudsman do Leanaí gearáin a bhaineann leo seo a leanas:

- *Seirbhísí arna soláthar d'áitritheoirí in ionaid a chuireann Soláthar Díreach ar fáil, agus cinntí a aistriú tar éis Rialacha Tí a shárú*

- *Ba chóir go mbeadh gearánach in ann dul ar iontaoibh na hOifige i gcás nach bhfuil siad sásta le toradh deiridh ghnás gearán GFI (Gníomhaireacht Fáiltithe agus Imeasctha). (Moladh 4.135)*

Tá an Oifig seo ag súil go nglacfar leis an moladh seo agus go n-aontóidh an Roinn Dlí agus Cirt agus Comhionannais leis ionas nach mbeidh an t-idirdhealú éagórach mór millteach seo ann idir leanaí atá ina gcónaí in Éirinn a bhfuil stádas sainithe acu agus leanaí atá ag fanacht ar stádas sainithe. Tá súil agam, faoi dheireadh 2016, go mbeidh rochtain ag GACH leanbh ar an Oifig seo, i gcás go bhfuil siad den tuairim go bhfuil siad thíos go neamhfhabhrach le gníomh de chuid an Stáit.

I mbliana leanadh le hatógáil Champas Bhaile an Oibricigh. Is cosúil go bhfuil dul chun cinn maith déanta maidir le bunú an Rialachais chuí a mbeidh gá leis chun an Campas a réachtáil mar aonán amháin nó mar thrí cinn de shuíomhanna scoile ar leithligh. Cuideoidh sé seo go mór le comhréireacht an chúraim agus na maoirseachta is gá a sholáthar do na daoine óga seo, idir fhireann is bhaineann, le tacaíocht imleor chun tús a chur le breathnú ar a gcás féin agus conas mar a d'fhéadfaidís a n-iompar a athrú sa todhchaí. Tar éis an tsaoil, is é seo is cuspóir don infheistíocht mhór de bhreis is €55 milliún. Ní chun aonaid úrscothacha a thógáil é seo, ná saoráidí fóillíochta níos fearr a sholáthar – ach chun timpeallacht a chruthú atá tacúil ina ndéantar cúram de na déagóirí sin ar mhaith leo an deis a fháil athruithe a dhéanamh ina saol. Ní féidir é sin a bhaint amach i bhfolús. Beidh gá idirchaidreamh níos fearr a bheith ann leis na daoine agus na seirbhísí lasmuigh den champas a bhíonn i dteagmháil le daoine óga roimh a dtréimhse i mBaile an Oibricigh agus ina dhiaidh e.g An Garda Síochána, Údarás Tithíochta, Seirbhísí Fostaíochta, Tusla, Feidhmeannacht na Seirbhíse Sláinte agus seirbhísí Andúile chomh maith le teaghlach agus cairde.

Cé go bhfuil sé ag tógáil níos mó ama an obair thógála a chur i gcrích, táim ag tnúth go mbeidh 2016 ina bliain ar leith mar a mbeidh Baile an Oibricigh forbartha a dhóthain le foireann imleor ionas go mbeifear in ann gach ógánach 17 mbliana d'aois a bhogadh chuig an gcampas. Beidh an tír in ann cúl a thabhairt, dá réir sin, leis an Ré Dhorcha mar ar thugamar cead, mar shochoaí, do leanaí a bheith coinnithe i bPríosúin do dhaoine fásta. Ní raibh sé i gceist go mbainfí úsáid as Príosún Pháirc na Cruithneachta ach ar feadh tréimhse shealadach d'ógánaigh 17 mbliana d'aois (tréimhse 12 mhí), go dtí gur measadh, i mí Iúil 2012, nach raibh Foras Naomh Pádraig oiriúnach a thuilleadh. Cibé scéal é, tá 4 bliana sroichte againn anois d'ógánaigh a bheith i bPríosún Pháirc na Cruithneachta gach lá (idir deichniúr agus ceathrar déag gach lá). Ciallaíonn sé sin, mar bheart sealadach, gur coinníodh suas le 200 ógánach i bPríosún Pháirc na Cruithneachta, daoine a mbeadh sé i bhfad níos oiriúnaí iad a bheith ar Champas Bhaile an Oibricigh. Sa mhéid go gciontaítear na daoine óga seo ag aois 17 seachas 16 bíonn orthu aghaidh a thabhairt ar réim éagsúil, atá bunaithe ar ghaibhniú aonair agus piónós seachas ar fhás, tacaíocht agus athrú dearfach. Tá sé seo ina idirdhealú éagórach de chineál nach féidir seasamh leis ar chor ar bith agus táimse ag impí ar an rialtas fuadar a chur faoin iarrachtaí chun a chinntiú go mbeidh campas Bhaile an Oibricigh ullamh chun glacadh le hógánaigh 17 mbliana d'aois, chomh luath agus is féidir, bídís ar athchur nó ciontaithe.

In 2015 ba mhór an onóir dom é labhairt os comhair trí cinn de Choistí Oireachtais agus ar an gcaoi sin leibhéal na trédhearcachta agus na freagrachta a léiriú a bheadh cuí don Oifig seo, nach bhfuil cuntasach ach don Oireachtas. Tá líon agus éagsúlacht na gcoistí ina léiriú ar fhairsinge an tsainchúraim faoina n-oibríonn an Oifig seo agus tá sé ina léiriú ceart ar an gcaoi nach féidir saol leanaí a chur go néata i gcatagóirí ach go mbíonn a saol trí chéile agus uilechuimsitheach. Beidh saincheisteanna oideachais, sláinte agus fóillíochta ag leanaí atá gan dídean; i gcás linbh faoi mhíchumas trom intleachtach beidh gá acu le cóiríocht speisialta, iompar agus oideachas. Mar sin, mar Ombudsman do Leanaí is iomchuí é gur labhair mé leis an gCoiste um Sheirbhísí Poiblí agus Maoirseachta i mí Márta, leis an gCoiste um Shláinte agus Leanaí i mí Bealtaine agus leis an gCoiste Oideachais agus Cosanta Sóisialta i mí Dheireadh Fómhair in 2015. I ngach cás bhí an plé cuardaitheach agus faisnéiseach, agus cuireadh gach ball de na coistí ar an eolas faoi ról na hOifige agus bhí siad cíocrach fáil amach faoi ghnéithe éagsúla dár gcuid oibre. Ba mhór an t-ardú meanma dom é an tacaíocht thar a bheith dearfach a thug gach coiste dár nOifig agus don obair a dhéantar anseo.

Bhí sí seo ina bliain thar a bheith deacair don Oifig sa mhéid gur bhog a lán dár mbaill foirne chuig poist nua agus muid ag feidhmiú le líon laghdaithe foirne dá bharr don chuid is mó den bhliain. Ag pointe amháin, bhíomar thíos 50% den líon iomlán molta foirne, mar a bheidh soiléir ón Tuarascáil seo, ach lean an Oifig ag déileáil le méadú ar líon na ngearán agus ag comhlíonadh ár ndualgas reachtúil go dearfach mar a bhain le hoideachas agus forbairt beartais.

Thug an fhoireann aghaidh ar an tasc ollmhór caighdeáin a choinneáil ard fad is a clúdaíodh roinnt post folamh. Léirigh gach uile bhall foirne díograis thar na bearta don Oifig agus chuir seirbhís den chéad scoth ar fáil le linn 2015 d'aineoinn na ndúshlán, agus tá léiriú sa Tuarascáil seo ar an méid a chuir siad i gcrích. Ba mhaith liom buíochas a ghabháil leo go léir, agus leosan a thosaigh ag obair linn i rith na bliana. Ba mhaith liom buíochas a ghabháil freisin leis an Roinn Leanaí agus Gnóthaí Óige a bhí an-tapa a dtacaíocht a léiriú don Oifig nuair a chuir mé isteach ar na folúntais foirne againn a líonadh. Tar éis dom cead a fháil uathu, bhí ar mo chumas tosú ag tógáil foireann nua agus chiallaigh sé go raibh mé in ann athbhunú a dhéanamh ar fhoireann iomlán faoi dheireadh 2015. Cé go raibh an idirbheartaíocht sin leis an Roinn dearfach, measaim go bhfuil sé tábhachtach a athdhearbhú go bhfuil gá ag an Oifig seo, mar institiúid neamhspléach ceart daonna, maoiniú a fháil go díreach ón Oireachtas seachas trí Roinn Stáit.

Ionadaíocht OCO ar Choiste na Náisiún Aontaithe um Chearta an Linbh (UNCRC)

Is éard atá i gCoiste na Náisiún Aontaithe um Chearta na Linbh (UNCRC) grúpa de 19 saineolaí idirnáisiúnta, neamhspleácha a thagann le chéile sa Ghinéiv, san Eilbhéis, chun iniúchadh a dhéanamh ar thaifid gach ballstáit de chuid na NA i ndáil le seasamh le cearta leanaí agus na cearta sin a chur chun cinn. I mí an Mheithimh 2015 thaistil mé chuig an nGinéiv chun cur i láthair a dhéanamh don Choiste ina gcruinniú réamhsheisiúnach agus iad ag tiomsú fianaise faoin dul chun cinn, nó a mhalairt, ar chearta leanaí in Éirinn. Bhí sé seo ina ócáid thar a bheith tábhachtach do leanaí na hÉireann mar nach ndearnadh aon athbhreithniú ar Stát na hÉireann, sa réimse seo, ó bhí 2006 ann. Chuir sé seo an deis ar fáil don Oifig cur síos a dhéanamh ar na forbairtí dearfacha i ndáil le cearta leanaí in Éirinn, chomh maith leis na réimsí ina bhfuil gá dul chun cinn a dhéanamh fós chun feabhas a chur ar shaol leanaí in Éirinn.

I mo bhreathnóireachtaí don Choiste luaigh mé go raibh réadú ar chearta leanaí in Éirinn ina thionscadal neamhchríochnaithe. Ní hé sin le rá, ámh, nach bhfuil dul chun cinn déanta ó bhí 2006 ann. I measc na bhforbairtí dearfacha tá leasú bunreachtúil, arna fhaomhadh ag an bpobal in 2012, agus a síníodh sa dlí ar deireadh thiar thall i mí Aibreáin 2015. Dearbhaíonn sé seo cearta nádúrtha dochloíte an linbh do gach leanbh agus dearcthaí agus leas is fearr an linbh a bheith ag croílár na n-imeachtaí cúirte maidir le cúram, uchtáil, caomhnóireacht, coimeád agus rochtain. Bhí forbairtí reachtúla ann ar shaincheisteanna tábhachtacha a théann i bhfeidhm ar leanaí, lena n-áirítear caidrimh sa teaghlach agus ligean isteach i scoil. Ceapadh Aire sinsearach le haghaidh Leanaí agus Gnóthaí Óige agus bunaíodh Roinn Leanaí agus Gnóthaí Óige. Foilsíodh Creatbheartas Náisiúnta chun treoir a thabhairt maidir le forbairt, comhordú agus cur i bhfeidhm beartas agus seirbhísí do leanaí (Torthaí Níos Fearr, Todhchaí Níos Gile). Tá gníomhaireacht tiomnaithe nua ann – An Ghníomhaireacht um Leanaí agus an Teaghlach, a bhfuil freagracht reachtúil uirthi as cosaint leanaí agus seirbhísí leasa. Tugadh isteach bliain réamhscoile saor in aisce. Tá sé beartaithe ospidéal nua náisiúnta leanaí a thógáil. Tá scor céimnithe ar bun den chleachtas daoine óga faoi bhun 18 a choinneáil i bpríosún.

Cuirimid fáilte roimh na forbairtí maithe seo. Cibé scéal é, ní leigheasfaidh siad gach fadhb, agus tá gá le tuilleadh athruithe i roinnt réimsí. Bhí tionchar thar a bheith neamhfhabhrach ar leanaí ag an ngéarchéim eacnamaíochta a bhí ann in Éirinn le tamall anuas. Dar le sonraí a bhí ar fáil i mí Márta 2015, tugadh le fios go raibh suas le 138,000 leanbh ag cónaí faoi bhochtaineacht ar bhonn leanúnach. D'aineoinn iarrachtaí a lán gairmithe chun seirbhísí éifeachtacha a sholáthar, chuir easnaimh sna hacmhainní a bhí ar fáil leis an moill déileáil le cúiseanna imní faoi chosaint leanaí agus chuir sé bac ar an rochtain a bhí ag leanaí ar sheirbhísí ríthábhachtacha sláinte agus tacaí oideachais. I gcás aon trian de na daoine a bhfuil gá acu le cúram othair chónaithigh le haghaidh deacrachtaí meabhairshláinte tá siad fós á gcur i lóistín do dhaoine fásta. I mí Márta 2015, bhí 1,054 leanbh i 471 theaghlach gan dídean (agus lean sé sin ag fás le linn 2015). I gcomhthráth leis sin, bhí tuairim is 1,400 leanbh ag caitheamh a mblianta múnaitheacha sa soláthar díreach, faoi choinníollacha a chuireann bac lena bpointínseal bheith faoi bhláth agus a chuireann bac lena gcearta bunúsacha a bhaint amach.

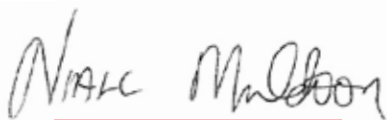
Tar éis béim a leagan ar raon saincheisteanna d'impigh mé ar an UNCRC breathnú ar an gcóras Oideachais agus ar na réimsí iomadúla nach raibh cearta leanaí á gcosaint nó á réadú go hiomlán iotu. Chuir mé síos ar go raibh sé an-mhíshásúil go gcaithfí níos fearr le leanaí a raibh reiligiún acu, agus d'ardaigh mé mo chúiseanna móra imní i ndáil le géilliúlacht na hÉireann dá dualgais faoin gCoinbhinsiún ó thaobh gan idirdhealú éagórach a dhéanamh. D'athdhearbhaigh mé ár n-iarratas go mbainfí an díolúine le haghaidh scoileanna ón Acht um Stádas Comhionann.

Is ar an oideachas is mó a bhíonn na gearáin a fhaigheann an Oifig seo dírithe agus mar thoradh ar iniúchadh a dhéanamh ar na gearáin sin táim den tuairim gur chúisigh an uathriail a tugadh do scoileanna na hÉireann leo feidhmiú ar bhealach nach bhféadfadh an Stát smacht a choimeád air ó thaobh freagrachta agus maoirseachta de, mar a bheifí ag súil leis mar iompróir an dualgais faoin gCoinbhinsiún. Agus mé ag labhairt leis an gCoiste, d'impigh mé orthu iarraidh ar an Stát athchothromú a bhaint amach idir uathriail na scoileanna agus maoirseacht ón Rialtas Láir chun a chinntiú go nglacfadh an Stát freagracht ag an leibhéal iomchuí as leas leanaí a chur chun cinn agus a chosaint laistigh den chóras oideachais.

Luaigh mé freisin gur gá don Stát dul i ngleic leis an moill atá ar thithíocht shóisialta agus tithíocht éigeandála a sholáthar atá oiriúnach do riachtanais leanaí. Chun seasamh le cearta leanaí an Lucht Taistil, luaigh mé gur ghá don Stát eitneacht an Lucht Taistil a aithint gan aon mhoill bhreise agus céimeanna coinchríteacha, intomhaiste a thógail chun dul i ngleic leis na dúshláin mhóra a gcaithfidh leanaí den Lucht Taistil aghaidh a thabhairt orthu, go háirithe sláinte agus oideachas.

Is léir domsa nach míníonn an t-easnamh acmhainní, cé gur géar-easnamh atá ann, go hiomlán na bearnaí atá ann ó thaobh cearta leanaí a chosaint in Éirinn. Stát a bhfuil meas aige ar chearta daonna, is Stát é sin a thugann tús áite do chearta daonna a shaoránach, lena n-áirítear leanaí, sa chinnteoireacht faoin mbuiséad, sa chinnteoireacht reachtúil agus sa chinnteoireacht ó thaobh riaracháin de. Tá teipeanna maidir leis seo soiléir i réimsí éagsúla den riarachán poiblí i ndáil le leanaí, mar a raibh ceannas ag beartas ar leas leanaí agus a leas is fearr. Baineann na cleachtais sin le cultúr, agus a n-iarbhairtí ar leanaí agus tá siad le sonrú go soiléir sna cuntais a thugann leanaí agus a dtuismitheoirí sna gearáin a chuirtear faoi bhráid na hOifige, agus d'fhoilsigh mé na scéalta sin in *A Word from the Wise* – áis de chuid na hOifige a cuireadh chuig UNCRC chun go gcloisfidís 'go díreach' ó na daoine is mó a bhí thionchar in Éirinn. Chuir mé é ar fáil mar dhlúthdhiosca agus mar fhoilseachán agus d'áirigh mé ann scéalta faoi sheacht gcinn éagsúla de ghearáin i réimsí ilghnéitheacha amhail easpa dídine, cóiríocht speisialta a bheith ag teastáil agus an Ardteistiméireacht a dhéanamh. Agus mé ag cruthú na háise seo fuair mé ionspioráid ó Brian Friel a dúirt "*words are the weapons of the dispossessed*". Is é an té ar tharla an t-eispéireas dó nó di an té is fearr an scéal a insint.

Mar fhocal scoir, ba mhaith liom a rá go bhfuilim féin agus m'fhoireann ag Oifig an Ombudsman do Leanaí go hiomlán tiomanta do chomhlíonadh ár ndualgas reachtúil thar ceann tuairim is 1.2 milliún leanbh ar fud na hÉireann. Chuige sin, beidh mé ag obair go han-dian in 2016 chun plean straitéiseach nua a fhorbairt ina leagtar síos na príomhréimsí fócais ag an Oifig thar an gcéad trí bliana eile. Ar na réimsí sin, tuigim go mbeidh sláinte mhothúcháinach leanaí ina réimse tosaíochta. Seo réimse ina bhfuil roinnt dul chun cinn déanta ag an Stát, mar shampla bunú na hOifige Náisiúnta um Fhéinmharú a Chosc, ach tá a lán oibre le déanamh fós. Measaim, mar náisiún, agus go háirithe ó thaobh daoine óga de, go bhfuil siad á gcur féin in iúl níos mó ná riamh agus ag labhairt faoina meabhairshláinte. I bhfianaise cearta leanaí a) guth a bheith acu (is léir gur scéalta pianmhara atá á n-insint acu) b) a leas is fearr a chur san áireamh agus cinntí á ndéanamh maidir leo agus c) an ceart sláinte mhaith a bheith acu, tá sé de dhualgas ar an Stát freagra suntasach a thabhairt ar an bplé seo atá ag fás faoi fholláine mhothúcháinach agus mheabhrach.



Niall Muldoon
Ombudsman do Leanaí



OCO
@OCO_ireland

Dr Niall Muldoon receiving his Warrant of Appointment from President Michael D. Higgins tonight at Áras an Uachtaráin



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SPECS Bray @SpecsBray · 2 Dec 2015

A big thank you to @SimonHarrisTD and Dr. Niall Muldoon @OCO_ireland for launching our SPECS service on Monday.



RANNÓG 1
SÚIL SIAR
AR 2015



OCO @OCO_ireland · 30 Mar 2015

Dr Niall Muldoon with Sr. Stanislaus Kennedy @YSINow & Mercy College, Coolock students at #SpeakOut event in Dublin



The Young Social Innovators (YSI) Dublin 'Speak Out' event took place recently at the Mansion House.

Pictured: at the event with Sr. Stan and Dr. Niall Muldoon, Ombudsman for Children, were participants from Mercy College, Coolock (from l-r: Laura Harris, Samantha Keoghan, Caithlin Keegan and Sabina Gurjeva. PHOTO: Derek Speirs



IrishRefugeeCouncil

@IrishRefugeeCo

.@OCO_ireland will focus on ensuring that "children are at the forefront of decision-making, and not an afterthought" @noelbaker1

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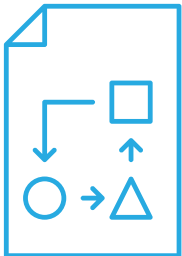
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Eanáir



Casann Niall le Meitheal um Phróisis Chosanta lena n-áirítear Soláthar Díreach agus tacaí do chuardaitheoirí tearmainn, faoi chathaoirleacht an Dr Bryan McMahon

Feabhra



Tosaíonn Niall ag obair mar Ombudsman do Leanaí agus téann chuig Áras an Uachtaráin mar a ndéanann an tUachtarán Ó hUiginn é a cheapadh go hoifigiúil

Bealtaine



Freastalaíonn Niall ar an ngradam síochána i dTiobraid Árann

Tagann Niall os comhair an Chomhchoiste Oireachtais maidir le Meabhairshláinte agus Leanaí

Meitheamh

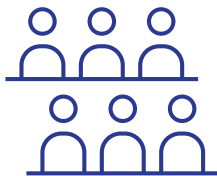


Cuireann Niall tuarascáil OCO faoi bhráid an Choiste um Chearta an Linbh san Eilbhéis

Freastalaíonn Niall ar an bhFóram Eorpach um Chearta an Linbh sa Bhruiséil

Meán Fómhair

Freastalaíonn Niall ar chomhdháil ENOC in Amstardam



Deireadh Fómhair

cuireann an tOmbudsman do Leanaí aighneacht isteach maidir le Scéim Ghinearálta an Bhille um an Dlí Coiriúil (Íospartaigh na Coireachta) 2015

Márta

Seolann Niall
Tuarascáil Bhliantúil
Chomhghuaillíocht
Mheabhairshláinte Leanaí



Tagann Niall os comhair an Choiste
Oireachtais maidir le Maoirseacht
agus Achainíocha Seirbhíse Poiblí

Aibreán

Tuarascáil Bhliantúil an Ombudsman do
Leanaí do Choiste na Náisiún Aontaithe
maidir le Cearta an Linbh

Bualadh leis an Aire Sláinte, Leo Varadkar

Cruinniú leis an Aire Dlí agus Cirt,
Frances Fitzgerald faoi Sholáthar Díreach

Iúil

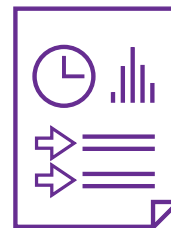
Leabhraíonn Niall le
Daoine Óga ag ócáid
i mBaile Munna



Labhraíonn Niall ag
'Making Rights Real for Children:
A Children's Rights Audit of Irish Law'

Lúnasa

Seolann Niall tuarascáil
OCO faoi chaighdeán ag
ionaid chúraim chónaithigh
phríobháideacha agus phoiblí



Samhain

cuireann an tOmbudsman do Leanaí aighneacht
isteach maidir le Scéim Ghinearálta an Bhille
Uchtála (Faisnéis agus Rianú) 2015

Labhraíonn Niall ag Comhdháil Lónra Príomhoidí
Bunscoile Éireann — "Putting Emotional
Wellbeing At the Heart of Schools"

Nollaig



Labhraíonn Niall
ag comhdháil
Parents Plus
National

RANNÓG 2

**CÉ MUID
AGUS CAD A
DHÉANAIMID**

Bunaíodh Oifig an Ombudsman do Leanaí (OCO) in 2004 faoin dlí, ar a dtugtar an tAcht um Ombudsman do Leanaí, 2002 chuige seo:

- 1 Iniúchadh a dhéanamh ar ghearáin arna ndéanamh ag leanaí agus daoine óga faoi ghníomhartha de chuid eagraíochtaí poiblí
- 2 Cearta agus leas leanaí agus daoine óga faoi bhun 18 mbliana d'aois a chur chun cinn, ar leanaí iad atá ina gcónaí in Éirinn.

Is éard is Ombudsman ann duine neamhspleách a chosnaíonn cearta daoine aonair nó grúpaí i ndáil le cumhachtaí agus gníomhartha eagraíochtaí rialtais agus poiblí.

Eascaíonn an focal Ombudsman ó fhocal Lochlannach a chiallaíonn cosantóir ceart, agus is é sin bun agus barr obair OCO.

Obair OCO chun cearta agus leas leanaí a chur chun cinn:

- A fháil amach cad iad na cúiseanna imní atá ag leanaí agus daoine óga agus a dtuairimí a chur faoi bhráid an Rialtais agus daoine eile a dhéanann cinntí a théann i bhfeidhm ar leanaí agus daoine óga
- Tacú le daoine, lena n-áirítear leanaí agus daoine óga, chun gur féidir leo fáil amach faoi chearta leanaí agus faoin gcaoi ar féidir meas a léiriú ar na cearta sin, na cearta a chosaint agus iad a réadú
- Comhairle a chur ar an rialtas agus ar dhaoine eile chun cuidiú leo a chinntiú go bhfuiltear ag urramú cearta leanaí tráth a bhfuil dlíthe agus pleannanna a mbeadh tionchar acu ar leanaí á gceapadh
- Tathant ar eagraíochtaí poiblí obair ar bhealaí a chuireann chun cinn cearta agus leas leanaí
- Taighde a dhéanamh chun tuiscint níos fearr a fháil ar na saincheisteanna atá tábhachtach do leanaí agus daoine óga

Inár nOifig breathnaímid ar an tionchar a bhíonn ag drochriarachán ar an leanbh agus féachaimid le fáil amach cad é dearcadh an linbh faoina n-eispéiris féin. Chomh maith leis sin, breithnímid conas a bhféadfadh tionchar a bheith aige sin ar chearta an linbh.

Ceann de na gnéithe lárnacha de chur chun cinn agus cosaint cearta leanaí agus daoine eile ná a chinntiú go ndéantar dea-riarachán.

Tá ceart bunúsach chun an dea-riaracháin cumhdaithe in Airteagal 41 de Chairt um Chearta Bunúsacha an Aontais Eorpaigh. Ó tháinig Conradh Liospóin i bhfeidhm in Éirinn in 2009, tá an luach dlíthiúil céanna ag an gCaírt seo is atá ag gach Conradh den AE. Mar thoradh air sin, tá gach duine anois i dteideal dea-riaracháin ar a g(h)nóthaí.

Baineann Ombudsmen agus coimisiúin um chearta daonna ar fud a domhain úsáid as coincheap an dea-riaracháin. Is uirlis é an dea-riarachán a úsáideann Ombudsman chun an caidreamh idir saoránaigh agus an rialtas a thomhas, chun tionchar a imirt air agus chun é a fhorbairt.

Cibé scéal é, tá dualgas níos leithne ar an Ombudsman do Leanaí in Éirinn cearta agus leas leanaí a chur chun cinn agus mar sin trí bhreathnú ar riarachán poiblí ó dhearcadh an linbh is féidir léargas maith a fháil ar conas a bhíonn tionchar neamhfhabhrach ag drochriarachán ar chearta leanaí. Féadfaidh sé a léiriú dúinn freisin conas is féidir le dea-riarachán an saol a leigheas do leanaí.

Sa rannóg seo táimid tar éis béim a leagan ar shaincheisteanna a nascann cearta leanaí le dea-chleachtas riaracháin, nó i roinnt cásanna easpa riaracháin ar fad:

1. An dualgas atá ar an rialtas cúiseanna a thabhairt lena chinntí

Tá sé ina fheidhm bhunúsach den dea-riarachán faisnéis a chur in iúl ar bhealach a chuidíonn le daoine cinntí eolasacha a dhéanamh. Cé gur tháingamar ar roinnt samplaí de seo ar éirigh go maith leo in 2015, tháinig a lán samplaí chun solais nuair nár tharla sé agus bhí tionchar neamhfhabhrach aige ar leanaí. Tá sé tábhachtach go mbeadh comhlachtaí poiblí go hiomlán trédhearcach ina gcinnteoireacht. Is léiriú an dá chás-staidéar seo a leanas ar an tionchar neamhfhabhrach a bhíonn ag easpa trédhearcachta i gcinnteoireacht comhlachtaí poiblí ar leanaí.

Coiste na Scrúduithe Stát (SEC): Freastal réasúnta don Ardeistiméireacht

Achoimre ar an ngearán

Bhí Seán* ar tí an Ardeistiméireacht a dhéanamh i mí an Mheithimh 2015 agus chuir a thuismitheoir gearán faoinár mbráid faoi chinneadh a rinne SEC freastal réasúnta a dhiúltú a bhí iarrtha ag an té óg seo. Bhí Saindeacracht Foghlama i bhfoirm displéice agus dioscailcúile aige agus bhí sé ag lorg léitheora agus tarscaoileadh litrithe agus gramadaí dá scrúduithe. Diúltaíodh freastal ar a riachtanais agus níor éirigh le hachomharc a rinneadh chuig Coiste Neamhspleách Achomhairc SEC.

Níor tugadh aon chúis dá thuismitheoirí cén fáth ar diúltaíodh freastal ar a riachtanais. Chuirmeamar comhairle air dul i dteagmháil athuair le SEC chun go gcuirfidís in iúl cén réasúnaíocht a d'úsáid siad agus an cinneadh á dhéanamh. Nuair a cuireadh é sin ar fáil don thuismitheoir bhí an thuismitheoir fós den tuairim go raibh an cinneadh a rinne siad míchothrom agus chuir gearán faoi bhráid na hOifige seo dá réir.

Scrúdú OCO ar an ngearán

Rinneamar iniúchadh ar an ngearán trí fhreagra a lorg ó SEC ar an ngearán agus cibé acu an bhféadfaí an scéal a réiteach trí athbhreithniú a dhéanamh ar an iarratas nó nach bhféadfaí. Rinne siad athbhreithniú ar an eolas go léir i gcomhaid Sheáin agus fuair siad amach go raibh an scoil tar éis measúnú a dhéanamh ar Sheán trí thaisme ag úsáid an ábhair léitheoireachta mícheart. Ní raibh an t-ábhar léitheoireachta ag an 'leibhéal ceart'. Bhíothas tar éis é a mheas ag úsáid páipéir scrúduithe ag an ngnáthleibhéal cé go raibh sé chun ardleibhéal a dhéanamh i roinnt scrúduithe.

Toradh

Mar sin, d'iarr SEC ar an scoil an tástáil a athdhéanamh leis an dalta agus an t-ábhar cuí a úsáid. Léirigh torthaí an dara triail seo gur chomhlíon Seán na coinníollacha le go bhfreastalófaí ar a riachtanais. Ina dhiaidh sin, cheadaigh SEC léitheoir, tarscaoileadh litrithe/gramadaí/poncaíochta, agus go n-úsáidfí ionad speisialta don dalta seo.

Cuireadh an scoil, na thuismitheoirí agus a mac ar an eolas faoin gcinneadh seo agus bhíodar in ann ullmhú don Ardeistiméireacht dá réir.

** Athraíodh ainm an linbh i gceist ar mhaithe le rúndacht.*

Tá sé seo ar cheann den iliomad gearán a fhaightear ar an gceist seo agus faraor ní bhíonn toradh dearfach orthu go léir. Tá an gearán seo tar éis dhá chúis imní ar leith a ardú dúinn. Ar an gcéad dul síos, rud atá coiteann i measc na ngearán go léir, ní thugtar an chúis leis an diúltú bunaidh mura gcuirtear an cheist go sonrath i scríbhinn chuig SEC.

Mar sin, téann tuismitheoirí isteach i bpróiseas Achomhairc SEC gan eolas iomlán a bheith acu ar bhunús an chinnidh a bhfuil siad ag déanamh achomhairc air. An chúis imní eile ná nár tugadh na hearráidí, a tháinig chun solais agus athbhreithniú á dhéanamh ar an ngearán, ar iarratas na hOifige seo, chun solais ag céim an achomhairc, agus go praiticiúil theip ar an bpróiseas achomhairc don ghearánaí seo.

Don dalta seo bhí toradh sásúil ar an ngearán roimh an Ardeistiméireacht. Cibé scéal é, tá imní orainn faoin gcaoi a bhféadfadh leanaí eile a bheith thíos leis. Mar sin, chinneamar ár gcuid eolais agus na gearáin seo léir faoi SEC a fuaireamar in 2014 agus 2015 a bhailiú chun forléargas a sholáthar ar na saincheistanna a bhaineann le SEC agus chun beartú ar an mbealach is fearr ina bhféadfaimis athruithe a spreagadh do gach leanbh eile a bhféadfadh na cinntí riaracháin seo tionchar a bheith acu orthu. Tá sé beartaithe againn an tuarascáil seo a fhoilsiú in 2016.

2. An dualgas dóthain eolais faoi sheirbhísí a sholáthar

Téama a thagann chun cinn go minic i ndáil le seirbhísí, go háirithe seirbhísí do leanaí faoi mhíchumas, ná an easpa eolais ar cá bhfuil na seirbhísí sin ar fáil. Bíonn sé deacair ar thuismitheoirí a mbealach a aimsiú ar fud córais agus riachtanais a leanaí ar fud a lán comhlachtaí poiblí agus seirbhísí eile a chuireann an tseirbhís phoiblí ar fáil.

Mar shampla, i gcás linbh faoi mhíchumas seans go mbeadh gá aige nó aici le coinní ospidéil, seirbhísí urlabhra agus teanga pobail, iompar scoile, cúnamh speisialta oideachais agus cúram faoisimh ó Fheidhmeannacht na Seirbhíse Sláinte. Níl aon seirbhís náisiúnta stocaireachta ann le haghaidh leanaí faoi mhíchumas agus is minic a fhoghlaimíonn tuismitheoirí ó thuismitheoirí eile níos mó faoi conas rochtain a fháil ar sheirbhísí dá leanbh ná mar a fhoghlaimíonn siad ón "gcóras".

An baol atá ann le droch-chleachtais riaracháin, mar shampla droch-roinnt faisnéise agus moill ar chinntí a fháil, ná go mbeadh drochthionchar acu ar an leanbh agus ar a bhforbairt agus ar riachtanais eile.

Do bhealach a fháil timpeall ar sheirbhísí do leanaí faoi mhíchumas

Rinne tuismitheoirí an chúpla Aidan* agus Seán *, a bhfuil neamhord de chuid speictream an uathachais acu, gearán leis an OCO i ndáil le leithdháileadh uathoibríoch a dhéanann an Roinn Oideachais agus Scileanna ar soláthar Teagaisc Bhaile dá siblíní.

Bhronn an Roinn Oideachais uasmhéid de 10 n-uaire an chloig de Theagasc Baile don bheirt mhac, dar aois 2 bhliain agus 8 mí i mí Eanáir 2013 le roinnt eatarthu. Ina dhiaidh sin méadaíodh é chuig 20 uair an chloig de sholáthar comhroinnte tráth a mbeadh na buachaillí seo 3. Rinne a dtuismitheoirí achomharc ar an gcinneadh seo, ag maíomh nach bhféadfaí oiliúint a chur ar an bheirt lena chéile mar go raibh riachtanais éagsúla acu. Ón eolas tacaíochta a chuir Síceolaí ó Fheidhmeannacht na Seirbhíse Sláinte ar fáil luaigh sé gur bhreithnigh sé na buachaillí ar leithligh óna chéile agus tacaí á bpleanáil amach anseo agus bhí an moladh sin curtha ar aghaidh chuig an Roinn freisin. Cibé scéal é, mhaígh an Roinn gurb é prionsabal grúpála na scoile, bunaithe ar an gcóimheas múinteoirí le daltaí ná 1.6 móide dhá Chúntóir Riachtanas Speisialta, agus é sin curtha i bhfeidhm ar theagasc baile mar bheart eatramhach a raibh sé i gceist leis go gcúiteodh sé don soláthar scoilbhunaithe.

Imscrúdú OCO

Tar éis don OCO imscrúdú a dhéanamh ar an ngearán, chinn an Oifig seo don scoilbhliain 2012/2013, nach raibh aon soláthar i scríbhinn ann ar bhonn leithdháileadh comhroinnte do shiblíní sa Chiorclán maidir le Teagasc Baile, 'job guide' (nós imeachta/treoir inmheánach do phróiseáil iarratas a dhéanann an fhoireann) ar fhoirm iarratais. De bhreis air sin, bhí easpa trédhearcachta ann, i ndáil le hinfhaighteacht na leithdháiltí don Teagasc Baile do shiblíní agus ó thaobh an eolais ba ghá chun teach tar na leithdháiltí indibhidiúla sin. Ní raibh aon phróiseas ann ach oiread mar threoir do ghníomhartha na Roinne agus í ag breithniú na n-iarratas le haghaidh na siblíní.

Chinn OCO freisin go ndearna an Roinn idirdhealú éagórach i gcoinne na mbuachaillí seo sa mhéid nár tugadh an deis dá dtuismitheoirí idirbheartaíocht a dhéanamh chun socruithe eile Teagaisc Baile a fháil, cé go raibh teaghlach eile le siblíní a bhfuil riachtanais speisialta acu agus le leanaí nach raibh gaolta arb cosúil a fuair.

Sa mhéid go raibh easpa trédhearcachta ann agus nár leanadh nós imeachta cóir do theaghlach chun rochtain a fháil ar ghrúphocruithe bhí sé deacair don teaghlach seo, agus d'aon teaghlach eile, rochtain a fháil ar eolas faoi na socruithe sin agus conas rochtain a fháil orthu.

Ar deireadh thiar, chinn OCO go raibh an choinneáil taifead easnamhach agus go raibh moil ann i ndáil le láimhseáil achomharc na dtuismitheoirí ar an leithdháileadh bunaidh den soláthar Teagaisc Baile, nár lorg an Roinn tuilleadh eolais faoi riachtanais na mbuachaillí cé go raibh an deis acu déanamh amhlaidh agus go ndearnadh an leithdháileadh ar sholáthar roinnte ar bhonn eolais neamhiomláin.

Toradh

De bhun moltaí a rinne OCO sa chás seo, leasaíodh an Ciorclán ón Roinn a rialáonn an Teagasc Baile – Gné an Oideachais Speisialta.

Foráiltear sa Chiorclán sin, mar aitheantas ar riachtanais éagsúla siblíní, go ndéanfaí leithdháiltí indibhidiúla a mheas ar bhonn cás ar chás. Foráiltear sa Chiorclán seo freisin, gur féidir méadú ar leithdháileadh le haghaidh siblíní de suas le 50% a iarraidh gan aon eolas tacaíochta breise a sholáthar.

Chomh maith leis sin, d'éisigh an Roinn treoir poist leasaithe chun tacú leis an gcur chuige seo. Cuirtear tuismitheoirí ar an eolas faoi eolas ar shocruithe grúpála mar atá sonraithe i gCiorclán na Roinne, i litreacha arna n-eisiúint mar fhreagra ar iarratais ar Theagasc Baile agus iarratais ar Oifigigh Riachtanas Speisialta Oideachais (SENO) socruithe éagsúla a phlé le tuismitheoirí tráth a bhfuil iarratais á ndéanamh ar an scéim.

Mar aitheantas ar nár tugadh aghaidh ar cheist an tsoláthair do shiblíní ina gCiorclán ag an am a rinne na tuismitheoirí a n-iarratais bhunaidh, cheadaigh an Roinn 550 uair sa bhreis de theagasc do na buachaillí sa chás seo agus 30 uair sa bhreis sa tseachtain go dtí deireadh Dheireadh Fómhair 2014.

Ar deireadh thiar, chun dul i ngleic le moladh OCO go mbrostódh an Roinn an beartas náisiúnta ar uathachas, fuair an Roinn comhairle beartais ó NCSE maidir leis an mbeartas seo in 2015.

** Athraíodh ainm an linbh i gceist ar mhaithe le rúndacht*

OCO Retweeted



Youth Information @YouthInfoDub - 26 Nov 2015

Great talk by Paraic Walsh of @OCO_ireland at the @ChildRightsIRL seminar on Turning Wrongs to Rights.



Today FM News

@TodayFMNews

Childrens Ombudsman wants HIQA to inspect residential care homes for children
todayfm.com/Childrens-Ombu ... via @todayfm

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3. Riarachán Poiblí agus sainchearta leanaí

Leag an oifig seo béim ar an nasc idir riarachán poiblí agus cearta leanaí i dtuarascálacha bliantúla roimhe seo agus táimid tiomanta de cearta leanaí a lorg agus a réadú ar bhealach an-réadúil leosan atá ag obair sa rialtas a dhéanann cinntí faoi leanaí. Áiríonn sé seo na daoine a shocraíonn agus a scríobhann ár reachtaíocht. Mar shampla, sa chéad chás eile bhí contaisc ann le sárú d'fhonn a chinntiú go gcomhlíonfaí Airteagal 7 den UNCRC, an ceart ainm agus náisiúntacht a bheith ag leanbh, agus Airteagal 8, an ceart go ndéanfaí féiniúlacht a chaomhnú.

An ceart ainm a bheith agat

Fuarthas gearán a bhain le hiarrachtaí tuismitheora breith a linbh a bheith cláraithe leis an Phríomh-Oifig Chlárúcháin (GRO) agus uimhir PSP a fháil don Leanbh ón Roinn Coimirce Sóisialaí. Bhí máthair an linbh pósta ach scartha óna fear céile le roinnt blianta.

Faoin reachtaíocht reatha glactar leis gurb é an fear céile athair an linbh murar féidir a mhalairt a chruthú sa chúirt. Mhínigh an gearánach go raibh iarrachtaí déanta aici a léiriú nach a fear céile athair an linbh agus bhí sí ag iarraidh go ndéanfaí teastas breithe an linbh a chlárú gan ainm an athar, mar nach raibh céannacht an athar ar eolas.

Tionchar neamhfhabhrach

Na himpleachtaí a bheadh ag gan breith an linbh seo a bheith cláraithe, ná nach bhféadfadh an leanbh uimhir PSP a fháil ón Roinn Coimirce Sóisialaí, nach bhféadfaí liúntas leanaí a éileamh, agus nach bhféadfaí an leanbh a chlárú mar chleithiúnaí na máthar – rud a bhí ag isteach ar infhaighteacht tithíochta údaráis áitiúil, mar thuismitheoir singil.

Chomh maith leis sin, ardaíonn sé an cheist faoi dhualgas an Stáit Airteagal 8 den Choinbhinsiún um Chearta an Linbh a chomhlíonadh i ndáil le cearta linbh céannacht a bheith acu.

Cé go mb'fhéidir go mbeadh an gearánach in ann faoiseamh a lorg ón mBord um Chúnamh Dlíthiúil, toisc na liostaí feithimh chiallódh sé sin go mbeadh moill ar a laghad naoi mí le haon réiteach ar an scéal. Dá brí sin, d'fhéadfadh an leanbh aois a dó a bhaint amach gan a theastas breithe a bheith cláraithe ná uimhir PSP a bheith eisithe.

Imscrúdú OCO ar an ngearán

Bhí teagmháil idir muid agus GRO, trí mheán an réamhscrúdaithe, i ndáil le réiteach éigin a lorg ar cheist an chlárúcháin breithe. Bhí an freagra bunaithe ar go raibh de dhualgas ar an ngearánach cloí le hAlt 4 den Acht um Stádas Leanaí 1987 agus gur ghá an bhreith a bheith cláraithe de réir Alt 19 d'Acht 24 (An tAcht um Chlárú Sibhialta).

Is éard a chiallaigh sé sin go bunúsach gur chóir an bhreith a chlárú le hainm an fhir chéile mar athair, faoi rial 'thoimhde na hathrachta', agus go bhféadfaí rialú in aghaidh na toimhde sin a níos déanaí agus í a leasú tráth a mbeadh dóthain fianaise curtha ar fáil. Cibé scéal é, bhí an gearánach tar éis iarracht déanamh amhlaidh, ach dhiúltaigh oifig GRO dá hiarratas.

Bhí plé againn athuair le GRO, ag lua na n-iarachtaí a bhí déanta cheana féin, agus ag an staid seo glacadh leis go dtí, GRO, Joyce House, sásta anois an bhreith a chlárú (le hainm an fhir chéile mar athair, a d'fhéadfaí a leasú níos déanaí). Chuidigh abhcóide don tuismitheoir leis an mháthair dul tríd an bpróiseas clárúcháin seo.

Maidir le heisiúint na huimhreach PSP bhí plé againn leis an Roinn Coimirce Sóisialaí, Seirbhísí Céannachta Cliant (CIS). Thug CIS freagra dearfach orainn agus aontaíodh go mbreathnófaí ar an gcás arís ag an leibhéal is airde, dá gcuirfeadh an gearánach nó a habhcóide sonraí uile an cháis ar fáil. Breithníodh eisiúint uimhir PSP in éagmais teastais bhreithe. Chuir sé sin tús le próiseas mar ar eisíodh uimhir PSP ar deireadh thiar don leanbh, bunaithe ar an bhfianaise chuí go léir a bhain leis an mbreith a beith curtha i láthair (ach gan an teastas breithe a bheith ann, a bhí á phróiseáil ar leithligh.

Toradh

Mar thoradh ar idirghabháil na hOifige seo, d'aontaigh an dá chomhlacht poiblí lenar bhain an cheist seo ar deireadh thiar feidhmiú ar bhealach lánroghnach agus leanbhlanaithe, agus bhí toradh dearfach air sin dá bharr don leanbh. Sa chás seo, bhí cinní tosaigh déanta ag leibhéal na roinne áitiúla, agus cé go mb'fhéidir go raibh siad ceart ó thaobh an riaracháin de, níor chuir siad san áireamh na coinníollacha speisialta a bhaint leis an leanbh seo agus an tionchar neamhfabhrach a bheadh ag na cinní sin ar an leanbh.

An príomhbhac a bhí le breith an linbh seo a chlárú ná an riail 'toimhde na hathracha'. Chonaiceamar sa chás seo conas is féidir le riail deacrachtaí a chruthú ó thaobh teacht salach ar cheart atá ag leanbh céannacht a bheith acu de réir mar atá cumhdaithe in Airteagal 8 de Choinbhinsiún na NA um Chearta an Linbh.

Tá toimhde na hathracha seo sa reachtaíocht (An tAcht um Stádas Leanaí, 1987, Alt 46). Faoi láthair tá Alt 19 den Acht um Chlárú Sibhialta 2004 fós i bhfeidhm agus sonraítear ann an ceanglas gach breith a chlárú. De réir cosúlachta cuirfidh an Acht um Chlárú Sibhialta (Leasú) 2014 raon áirithe ar fáil go bhfeidhmeodh GRO go lánroghnach agus breith á chlárú, i gcás go raibh cúinsí eisceachtúla i gceist a d'fhéadfadh a bheith ina mbac ar an gclárú. Ceadóidh Acht 2014 anois lánrogha a úsáid chun breith a chlárú chun 'cruatan míchuí' a sheachaint'. Cé gur ritheadh an tAcht seo, níor tugadh tosach feidhme do na forálacha cuí go fóill.

RANNÓG 3
**GEARÁIN &
IMSCRÚDUITHE**

Faoin Acht um Ombudsman do Leanaí 2002 (arna leasú) féadfaidh an Oifig imscrúdú a dhéanamh ar ghearáin arna ndéanamh ag leanaí agus daoine óga, nó ag daoine fásta thar ceann na leanaí agus na ndaoine óga, faoi eagraíochtaí poiblí, scoileanna agus ospidéal.

Tá an tseirbhís seo saor in aisce, neamhspleách agus neamhchlaonta. Féadfaidh gearánaigh a ngearán a chur isteach le litir nó ar an bhfoirm ghearáin ar líne. Déantar cás-oibrí a shannadh do gach gearánach mar theagmhálaí san Oifig.

Is í feidhm na ngearán agus na n-imscrúduithe croífhaidhm ár n-oibríochtaí, agus bíonn ár bhfoireann imscrúduithe thar a bheith gnóthach ag obair ar raon éagsúil de ghearáin.

Conas a dhéantar gearáin a phróiseáil in Oifig an Ombudsman do Leanaí

Déanaimid gach iarracht gach gearán a bhrú chun cinn agus a chur i gcrích ar bhealach chomh héifeachtach, tíosach agus is féidir, ach fós féin bímid ar ár ndícheall a bheith cóir cothrom leis an ngearánach agus leis an gcomhlacht poiblí i gceist ar aon.

Cuirimid chun cinn an 'réiteach ar bhonn áitiúil' mar ghné lárnach dár n-obair, de réir phrionsabail idirnáisiúnta Ombudsman.

I gcás go bhfuil gearán lasmuigh dár sainréimse cúraim, nó mura bhfuil forais imleora ann chun an gearán a scrúdú, cuirimid comhairle ar fáil faoi eagraíochtaí eile a d'fhéadfadh cúnaimh a chur ar fáil. D'fhéadfadh go gcinntimis freisin gearáin a aistriú chuig comhlachtaí eile, mar shampla chuig Oifig an Ombudsman, má aontaíonn an gearánach.

I gcás go gcinntimid gearán a imscrúdú ar dtús breithnímid cibé acu an féidir na cúiseanna imní agus gearáin a réiteach go gasta. D'fhéadfadh an cás-oibrí glaoch ar an eagraíocht i gceist go díreach chun a phlé leo an bhféadfaí teacht ar réiteach gasta, ar mhaithe le leas is fearr an linbh.

Is minic a bhímid i dteagmháil le comhlachtaí poiblí ar bhonn níos ginearálta chun feabhas a chur ar ár mbeartais, ár gcleachtais agus ár nósanna imeachta ionas go mbeimid in ann na torthaí is fearr a bhaint amach do gach leanbh a d'fhéadfadh a bheith i dteagmháil leis na comhlachtaí sin.

I gcás go bhfuil an scéal níos casta agus nach féidir réiteach sásúil a sholáthar, d'fhéadfaimis dul ar aghaidh agus imscrúdú a chur sa tsiúl agus ar an gcaoi sin a chinneadh cibé acu ar chuir gníomh nó neamhghníomh an chomhlachta poiblí sin isteach go neamhfhabhrach ar leanbh nó nach ndearna.

Fiú ag céim an imscrúdaithe tá an deis ag an gcomhlacht poiblí agus ag an ngearánach aontú ar bhealach chun an scéal a réiteach chun maolú a dhéanamh ar aon tionchar neamhfhabhrach ar an leanbh. I gcás go dtarlaíonn sé sin, d'fhéadfaimis an cás a dhúnadh ach coinnímid i gcónaí an lánrogha an t-imscrúdú a chríochnú amach má tá saincheist chórasach i gceist a d'fhéadfadh dul i bhfeidhm ar níos mó leanaí. Agus tharla sé sin go mion minic go nuige seo.

D'fhéadfadh sé roinnt mhaith ama a thógáil imscrúdú iomlán a chur i gcrích, agus cé go ndéanaimid gach iarracht an próiseas a bhrostú, ní pléadalaí muid ar son an linbh ná ní lucht freasúra muid in aghaidh an chomhlachta phoiblí agus mar sin is gá dúinn a bheith cóir cothrom agus meas a léiriú ar gach páirtí agus an deis a thabhairt dóibh a gcás a chur i láthair sula nglactar cinneadh.

Go sonrach, breathnaítear sa phróiseas imscrúduithe ar an tionchar neamhfhabhrach ar an leanbh, chomh maith leis an ngníomh riaracháin féin, chun a fháil amach an ndearnadh an gníomh sin:

- gan údarás cuí;
- ar fhorais neamhábhartha;
- mar thoradh ar fhaillí nó míchúram;
- bunaithe ar fhaisnéis earráideach nó neamhiomlán;
- idirdhealaitheach go míchuí;
- bunaithe ar chleachtas neamh-inmhianaithe riaracháin; nó
- ar bhealach eile a bheadh contrártha le riarachán cóir stuama.

Bíonn an t-eolas a fhaighimid trí imscrúdú a dhéanamh ar ghearáin i gcónaí ag tabhairt léargais luachmhara dúinn ar eispéiris leanaí agus teaghlach ag déileáil le seirbhísí poiblí.

Chomh maith leis sin, léiríonn sé gníomhartha dearfacha na gcomhlachtaí poiblí chun cúiteamh a dhéanamh le haghaidh na n-earráidí a rinne siad, agus go deimhin féin cásanna inar fheidhmigh na comhlachtaí poiblí go cuí.

Leas is fearr an linbh

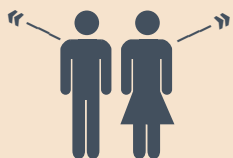
Sonraítear san Acht freisin na forálacha sonracha sa reachtaíocht a chuireann san áireamh go bhfuil leanaí leochaileach ach go háirithe agus go mbeidh aird ag an Oifig um Ombudsman do Leanaí ar leas is fearr an linbh agus iad ag feidhmiú a feidhme gearán.

CONAS GEARÁN A DHÉANAMH

Féadfaidh na daoine seo a leanas gearán a dhéanamh thar ceann leanaí agus daoine óga



Tuismitheoir



Neasghaolta



Gairmithe ag obair
le leanaí

OR

18

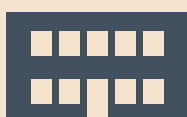
Is féidir le haon duine faoi bhun 18 gearán a dhéanamh le OCO

1

Cad is féidir liom gearán a dhéanamh ina thaobh?



Scoileanna



Ospidéal



Gach Roinn
Rialtais



Comhlachtaí poiblí áirithe
arna maoiniú ag an Rialtas

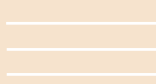
2

Sula ndéanann tú gearán



Déan iarracht an fhadhb a réiteach leis an eagraíocht

1
2
3



Cuir ceist faoina bpróiseas gearán

Má tá tú fós míshásta seans gur chóir duit ansin teagmháil a dhéanamh le OCO



OCO

3

Nuair atá gearán á dhéanamh agat



Beidh a mhéid eolais agus is féidir ag teastáil ó OCO

Ní ceadmhach dúinn taobhú le páirtí amháin thar páirtí eile



Breithneoidh an fhoireann Gearán agus Imscrúduithe ar na chéad chéimeanna eile



4

Más gá tuilleadh imscrúdaithe a dhéanamh

X



I gcás go gcinneann an oifig go raibh tionchar neamhfhabhrach ag gníomhartha na heagraíochta ar leanbh & go raibh sé míchóir ...



... d'fhéadfadh OCO moladh a dhéanamh leis an eagraíocht

5

Conas teagmháil a dhéanamh leis an oifig?



Ríomhphost



Post



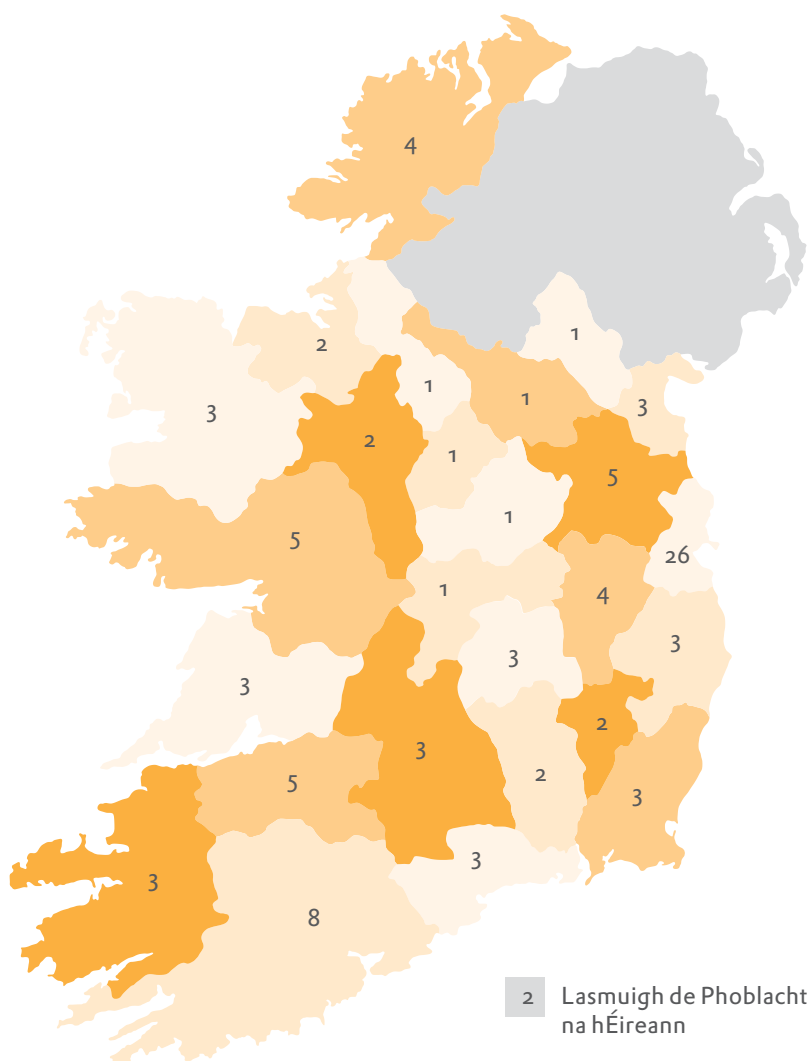
Saorghlao

3.1. Gearáin ar deáileáladh leo in 2015

Bhí 2015 ina bliain thar a bheith gnóthach ó thaobh líon na ngearán de. Fuaireamar 1639 ngearán nua agus dá bhrí sin bhí sí ar an mbliain ba ghnóthaí ó bunaíodh an Oifig in 2004. Fuaireamar 119 ngearán níos mó ná 2014 agus is ionann sin agus ardú **8%**.

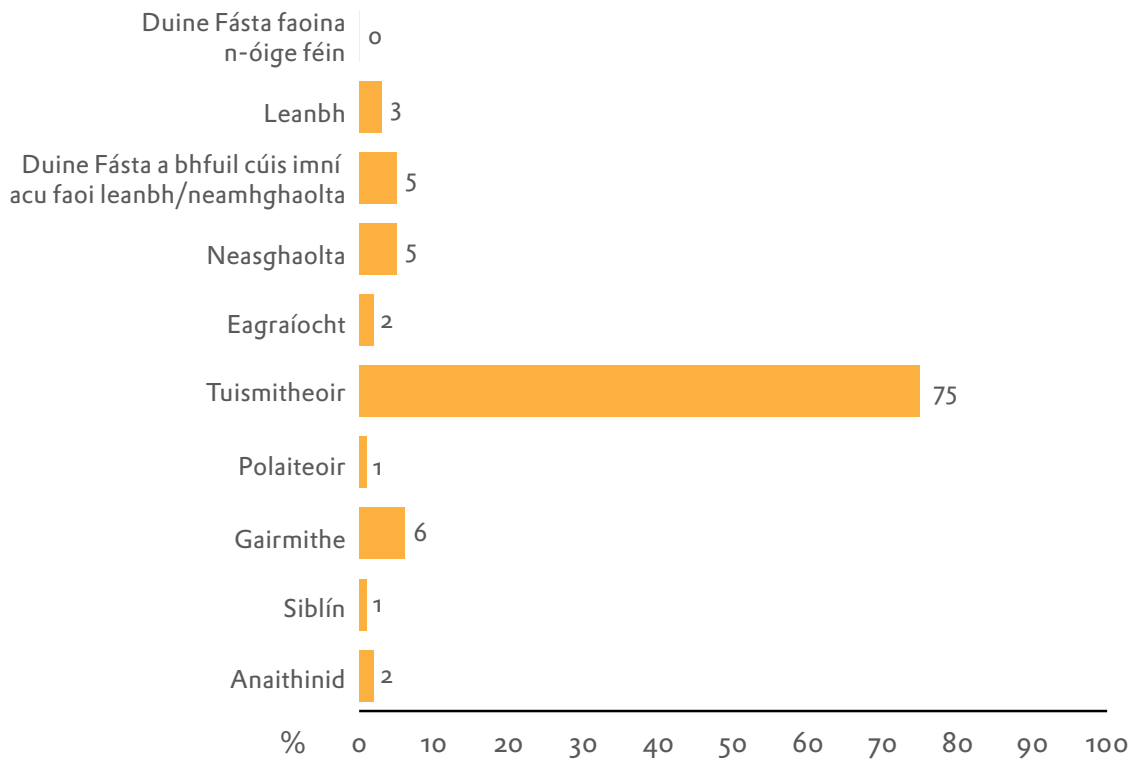
3.2 Cé uaidh a fhaighimid ár ngearáin in Éirinn

Tábla 1: Gearáin de réir Contae % in 2015



Mar is léir ón léaráid seo faighimid ár ngearáin ó limistéir uirbeacha agus thuithe ar an fud na hÉireann. Sa mhéid gurb é Baile Átha Cliath an limistéir leis an daonra is mó is ón limistéar sin a fhaighimid an líon is airde gearán (26%). Tá na gearáin ó na contaetha eile dáilte go cothrom.

Tábla 2: Cé hiad ar féidir leo teagmháil a dhéanamh linn?



I dTábla 2 léirítear gur tuismitheoir, siblín nó neasghaol a d’imigh i dteagmháil linn i gcás 81% de ghearáin. Léiríonn sé sin an ról ríthábhachtach atá ag an teaghlach agus iad ag lorg sásaimh dá leanaí i gcás go bhfuil siad den tuairim gur theip an tseirbhís phoiblí ar na leanaí/daoine óga sin, scoileanna san áireamh.

Tá sé tábhachtach freisin a chur san áireamh go mbíonn líon ard gairmithe a théann i dteagmháil leis an oifig seo chun pléadáil ar son leanaí. Rinne a lán gairmithe éagsúla teagmháil leis an Oifig seo le linn 2015 lena n-áirítear múinteoirí, príomhoidí scoile, oibríthe sóisialta agus foireann cúraim chónaitheach agus caomhnóirí ad litem. D’imigh daoine eile i dteagmháil linn freisin, mar shampla eagraíochtaí neamhrechtúla a bhíonn ag obair le leanaí faoi mhíchumas, leanaí atá ina mbaill den lucht taistil agus leanaí i gcúram – i gcás go raibh siad buartha faoi chearta leanaí nó leas leanaí mar gheall ar ghníomhartha comhlachtaí poiblí i roinnt cásanna agus neamhghníomhartha i gcásanna eile.

Léiríonn sé seo athuair, fairsinge shochoaí na hÉireann a d’imigh i dteagmháil leis an Oifig chun cúiseanna imní a chur in iúl faoi sheirbhísí poiblí thar ceann leanaí. Mar Oifig fáiltimid roimh gach teagmháil thar ceann leanaí. Trí bhéim a leagan ar na saincheisteanna a mbíonn ar leanaí aghaidh a thabhairt orthu, agus iad ag rochtain nó ag úsáid seirbhísí poiblí, is féidir linn tionchar mór a bheith againn ar athruithe ní hé amháin don leanbh aonair ach do gach leanbh sa phobal.

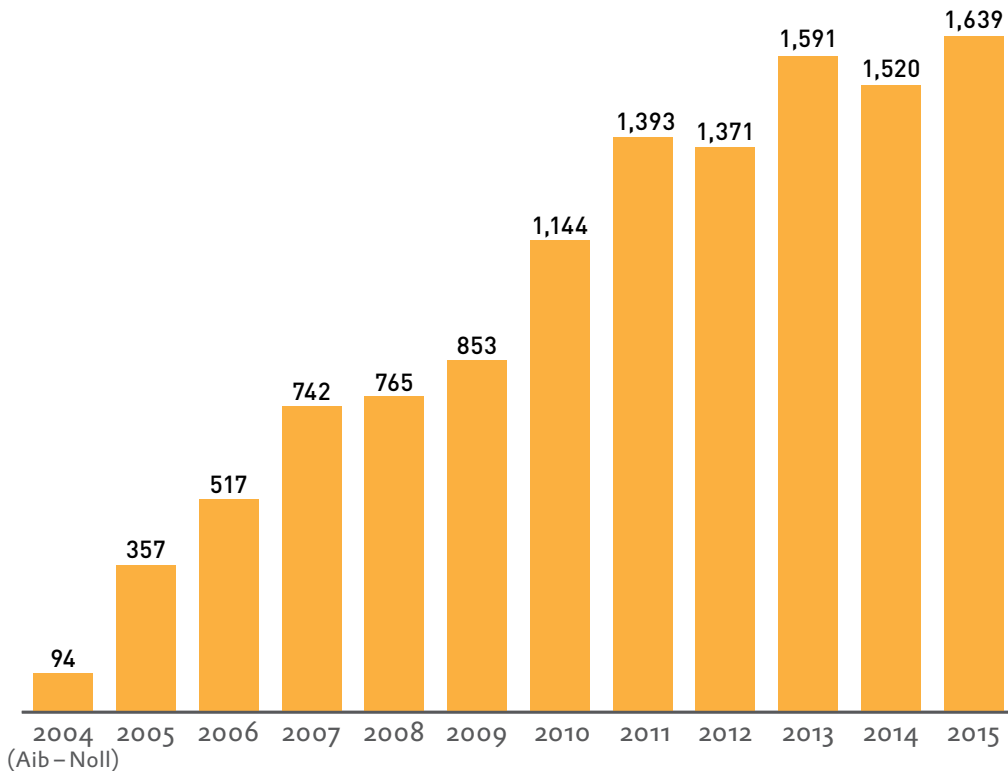
3.3 Líon na ngearán ag dul in airde

D'ardaigh líon na ngearán ar dhéileáileamar leo ó bhí 2004 ann ó níos lú ná 100 in 2004 go dtí 1,639 in 2015.

Ó foilsíodh ár nAcht bunaidh in 2002 tá raon ár sainchúraim méadaithe go suntasach. Bíonn níos mó is níos mó éilimh ar ár n-aonad gearán agus imscrúduithe mar thoradh ar níos mó gearán agus cineálacha nua gearán a bheith á gcur faoinár mbráid chomh maith le 200 comhlacht poiblí a bheith curtha faoinár sainchúraim ó 2013 i leith. Mar shampla, tháinig Coimisiún na Scrúduithe Stáit faoinár sainchúram an tráth úd agus in 2014 agus 2015 fuair an Oifig seo 132 ghearán i ndáil leis an gCoimisiún, agus d'éascair 40 cás indibhidiúil as sin agus rinneamar anailís chórasach ar shaincheistanna riaracháin.

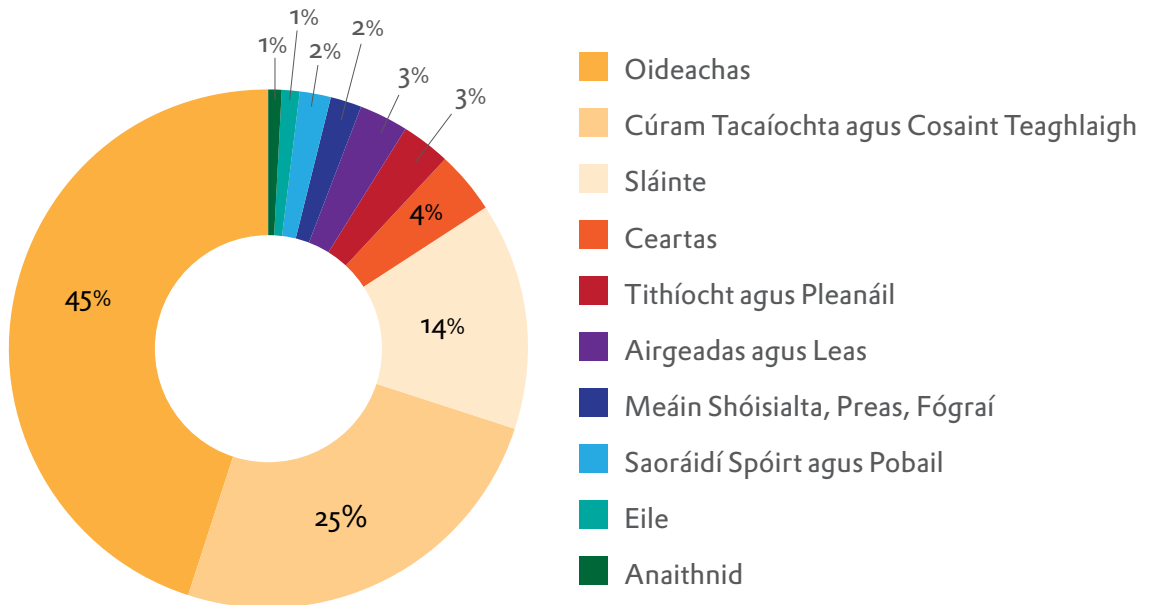
I dTábla 2 léirítear gur ardaigh an t-éileamh ar ár seirbhísí go suntasach ó 94 chás in 2004 go dtí 1,639 in 2015.

Tábla 3: Líon na ngearán nua de réir bliana 2004 – 2015



3.4 Cad faoi a fuaireamar na gearáin in 2015?

Tábla 4: Céatadán na n-uaireanta a ndearnadh gearán faoi earnáil ar leith in 2015



Mar is léir ó Thábla 4 thuas, bhí earnáil an oideachais (45%) ar an earnáil is mó a ndearnadh gearán ina taobh, i gcás 25% de ghearáin is iad na hearnálacha Seirbhísí Tacaíochta, Cúram agus Cosanta Teaghlaigh a bhí i gceist agus bhain 14% de ghearáin leis na seirbhísí sláinte.

Seo i gcomparáid le 2014 tráth ar bhain gearáin i ndáil le hoideachas le 47% de ghearáin, bhí na hearnálacha Seirbhísí Tacaíochta, Cúram agus Cosanta Teaghlaigh i gceist le 25% de ghearáin agus bhain 11% de ghearáin le seirbhísí sláinte.

3.5 Earnáil an Oideachais

In 2015, bhain 45% de ghearáin a fuair an Oifig le leanáí agus a gcuid oideachais. Is gá a nótáil nár bhain na gearáin sin le scoileanna indibhidiúla amháin ach le cinntí riaracháin freisin a rinne raon eagraíochtaí oideachais a thagann faoi scáth shainchúram Oifig an Ombudsman do Leanáí mar shampla an Roinn Oideachais agus Scileanna, an Chomhairle Náisiúnta um Oideachas Speisialta agus Coimisiún na Scrúduithe Stáit. Seo laghdú de 2% i gcomparáid le 2014.

Baineann sé seo le laghdú beag de ghearáin faoi scoileanna. Tá sé suntasach gur laghdaigh an líon gearán faoi iompar míchuí gairmiúil, agus is féidir é sin a chur i leith na feasachta níos fearr atá ann lasmuigh de shainchúram na hoifige ina leith seo.

Tábla 5: Miondealú ar ghearáin a bhain le hoideachas in 2015

| Seo a leanas na fochatagóirí is mó faoi réimse an oideachais: | |
|--|--|
| Láimhseáil líomhaintí maidir le hiompar míchuí gairmiúil | |
| Láimhseáil cúiseanna imní faoi phiarbhulaíocht | |
| Torthaí agus freastal ar riachtanais scrúduithe | |
| Láimhseáil gearán, cinntí agus beartas | |
| Díbirt as scoil, fionraí ó scoil agus rollúchán scoile | |

Mar shampla, mar is léir ó Thábla 5 thuas, is é an fochatagóir is mó faoin oideachas ná láimhseáil líomhaintí faoi iompar míchuí gairmiúil múinteoirí agus foirne scoile.

Coisctear go sonrach ar an Oifig seo breithniú a dhéanamh ar shaincheistean a bhaineann le hiompar gairmiúil agus tá an Oifig ag stocaireacht le go gcuirfí i bhfeidhm Cuid 5 den Acht um Chomhairle Mhúinteoireachta (2001) sa mhéid nach bhfuil sé cóir cothrom ar thuismitheoirí, leanaí agus scoileanna nach bhfuil sásra maith ann chun gearán a dhéanamh faoi iompar múinteora. Is cúis mhór imní é seo don Oifig agus is saincheist í a d'ardaíomar le hAirí Oideachais éagsúla. Is gá tosach feidhme a thabhairt dó sin chomh luath agus is féidir.

Rinneamar iniúchadh ar ghearáin ó raon leathan réimsí oideachais a théann i bhfeidhm ar leanaí, mar shampla an scéim maidir le freastal réasúnta do dhaltaí ag Scrúduithe na hArdteisteiméireachta, leithdháileadh acmhainní ar leanaí faoi mhíchumas agus soláthar teagaisc bhaile. Gach bliain, déileálaimid freisin le gearáin faoi iompar scoile.

Ceann de láidreachtaí na hOifige seo ná raon leathan ár sainchúraim sa mhéid go dtugann sé an deis dúinn iniúchadh a dhéanamh ar ghníomhartha riaracháin a théann i bhfeidhm ar oideachas leanaí a d'fhéadfadh a bheith lasmuigh de smacht na scoileanna.

Cuireann sé seo forléargas ar fáil don Oifig ar láidreachtaí, chomh maith le dúshláin, ar fud earnáil an oideachais. Tá an próiseas sin léirithe sa sampla thíos.

Cás maidir le hiompar scoile

Bhí Áine* ag fáil deontais do riachtanais speisialta iompair chun cuidiú léi freastal ar an scoil áitiúil. Cibé scéal é, nuair a d'aistrigh a teaghlach teach ní raibh a scoil ar an scoil is cóngaraí a thuilleadh. Diúltaíodh don iarratas ar go gcoinneofaí a socrúchán reatha scoile mar gur mheas an Bord um Achomharc Iompair Scoile nach raibh sé ar an scoil is cóngaraí dá baile nua. Gaelscoil an scoil ba chónagaraí di agus ní raibh sé sin oiriúnach di mar gheall ar a riachtanais speisialta mar nach raibh Gaeilge ag Áine.

De bhreis air sin, bhí a teaghlach tar éis aistriú tí a dhéanamh roimhe sin agus d'éirigh leis an iarratas ar riachtanais speisialta iompair an tráth úd. Chuir STAB in iúl go bhféadfaí cur isteach ar iompar ar bhonn lámhaltais. Measadh nach raibh sé sin oiriúnach d'Áine, ámh, mar gheall ar easpa maoirseachta ar chórais iompair dá leithéid.

Theastaigh ó Áine féin fanacht ag a scoil reatha mar go raibh sí sona ann agus go raibh an-dul chun cinn déanta aici go háirithe go sóisialta.

Imscrúdú OCO ar an ngearán

Rinneamar imscrúdú ar an ngearán trí fhreagra a lorg ón Roinn Oideachais agus Scileanna i ndáil leis an gcás lena n-áirítear an réasúnaíocht leis an gcinneadh agus fiosrú faoin achomharc a rinneadh ar an deontas, i bhfianaise go raibh aistriú an teaghlach teach cheana.

Toradh

Rinne an Roinn Oideachais agus Scileanna athbhreithniú ar an gcás agus chinn an Roinn go raibh Áine incháilithe don iompar scoile mar a bhreithníodh ar an gcéad dul síos faoi théarmaí na Scéime Iompair Scoile do Leanaí a bhfuil Riachtanais Speisialta Oideachais acu agus faoi théarmaí na scéime sin bhí sí incháilithe don iompar scoile.

Ach, chinn an Roinn, sa mhéid go raibh Áine ag freastal ar iar-bhunscoil gur chóir go mbeadh na critéir a úsáidfí chun incháilitheacht don iompar scoile a mheas ag teacht leis na critéir chun incháilitheacht a mheas faoi Scéim Iompair Iar-bhunscoile na Roinne. Faoi théarmaí na scéime sin, bheadh leanbh incháilithe don iompar scoile sa chás gur shásaigh siad an critéir a bhain le hachar go dtí an scoil agus go mbeidís ag freastal ar an ionad is cóngaraí. Féadfaidh ionad cúpla iar-bhunscoil a chuimsiú.

Mar sin, bhí scoil Áine incháilithe agus sa mhéid nach raibh aon seirbhís oiriúnach taistil ann, rinneadh Deontas Iompair Speisialta a thairiscint dá tuismitheoirí chun an costas a sheasamh a bheadh ar a socrúithe príobháideacha taistil.

Dúirt an Roinn leis an OOC freisin go mbeidh feidhm ag na critéir incháilitheachta seo i leith cásanna leanaí eile ar cásanna iad atá cosúil le cás Áine.

**Athraíodh ainm an linbh i gceist ar mhaithe le rúndacht*

3.5.1 Gearáin faoi bhunscoileanna agus iar-bhunscoileanna

In 2015 bhain 29% de gach gearán a rinneadh leis an Oifig seo le scoileanna.

Saincheist choitianta a mbímid ag déileáil leis ná tuismitheoirí ag dul i dteagmháil linn nach dtuigeann cá dtiocaidh siad ar chúnamh nó fiú cá ndéanfaidh siad fiosrúchan má tá gearán acu faoi scoil, mar nach bhfuil aon eolas ar fáil dóibh faoin bpróiseas gearáin. Bíonn tuismitheoirí eile ann a rinne gearán ach nach bhfuair aon fhreagra agus is minic a bhíonn moil fhada ann ó scoileanna ag freagairt a ngearáin. Ní cleachtais mhaithe riaracháin ceachtar de na cleachtais sin.

I gcásanna eile, bíonn an Oifig i dteagmháil ar bhonn gníomhach le scoileanna agus gearánaithe chun dul i ngleic le saincheisteanna lena n-áirítear bualadh go díreach le tuismitheoirí agus baill den Bhord Bainistíochta, eolas tábhachtach a lorg i scríbhinn agus ar deireadh thiar idirbheartaíocht agus tionchar a imirt ar na páirtithe iomchuí chun teacht ar réiteach.

I bhformhór na gcásanna éiríonn lenár nOifig tionchar a imirt ar réitigh áitiúla idir an gearánach agus an scoil. Mar shampla de seo tá an ról againn sna cásanna indibhidiúla an dá pháirtí a chur san áireamh agus aontú ar eadráin, agus i roinnt cásanna na leanaí a chur ar ais i socrúchán lánaimseartha scoile.

San fhadtéarma, is minic a bhíonn tionchar an-dearfach tar éis dúinn páirt a ghlacadh sa scéal. Sna cásanna sin, rinne a lán Bord Bainistíochta agus Príomhoidí Scoile glacadh lenár moladh agus cuireadh i bhfeidhm an moladh sin maidir le feabhsúcháin a rinne ár n-oifig.

I measc na samplaí áirítear scoileanna ag athbhreithniú agus ag feabhsú beartais bhulaíochta tar éis gearán a fháil, feabhas a chur ar choinneáil taifead, tosú ag plé go díreach le teaghlaigh ag céim luath agus trédharcacht níos fearr a sholáthar maidir le bainistiú gearán trí chomhroinnt eolais le tuismitheoirí faoi conas gearán a dhéanamh. Sna cásanna sin ní hé an leanbh indibhidiúil agus na tuismitheoirí a bhain sochar as an bpróiseas rannpháirtíochta ónár nOifig ach bhain pobal iomlán na scoile leas as lena n-áirítear iadsan a bheidh ag freastal ar an scoil amach anseo. Tá na hathruithe córasacha seo riachtanach chun feabhsúcháin a spreagadh ar mhaithe le leas is fearr an linbh ar scoil.

Sampla de ghearán faoi scoil

Achoimre ar ghearán

Bhí Séamus* ar thuras scoile tráth ar ghlac leanbh eile grianghraf de agus roinn é ar Aip meán sóisialta agus bhí ráiteas maslach ag gabháil leis an ngrianghraf sin. Cé gur bhainistigh an scoil ar tharla ag an uair, rinne tuismitheoirí Shéamus gearán linne nach raibh an scoil tar éis míniú a dhóthain a thabhairt dóibh faoi cén fáth nár cuireadh iad ar an eolas láithreach faoinar tharla.

Imscrúdú OCO ar an ngearán

Rinneamar imscrúdú ar an ngearán trí fhreagra a lorg ó phríomhoide na scoile faoin mhoill, ón mbord bainistíochta faoi bheartais a bhí ar fáil ag an uair chun an cleachtas a threorú faoi úsáid fóin phóca agus cibé acu an raibh aon rud a d'fhéadfadh an bord bainistíochta a fhoghlaim chun déileáil lena leithéid amach anseo. Dar linn, bhí an scoil tar éis réasúnaíocht a sholáthar agus leithscéal a ghabháil le tuismitheoirí Shéamus gan mhoill. Cé gur chinneamar nach ndearna an scoil drochriarachán sa chás seo mheasamar go raibh ceachtanna le foghlaim chun nach dtarlódh a leithéid arís.

Toradh

- Leasaigh an bord bainistíochta a mbeartas maidir le fóin phóca agus d'aontaigh siad athbhreithniú a dhéanamh air gach bliain.
- D'eagraigh an scoil, i gcomhar le Comhairle na dTuismitheoirí léacht oscailte do thuismitheoirí maidir le sábháilteacht ar an idirlíon.
- Síníonn gach tuismitheoirí comhaontú ag admháil nach bhfuil cead fóin phóca agus ceamaraí digiteacha a úsáid ar thurais scoile.
- Thug an bord bainistíochta isteach nósanna imeachta nua do mhúinteoirí atá i bhfeighil turas scoile maidir le bainistiú tarluithe dá leithéid.
- *Athraíodh ainm an linbh i gceist ar mhaithe le rúndacht

**Athraíodh ainm an linbh i gceist ar mhaithe le rúndacht*

3.6 Tacaíocht Teaghlaigh, Cúram agus Cosaint

Baineann 25% de gach gearán a fhaighimid le Tacaíocht Teaghlaigh, Cúram agus Cosaint. Cuimsíonn sé seo gach réimse faoi shainchúram na Gníomhaireachta um Leanaí agus an Teaghlach agus na Roinne Leanaí agus Gnóthaí Óige

Tacaíocht teaghlaigh, cúram agus cosaint in 2015 (25% de gach gearán a fuarthas)

Tábla 6: Fochatagóirí na ngearán faoin thacaíocht teaghlaigh agus cosaint leanaí

Seo a leanas na fochatagóirí is mó de ghearáin faoi thacaíocht teaghlaigh, cúram agus cosaint:

Láimhseáil cúiseanna imní agus seirbhísí cosanta leanaí

Cúram malartach

Tacaíocht Teaghlaigh

Seirbhísí Eile Oibre Sóisialta

Cúram Leanaí, réamhscoil agus an Scéim um Chúram agus Oideachas na Luath-Óige (ECCE)

Baineann formhór na ngearán faoi thacaíocht teaghlaigh, cúram agus cosaint le TUSLA – an Gníomhaireacht um Leanaí agus an Teaghlach. Bhain na gearáin go príomha le bainistiú na gcúiseanna imní faoi chosaint leanaí lena n-áirítear eolas easnamhach, easpa trédhearcachta faoi chinnteoireacht agus cur i bhfeidhm Tús Áite do Leanaí: Treoir Náisiúnta um Chosaint agus Leas Leanaí agus beartas náisiúnta chun leanaí a chosaint agus chun a leas a chur chun cinn.

Bhí a lán cúiseanna imní ann freisin faoi leanaí i gcúram go háirithe i ndáil le pleanáil don toadh agus infhaighteacht raon socrúcháin chun freastal ar a riachtanais. Bhí raon leathan gearán ann, mar shampla déagóirí i gcúram nár bhrath gur cuireadh a dtuairimí san áireamh tráth a raibh cinntí á ndéanamh fúthu agus seirbhísí neamhleora, easpa idirchaidrimh chúil idir gníomhaireachtaí agus easpa freagraí ar ghearáin. Is téamaí comónta iad seo sna gearáin faoi TUSLA, an Gníomhaireacht um Leanaí agus an Teaghlaigh.

Bhí an-mhoill ann freisin ó TUSLA, an Gníomhaireacht um Leanaí agus an Teaghlaigh, muid a fhreagairt. Seo ceist a d'ardaíomar leis an ngníomhaireacht agus a bhfuil sé i gceist againn dlúthmhonatóireacht a dhéanamh air mar nach bhfuil sé cóir cothrom ar leanaí agus daoine eile a thagann chugainn lena ngearán. Cé g bhfuil an Oifig seo mar rogha dheiridh le haghaidh tuismitheoirí agus leanaí a bhfuil gearán acu, tá sé de dhualgas orainn toradh a sholáthar chomh gasta agus is féidir linn é mar go raibh moill ar fhreagra ón gcomhlacht poiblí a ndearnadh gearán faoi, agus ní féidir glacadh leis sin ar chor ar bith. Breithneoidimid ár roghanna, lena n-áirítear trí mheán na reachtaíochta, chun a chinntiú go mbeidh agá freagartha níos gasta ann ó chomhlachtaí poiblí in 2016.

Sampla de ghearán faoi TUSLA, an Ghníomhaireacht um Leanaí agus an Teaghlach

Achoimre ar an ngearán

Bhí Jack* ina dhéagóir nuair a cuireadh é faoi chúram Tusla agus cuireadh é i gcóiríocht éigeandála mar nach raibh aon socrúchán eile ar fáil dó. Cuireadh in iúl dó, toisc a aoise agus é ag iontráil an chórais faoi chúram, nach gcuirfí aon seirbhísí iarchúraim ar fáil dó go dtí go mbeadh sé 18 mbliana d'aois.

Dúirt Jack linn mar thoradh ar a bheith gan dídean agus sna seirbhísí do dhaoine gan dídean, nach raibh aon áit aige le dul i rith an lae.

Bhí sé míshona nach scaoilfí isteach é chuig a leaba ag an amanna áirithe agus mar thoradh air sin bheartaigh sé oíche a chaitheamh ag spaisteoireacht ar fud lár na cathrach seachas fanacht sa chóiríocht éigeandála.

Imscrúdú OCO ar an ngearán

Ina bhfreagra ar ár réamhimscrúdú dúirt Tusla linn go rabhthas tar éis socrúchán sealadach cónaitheach a fháil ach go raibh moill ann Jack a aistriú chuig an socrúchán sin mar go raibh cúiseanna imní ann faoina iompar le daoine óga ag an ionad. Ba thrua, dar leo, nach rabhthas tar éis socrúchán eile a aimsiú níos gasta agus aithníodh na 'srianta' a bhí ar Tusla ó thaobh socrúcháin éigeandála cóiríochta.

Luaigh Tusla freisin, dar leo, go raibh obair fhairsing agus tacaíocht mhór tairgthe don duine óg seo, ach nár ghlac sé leis sin i gcónaí.

Toradh

Le linn ár réamhscrúduithe ar an ngearán, aimsíodh socrúchán oiriúnach agus aistríodh an duine óg ina dhiaidh sin amach as an gcóiríocht éigeandála.

Mhínigh an roinn oibre sóisialta nach raibh an duine óg incháilithe do Sheirbhísí Iarchúraim Tusla de réir Bheartas Fágála agus Iarchúraim TUSLA mar go mbeadh ar an duine óg a bheith faoi chúram le haghaidh 12 mhí as a chéile roimh a mbreithlá 18 mbliana d'aois. Cibé scéal é, d'fhéach an roinn oibre sóisialta leis an gcritéar incháilitheachta sin a chur ar leataobh agus tacaí a sholáthar dó mar fhear óg. Tá sé beartaithe ag an Oifig Cúiseanna Imní a ardach faoin gcritéar incháilitheachta seo ar bhonn níos ginearálta i ndáil le saincheistean beartais sa réimse seo.

**Athraíodh ainm an linbh i gceist ar mhaithe le rúndacht*

3.7 Sláinte

Bhain 14% dár ngearáin le hearnáil na sláinte agus áiríonn sé sin ospidéal agus cúram príomhúil Fheidhmeannach na Seirbhíse Sláinte do leanaí lena n-áirítear meabhairshláinte.

D'ardaigh líon na ngearán a rinneadh leis an oifig seo faoi eárnáil na sláinte ó 11% in 2014 go dtí 14% in 2015. Bhain formhór na ngearán sin le seirbhísí cúraim phríomhúil. D'inis tuismitheoirí dúinn go raibh easpa eolais ann faoi cá mbeadh na seirbhísí sin agus conas teacht orthu dá leanaí agus faoin tionchar a bhí aige sin ar fholláine agus sláinte a leanaí.

Fuaireamar gearáin faoi liostaí feithimh agus gnásanna ospidéil chomh maith le seirbhísí cúraim phríomhúil amhail meabhairshláinte, urlabhra agus teiripe urlabhra agus síceolaíocht. Labhair tuismitheoirí eile linn faoi na dúshlán a bhaineann lena mbealach a dhéanamh timpeall na hearnála sin chun teacht ar sheirbhísí do leanaí, go háirithe leanaí faoi mhíchumas.

Na fochatagóirí gearán is mó in eárnáil na sláinte:

Seirbhísí cúraim phríomhúil

Ospidéal

Seirbhísí meabhairshláinte

Sampla de Ghearán faoi na Seirbhísí Sláinte

Bhí Emily* ina déagóir ag fanacht le cóireáil d'ionfhabhtuithe athfhillteacha cluaise agus scornaí in ospidéal áitiúil. D'éirigh a riocht níos ainsealaí agus níos tromchúisí mar gheall ar easpa cóireála agus cuireadh isteach go mór ar a cumas éisteachta. Chomh maith leis sin, bhí fadhbanna boilg aici toisc iomarca antaibheathach a úsáid chun cóireáil a chur ar ionfhabhtuithe leanúnacha cluaise agus scornaí.

Bhí spriocanna náisiúnta socraithe ag Feidhmeannacht na Seirbhíse Sláinte faoin gCiste Náisiúnta um Cheannach Cóireála (NTPF) a shonraigh nach mbeadh aon othar nua ag fanacht níos mó ná bliain chun coinne cúraim lae a fháil le Lia Comhairleach. Ag tráth ghearán Emily bhí sí ag fanacht bhreis is dhá bhliain

Ar deireadh thiar thall fuair Emily cóireáil dhá bhliain agus 11 mhí tar éis a hatreorú tosaigh naoi mí tar éis di a coinne tosaigh a fháil leis an Lia Comhairleach agus cúig mhí tar éis don Lia Comhairleach measúnú a dhéanamh uirthi. Cuireadh osclán silte sa dá chluas agus baineadh na céislíní agus tháinig feabhas ar a héisteacht tar éis na hobráide.

Gníomhartha OCO

Rinne OCO imscrúdú ar chás Emily sa mhéid go raibh tionchar neamhfhabhrach ag gníomh de chuid Fheidhmeannacht na Seirbhíse Sláinte uirthi. Baineann na gníomhartha seo go sonrach le heaspa pleanála a tharla i ndáil le spriocanna a shroicheadh ar na liostaí feithimh náisiúnta agus easpa bealaí a bheith ann dá chúram tar éis don Lia Comhairleach measúnú a dhéanamh uirthi. Is ar an gcúis sin ar cuireadh moil leis an gcóireáil. Mar thoradh ar na gníomhartha seo cuireadh leis na tréimsí feithimh don mheasúnú, ach go háirithe.

De bhreis air sin, chinneamar go raibh tionchar neamhfhabhrach ag ar tharla ar Emily mar nár cuireadh dóthain eolais ar fáil dá máthair i ndáil leis an Tionscnamh Trasteorann¹ (CBD) agus ar an gcaoi sin diúltaíodh an deis do thuismitheoirí Emily a bheith go hiomlán ar an eolas faoin gcóireáil a d'fhéadfaidís a fháil dá n-iníon thar lear.

Toradh

Chuir an t-ospidéal i gceist in iúl go raibh sé ag obair go dlúth leis an nGrúpa Ospidéal agus de réir ghnásanna Fheidhmeannacht na Seirbhíse Sláinte ar leibhéal náisiúnta san fhorbairt leanúnach ar phleananna agus gnásanna chun dul i ngleic le hacmhainneacht agus sárúithe liostaí feithimh. Faoi láthair táthar ag laghdú na liostaí feithimh trí sheachfhoinisí a dhéanamh agus trí sheisiúin bhreise obrádlainne a sholáthar agus tá pleananna á bhforbairt freisin chun acmhainneacht bhreise obrádlainne agus cúraim lae a sholáthar.

¹ Féan Tionscnamh Trasteorann féadfaidh othair atá ag cónaí in Éirinn de ghnáth agus ag úsáid seirbhísí sláinte poiblí ansin a bheith atreoraithe chuig seirbhís cúraim sláinte agus leas a bhaint as an tseirbhís eile sin, ar seirbhís í atá maoinithe go poiblí in Éirinn i mballstát eile AE/LAE.

Chuir an t-ospidéal in iúl tráth a mbeadh aon tionscnaimh maidir le liostaí feithimh á bpleanáil agus á soláthar aige, nach mbeadh aon othar faoi mhíbhuntáiste dá bharr.

Chuir an t-ospidéal in iúl freisin nach bhfuil gnáthfhógra á thabhairt faoi CBD san ospidéal ach go gcuirfidh bainisteoir an ospidéil moladh OCO go foirmiúil ina leith faoi bhráid an Ghrúpa Ospidéal lena n-aird a dhíriú air ionas go mbeidh siad in ann feidhmiú dá réir.

Chuir Feidhmeannacht na Seirbhíse Sláinte in iúl go bhfuil straitéisí á bhforbairt aige chun bainistiú a dhéanamh ar liostaí feithimh, go bhfuil clár seachfhoinsithe ar bun aige do chúram sceidealaithe othair. Áiríonn sé seo diagnóisic agus cóireáil agus athbhreithniú ar phacáiste iomlán cúraim. Tá sé seo deartha sa chaoi is go dtacófar le hospidéal phoiblí dul i ngleic le liostaí feithimh fadtéarmacha agus freastal ar spriocanna agaí feithimh náisiúnta. Chuir siad in iúl don Oifig seo freisin faoin socrú reatha le NTPF, go gcuirtear pacáiste iomlán cúraim ar fáil i ndáil le gach othar a atreoraítear chuig ospidéal príobháideach do choinne cúraim lae.

Chomh maith leis sin, chuir Feidhmeannacht na Seirbhíse Sláinte in iúl go dtacaíonn an eagraíocht go hiomlán lena chinntiú go gcuirtear othair agus a dteaghlaigh go hiomlán ar an eolas faoi na roghanna atá ar fáil dóibh ar thionscnaimh trasteorann go n-ardóidh Stiúrtha Náisiúnta na nOspidéal Géarchúraim feasacht i leith a thábhachtaí is atá cur chun cinn agus margaíocht a dhéanamh ar CBD laistigh de gach grúpa ospidéal. Scaiptear moltaí ó thuarascáil OCO ar na páirtithe leasmhara cuí.

**Athraíodh ainm an linbh i gceist ar mhaithe le rúndacht*

3.8. Ceartas agus Coinneáil Ógánach

Thug an tOmbudsman do Leanaí cuairt ar Champas Coinneála Bhaile an Oibricigh agus ar Príosún Pháirc na Cruithneachta le linn 2015. Chomh maith leis sin, bhí an tOmbudsman i dteagmháil le Stiúrthóir an champais agus leis an Roinn Leanaí agus Gnóthaí Óige faoin ionad seo.

Tá an Oifig fós buartha go bhfuil moill fós ar an gcampas seo a chríochnú agus nach bhfuil sé go hiomlán feidhmiúil go fóill agus tá tionchar aige sin ar dhaoine óga atá fós á gcoinneáil i saoráidí do dhaoine fásta i bPríosún Pháirc na Cruithneachta agus bhí líon beag daoine óga á gcoinneáil i bhForas Naomh Pádraig le linn 2015. Tá an Oifig ar thóir réitigh ar an scéal seo ar bhonn leanúnach.

Sampla de ghearán faoi Champas Coinneála Bhaile an Oibricigh

An Gearán

Tháinig an gearán anaithnid seo mar gheall ar James* a bhí ina chónaí i mBaile an Oibricigh. D'ardaigh an gearánach roinnt cúiseanna imní tromchúiseacha maidir le James, mar shampla iompraíocht fhéindíobhálach agus mhaígh an gearánach nach raibh tacaíocht shíciatrach ná maoirseacht a ndóthain le fáil dó. Chomh maith leis sin, rinne an gearánach líomhain i gcoinne na foirne ag maíomh nach raibh oiliúint a ndóthain orthu agus tacaíocht a ndóthain á fháil acu chun déileáil le riachtanais mheabhairshláinte agus tarluithe d'fhéindíobháil i measc daoine óga ar an gcampas.

Imscrúdú OCO

Rinne OCO réamhscrúdú ar an ngearán agus lorg sonraí ó Bhaile an Oibricigh i ndáil leis an measúnú ar mheabhairshláinte James agus na bearta a bhí á gcur i bhfeidhm chun freastal ar a riachtanais mheabhairshláinte. Chas OCO freisin le James agus leis an bhfoireann agus lorg a dtuairimí uathu ar an gceist.

Tar éis athbhreithniú a dhéanamh ar an eolas tháinig sé chun solais go raibh measúnú déanta ag síciatraí i mBaile an Oibricigh agus ar leithligh chomh maith in ospidéal tar éis é a thógáil isteach sa rannóg Éigeandála agus Timpistí. Ag an uair, cinneadh cé go raibh deacrachtaí iompraíochta aige ní raibh riocht shíciatrach air. Mhol na síciatraithe i gceist go gcuirfí Cóireáil Theiripeach air trí Sheirbhís Teiripe Comhairliúcháin Measúnachta Bhaile an Oibricigh agus go ndéanfaí tuilleadh maoirseachta air.

Tráth a ndearnadh imscrúdú OCO bhí an idirghabháil theiripeach arna moladh sna measúnuithe seo á gcur ar fáil ag foireann ACTS i mBaile an Oibricigh. Bhíothas ag dul i ngleic le tacaíocht a chur ar fáil don fhoireann trí ionchuir a sholáthar ó fhoireann ACTS agus trí chomhairleoireacht don fhoireann.

Cibé scéal é, le linn an réamhscrúdaithe, tháinig sé chun solais don OCO nach raibh aon taifid ann ón ospidéal ina thaifid leighis i mBaile an Oibricigh.

Dar le OCO tá sé den riachtanas taifid iomlána chun dáta a choinneáil ar mhaithe le cóireáil leanúnach agus cúram daoine óga atá ag cónaí i mBaile an Oibricigh agus is cleachtas maith riaracháin é freisin. D'iarr an Oifig ar Bhaile an Oibricigh tuarascálacha leighis an fhir óig seo a lorg ón ospidéal agus a chinntiú go gcuirfí iad lena chomhaid. De bhreis air sin, d'iarr an Oifig ar Bhaile an Oibricigh a chinntiú go gcoinneofaí tuarascálacha i ndáil le gach tarlú de chúram leighis a fuarthas i suíomhanna seachtracha agus duine óg faoi chúram ansin de réir Acht na Leanáí 2001.

Toradh

Lorg Baile an Oibricigh tuarascálacha leighis an fhir óig seo ón ospidéal. Anuas air sin, thug Baile an Oibricigh isteach cleachtas oibriúcháin caighdeánach mar a ndéanadh bainisteoir na n-altraí cliniúla comhaid chuí leighis a lorg ó shuíomhanna seachtracha chun a chinntiú go mbeadh an t-eolas cuí ar fáil agus á choinneáil ar taifead faoi na daoine óga faoina chúram. **Athraíodh ainm an linbh i gceist ar mhaithe le rúndacht*

3.9. An eanáil tithíochta

Is ar eanáil na tithíochta a bhí 3% de ghearáin na bliana dírithe. Táimid ag ceapadh go bhfásfaidh an líon seo mar thoradh ar an líon níos airde de leanaí agus a dteaghlaigh gan dídean go háirithe i réigiún Bhaile Átha Cliath.

Sampla de Ghearán faoi Chomhairle Contae

Fuair OCO gearán faoi mháthair thar ceann a leanaí. Míníodh don Oifig gur cuireadh iallach ar an teaghlach a mbaile a fhágáil mar gheall ar iompar tromchúiseach frithshóisialta, mar ar ionsaíodh an mháthair agus chonaic na leanaí é seo ag tarlú.

Ina dhiaidh seo chuir an Chomhairle lóistín ar fáil don teaghlach i dteach ósta agus tugadh tús áite dóibh faoin Scéim um Fhorais Eisceachtúla Shóisialta. Le linn na tréimhse briseadh isteach i dteach an teaghlaigh, rinneadh damáiste don teach agus cailleadh formhór mhaoin an teaghlaigh mar gheall ar loitiméireacht agus gadaíocht. Tar éis ceithre mhí a chaitheamh sa teach ósta chuir an Chomhairle in iúl don teaghlach go raibh an teach athchóirithe acu dóibh agus go mbeifí ag súil go mbogfaidís ar ais isteach sa teach. Bhí an teaghlach den tuairim nach bhféadfaidís é seo a dhéanamh mar go mbeadh baol leanúnach ann ó na bagairtí a bhí á ndéanamh orthu sa cheantar. Thuig siad go mbeadh gá le litir ón Garda Síochána chun stop a chur leis an gComhairle iallach a chur orthu bogadh ar ais sa teach agus bheadh gá ag an litir sin a chur in iúl go raibh beatha an teaghlaigh i mbaol. Cé gur cuireadh litir ar fáil ó na Gardaí níor sonraíodh sa litir sin go raibh beatha an teaghlaigh i mbaol. Rinne an mháthair iarracht achomharc a dhéanamh ar chinneadh na Comhairle ach luaigh sí nach raibh sé soiléir cad a mheas an Chomhairle ba chóir dóibh a dhéanamh. Chuir sí in iúl a frustrachas leis an gComhairle le linn na tréimhse seo.

Chomh maith leis sin, bhí an teaghlach den tuairim go raibh tionchar neamhfhabhrach ag an seal sa teach ósta ar an teaghlach, lena n-áirítear freastal na leanaí ar scoil agus a ngníomhaíochtaí seach-churaclaim, mar nach bhféadfaidís tabhairt fúthu a thuilleadh. Anuas air sin, luadh go raibh orthu madra na leanaí a thabhairt uathu. Agus í ag gearán leis an OCO d'iarr an mháthair go ndéanfaí iarracht moil a chur leis an aistriú ar ais chuig áras an teaghlaigh agus go lorgófaí réiteach fadtéarmacha tithíochta.

Toradh

Tar éis don OCO réamhscrúdú a dhéanamh d'aontaigh an Chomhairle ar an gcéad dul síos moil a chur leis an aistriú ar ais chuig an teach áit a raibh an teaghlach faoi lé iompraíocht fhrithshóisialta. Ina dhiaidh sin, d'fhaomh an Chomhairle áitreabh don teaghlach agus chuir na heochracha ar fáil dóibh. Bhí an teaghlach thar a bheith sásta leis an toradh agus bhrath siad slán sábháilte sa cheantar nua.



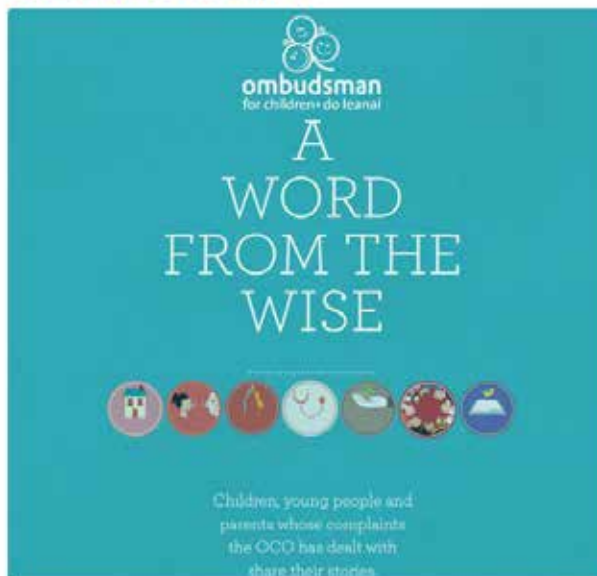
'A Word from the Wise': Emma (17) "someone who didn't know me made a decision that turned my life upside down"
soundcloud.com/combined-media ...

RETWEET 1 LIKES 3

3:22 AM - 22 May 2015



The purpose of 'A Word from the Wise' is to have childrens voices heard, loud and clear:
oco.ie/wp-content/upl ...



RETWEET 1 LIKE 1

1:22 AM - 22 May 2015



Ombudsman for Children welcomes the abolition of Defence for Reasonable Chastisement.

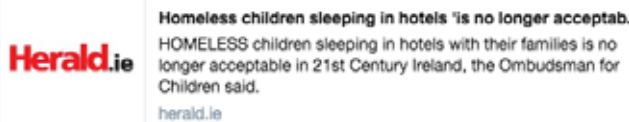
oco.ie/2015/10/welcom ...

RETWEETS 4 LIKE 1

9:09 PM - 21 Oct 2015



Homeless children sleeping in hotels 'is no longer acceptable' [@herald_ie](http://herald.ie/news/homeless-via) #childrensrights



RETWEETS 7 LIKES 2

11:40 PM - 23 May 2015

OCO @OCO_ireland - 12 Oct 2015

Ombudsman for Children delighted to launch Web Safety Survey results @DonegalYouthSvc in Letterkenny this morning.



RETWEETS 0 LIKES 5



."@OCO_ireland will focus on ensuring that "children are at the forefront of decision-making, and not an afterthought" @noelbaker1

RETWEETS 2 LIKES 2

11:58 PM - 13 Feb 2015

RANNÓG 4

**CEARTA
AGUS LEAS
LEANAÍ A CHUR
CHUN CINN**

4.1. Feidhm Reachtúil Chun Cearta agus Leas Leanaí a Chur Chun Cinn

Anuas ar an ról láimhseála gearán, tá ról comhlántach eile ag Oifig an Ombudsman do Leanaí (OCO) is é sin cearta agus leas leanaí a chur chun cinn. Faoin bhfeidhm reachtúil seo tá dualgais dhearfacha ar an Ombudsman do Leanaí:

- comhairle a chur ar aon Aire Rialtais maidir le forbairt agus comhordú beartais a bhaineann le leanaí (7(1)(a));
- tathant ar chomhlachtaí poiblí, scoileanna agus ospidéal dheonacha beartais, cleachtais agus gnáthaimh a fhorbairt a chuireann chun cinn cearta agus leas leanaí (7(1)(b));
- eolas a bhailiú agus a scaipeadh ar chúrsaí a bhaineann le cearta agus leas leanaí (7(1)(c));
- feasacht a spreagadh i measc an phobail (lena n-áirítear leanaí) faoi chúrsaí (lena n-áirítear prionsabail agus forálacha Choinbhinsiún na NA um Chearta an Linbh) maidir le cearta agus leas leanaí agus conas is féidir na cearta sin a fhorfheidhmiú (7(1)(d));
- aird a tharraingt ar shaincheistanna a bhaineann le cearta agus leas leanaí ar cúis le leanaí féin iad (7(1)(e));
- eolas a mhalartú agus comhoibriú leis an Ombudsman do Leanaí (cibé ainm atá air nó uirthi) i stáit eile (7(1)(f));
- monatóireacht agus athbhreithniú ginearálta a dhéanamh ar an gcomhoibriú faoi fheidhmiú reachtaíochta a bhaineann le cearta agus leas leanaí (7(1)(g));
- monatóireacht agus athbhreithniú ginearálta a dhéanamh ar fheidhmiú an Achta seo agus, cibé tráth a mheasfaidh sé nó sí a bhfuil gá leis, moltaí a dhéanamh leis an Air nó i dtuarascáil faoi alt 13(7) nó an dá rud maidir le leasú an Achta seo (7(1)(h));
- dul i gcomhairle le leanaí agus aird cheart a thabhairt ar a dtuairimí de réir a n-aoiseanna agus a dtuisceana (7(2)(a) agus (7(2)(b));
- comhairle a sholáthar d'aon Aire Rialtais ar aon chúrsaí (lena n-áirítear an tionchar dóchúil a bheadh ag cur i bhfeidhm aon tograí le haghaidh reachtaíochta) a bhaineann le cearta agus leas leanaí (7(4)).

De bhreis air sin, forálann Alt 7(3) d'Acht 2002 go bhféadfadh an t Ombudsman do Leanaí tabhairt faoi thaighde, agus an taighde sin a chur chun cinn nó a fhoilsiú ar aon cheist a bhaineann le cearta agus leas leanaí.

Mar thoradh ar sholáthar foirne agus an t-easnamh foirne a d'éascair as sin le linn 2015 cuireadh srian ar chumas na hOifige dualgais a chur i bhfeidhm faoi Alt 7 d'Acht 2002 a mhéid agus a bheimis in ann a dhéanamh murach na cúinsí sin. D'ainneoin na ndúshlán, bhí 2015 ina bliain táirgiúil ó thaobh obair OCO chun cearta agus leas leanaí a chur chun cinn. Áiríodh i measc ghníomhaíochtaí na hOifige maidir leis sin:

- obair go díreach le breis is 850 leanbh agus duine óg agus le 130 mac léinn iarchéime trínár gclár feasachta agus oideachais maidir le cearta;
- cur i gcrích an chéad chéim den ardán It's Your Right de chuid na hOifige mar mhol eolais faoi chearta a bhféadfadh leanaí agus daoine óga leas a bhaint as;
- aighneachtaí a chur faoi bhráid an Rialtais agus an Oireachtais maidir le tograí do cheithre phíosa reachtaíochta a mbeidh tionchar acu ar leanaí chomh maith le haighneacht a chur faoi bhráid na Roinne Leanaí agus Gnóthaí Óige maidir le tograí faoi leasú a dhéanamh ar shocruithe caomhnóir ad litem; agus
- páirt a ghlacadh i sásraí monatóireachta idirnáisiúnta, go háirithe le Coiste na NA um Chearta an Linbh i gcomhthéacs a athbhreithnithe ar dhul chun cinn na hÉireann maidir lena dualgais faoi Choinbhinsiún na NA um Chearta an Linbh agus le próiseas Athbhreithniú Tréimhsiúil Uilíoch Chomhairle na NA um Chearta an Duine.

Tá tuilleadh eolais faoi obair OCO chun cearta agus leas leanaí a chur chun cinn le linn 2015 ar fáil thíos.

4.2. An Clár Feasachta agus Oideachais maidir le Cearta

Ceardlanna san Oideachas faoi Chearta le haghaidh Leanaí agus Daoine Óga

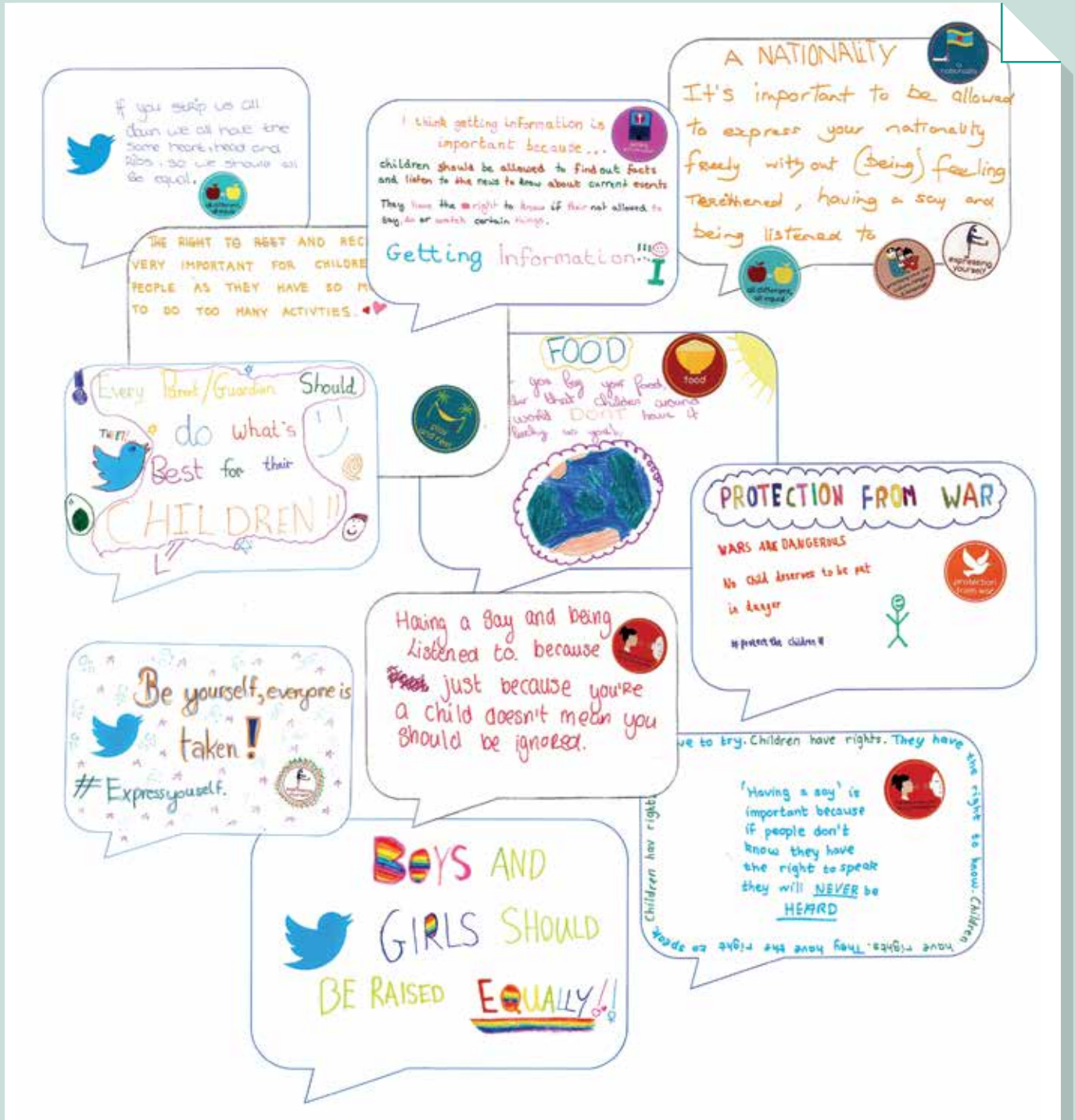
Le linn 2015, reáchtáladh ceardlanna oideachais ar bhonn rialta faoi chearta leanaí do ghrúpaí leanaí agus daoine óga a thug cuairt ar an Oifig. Croshnáithe den chlár feasachta agus oideachais de chuid OCO maidir le cearta, is ea na ceardlanna seo agus is deis luachmhar iad don Oifig teagmháil dhíreach a bheith aici le leanaí agus daoine óga ar bhonn leanúnach – leanaí agus daoine óga ar aoiseanna éagsúla ó gach cearn den tír agus a thagann ó chúinsí ilchineálacha.

Ceaptar na ceardlanna chun tacú leis a bplé idir OCO agus leanaí. Cé go n-athraíonn fócas an phlé sin, bíonn sé i gcónaí dírithe ar dhá phríomhaidhm: feasacht leanaí agus daoine óga a spreagadh maidir le cearta agus leas leanaí agus tuairimí leanaí agus daoine óga a chloisteáil faoi chearta leanaí, ar théamaí is spéis leo féin.

Thug breis is 850 leanbh agus duine óg ó scoileanna agus seirbhísí óige as 14 chontae cuairt ar an OCO in 2015 chun foghlaim faoi chearta leanaí agus chun iniúchadh a dhéanamh ar conas a thagann cearta leanaí chun cinn sna ghnáthshaol laethúil. Chomh maith leis sin, bhí an deis acu a dtuairimí féin a phlé agus a chur in iúl ar cén fáth, dar leo, a raibh cearta áirithe leanaí tábhachtach. Tá rogha de na tuairimí sin sonraithe thall.

CÉN FÁTH A BHFUIL CEARTA LEANAÍ TÁBHACHTACH?

ROINNT TUAIRIMÍ Ó LEANAÍ & DAOINE ÓGA



Le linn na bliana, reáchtáil an Oifig roinnt ceardlann chomhchosúil ar bhonn for-rochtana do dhaoine óga agus gairmithe a bhíonn ag obair i seirbhísí leanaí agus daoine óga sna háiteanna seo: An Cabhán, Leitir Ceanainn, Droichead Átha agus Port Láirge.

It's Your Right (www.itsyourright.ie)

Tionscnaíodh an tionscnamh seo i gcomhthéacs chomóradh 10 mbliana na hOifige n 2014. Is éard atá i It's Your Right ardán ar líne, le cur chuige trasmhéin, chun feasacht a spreagadh faoi chearta leanaí i measc leanaí agus daoine óga in Éirinn agus an aidhm atá leis cur le hobair dhíreach OCO le leanaí agus daoine óga i gcomhthéacs an chlár feasachta agus oideachais maidir le cearta.

Le linn 2015, chuir an Oifig i gcrích a céad chéim d'fhorbairt phleanáilte It's Your Right mar mhol ar líne ina gcuirfí eolas éasca le húsáid ar fáil do leanaí maidir le cearta leanaí, ag díriú go háirithe ar chearta leanaí in Éirinn.

Críochnaíodh an obair i ndáil leis seo agus d'áirigh sé sin athchumrú ar shuíomh gréasáin It's Your Right,

Chun go mbeadh sé níos éasca do chuirteoirí rochtain a fháil ar eolas ar an suíomh faoi chearta ar leith atá ag leanaí agus daoine óga faoi Choinbhinsiún na NA um Chearta an Linbh go díreach ón leathanach baile. Chomh maith leis sin, chruthaigh an Oifig rannóga nua inneachair ar an suíomh agus chuir eolas ar fáil maidir le gach ceart a leagtar béim air. Baineann na trí cinn de na fo-rannóga seo, faoi seach, le heolas fíriciúil a sholáthar maidir le cearta sonracha leanaí ('Do you know?'); ag leagan béim ar dhearcthaí leanaí agus daoine óga ar chearta áirithe ('What children and young people are saying'); agus a thugann sonraí faoi cén áit ar féidir le leanaí agus daoine óga tuilleadh a fháil amach faoi chearta sonracha atá ag leanaí ('Find out more').

Mar chud den chéim seo d'fhorbairt an tsuímh chuir OCO dhá fhíseán ghearra leis an suíomh. Tar éis cheapadh Niall Muldoon mar Ombudsman do Leanaí in 2015, is é aidhm an chéad fhíseáin feasacht a spreagadh i measc leanaí agus daoine óga faoi cé hé an tOmbudsman do Leanaí nua in Éirinn. Díríonn an dara físeán ar dhearcthaí leanaí agus daoine óga faoin gceart atá acu labhairt ina dteanga féin agus an méid a chaillaíonn sé sin dóibh.

Seimineáir do Mhic Léinn Iarchéime

De réir na ndualgas reachtúil faoi Alt 7 d'Acht 2002, d'fhorbair agus reáchtáil an Oifig sraith seimineáir oideachais do mhic léinn iarchéime in 2015.

Reáchtáladh an snáithe seo de chlár feasachta agus oideachais OCO maidir le cearta ar bhonn píolótach ar dtús in 2012, agus tar éis aiseolas dearfach a fháil ó na rannpháirtithe, cuireadh é ar fáil do dhream níos leithe mac léinn in 2013 agus 2014.

Le linn 2015, réachtáil an Oifig seacht gcinn de sheimineáir, ar fhreastail breis is 130 mac léinn orthu atá ag gabháil do cháilíochtaí iarchéime san obair shóisialta, san oideachas agus sa chosaint leanaí ag sé cinn d'institiúidí tríú leibhéal (An Coláiste Ollscoile, Corcaigh, OÉ Gaillimh, OÉ Maigh Nuad, Coláiste na Tríonóide, Baile Átha Cliath agus Institiúid Teicneolaíochta Átha Luain).

Is iad foireann OCO a chuir na seimineáir sin i láthair idir Meán Fómhair agus Nollaig 2015, agus dhírigh siad ar feasacht a spreagadh faoi fheidhmeanna reachtúla na hOifige agus na réimsí comhfhreagracha oibre; tuiscint na rannpháirtithe a fhorbairt faoi chearta leanaí agus ábharthacht cearta leanaí ina gcleachtas gairmiúil féin; agus cleachtas agus cinnteoireacht leanbháirneithe a spreagadh, lena n-áirítear scrúdú a dhéanamh ar chás-staidéir ag eascairt ó obair iniúchóireachta OCO.

Mar ab amhlaidh i mblianta roimhe sin, fuarthas aiseolas dearfach ó rannpháirtithe na seimineáir in 2015. Tá sé beartaithe ag OCO sraith chosúil de sheimineáir a réachtáil le linn 2016.

4.3. Comhairle maidir le Forbairtí sa Reachtaíocht agus sa Bheartas Poiblí

Le linn 2015, chuir Oifig an Ombudsman do Leanaí comhairle ar fáil, rinne aighneachtaí agus ghlac páirt sa cheapadh reachtaíochta beartaithe maidir le cionta gnéasacha, ligean isteach i scoil, cosaint idirnáisiúnta, íospartaigh na coireachta, agus faisnéis faoi uchtáil agus rianú uchtála. Rinne an Oifig aighneacht freisin maidir leis na tograí atá ann socruithe don chaomhnóir ad litem a leasú in imeachtaí cúraim faoin Acht um Chúram Leanaí 1991.

Scéim Ghinearálta an Bhille um an Dlí Coiriúil (Cionta Gnéasacha) 2014

D'fhoilsigh an tAire Dlí agus Cirt agus Comhionannais Scéim Ghinearálta an Bhille um an Dlí Coiriúil (Cionta Gnéasacha) 2014 an 27 Samhain 2014. Is é aidhm an Bhille sin Treoir ón AE a chur i bhfeidhm maidir le mí-úsáid ghnéasach agus dúshaothrú leanaí agus pornagrafaíocht linbh chomh maith le cuidiú le hÉirinn daingniú a dhéanamh ar Choinbhinsiún Chomhairle na hEorpa maidir le Leanaí a Chosaint ar Dhúshaothrú agus Mí-úsáid Ghnéasach. Tá sé beartaithe faoin mBille dlí a leasú, lena n-áirítear smachtbhannaí níos láidre a bhfuil mar aidhm acu leanaí a chosaint ar dhúshaothrú gnéasach, pornagrafaíocht linbh agus mealltóireacht ar líne.

D'ullmhaigh an Oifig comhairle faoin Scéim Ghinearálta mar fhreagra ar iarratas ón Aire Dlí agus Cirt agus Comhionannais le haghaidh breithniúcháin agus ar an gcaoi a fhéachann sé le dul i ngleic le leas leanaí.

Sa chomhairle a sholáthair Oifig an Ombudsman do Leanaí, luaigh an Oifig go dtugann an Scéim Ghinearálta aghaidh ar mhí-úsáid agus dúshaothrú gnéasach leanaí agus go dtugann sí isteach bearta cosanta le haghaidh gearánach a dhéanann gearáin faoi leanaí. D'fháiltigh OCO roimh na forbairtí sin mar chéim shuntasach i dtreo chosaint chearta agus leas leanaí.

Go háirithe ba chúis áthais dúinn é na bearta nua sa Scéim Ghinearálta, a mhol an Oifig seo i gcomhairle a chuir an Oifig ar fáil cheana. Áiríodh i measc na mbeart sin: leasú ar chosaint maidir le haois an ghearánaigh i gcion a bhaineann le truailliú linbh agus cionta comhlántacha a bhaineann le mealltóireacht; tabhairt isteach reachtaíocht chun dul i ngleic le faisnéisú tríú páirt ó theiripe agus taifid chomhairleoireachta; agus cosc ar chroscheistsiú ar fhinné linbh a bheith á dhéanamh ag an té a bhfuil an cion curtha ina leith.

Sa chomhairle a chuir an Oifig ar fáil, luadh nár leasaíodh alt 5 den Acht um an Dlí Coiriúil (Cionta Gnéasacha), 2006, nach gcosnaíonn fós ach leanaí baineanna faoi bhun aois 17 ó bheith ciontaite mar gheall ar bheith páirteach i ngníomh gnéasach collaíochta. Sa chomhairle a chuir OCO ar fáil leagadh béim ar roinnt réimsí ina bhféadfaí feabhas a chur ar an reachtaíocht bheartaithe chun go mbeifí ag freastal níos fearr ar leas leanaí agus chun go mbeifí go hiomlán ag comhlíonadh dhualgais na hÉireann maidir le cearta an duine. Áiríodh i measc ár moltaí iad seo a leanas:

- go gcuirfí cosaint ar fáil in aghaidh coiriúlú a dhéanamh ar ghníomhartha gnéis bunaithe ar thoil an dá pháirtí i gcás piaraí, ach ag cinntiú nach gcuirfí bac ar chiontú ciontóirí óga gnéis;
- leasú ar an téarma “pornagrafaíocht linbh” go téarma a léireodh níos beachte tromchúis an ábhair i gceist;
- ionadú ar an téarma “truailliú linbh” le téarma níos oiriúnaí, nach dtugann íomhá neamhfhabhrach dean íospartach;
- cur leis an mbeart cosanta speisialta d’fhinnéithe ar leanaí iad chun a chinntiú go mbeadh comhréireacht ann do leanaí faoi bhun aois 18;
- seirbhísí ullmhúcháin réamhcúirte a sholáthar do leanaí a mbeidh orthu teacht os comhair na cúirte, lena n-áirítear duine atá cáilithe go hiomchuí a cheapadh chun tacú leis an íospartach linbh trí phróiseas na n-imeachtaí dlí; agus
- oiliúint a sholáthar do gach duine atá ag obair le leanaí sa chóras ceartais choiriúil.

An 23 Meán Fómhair 2015, d’fhoilsigh an tAire Dlí agus Cirt agus Comhionannais an Bille um an Dlí Coiriúil (Cionta Gnéasacha) 2015. Tá roinnt gnéithe dearfacha ag baint leis an mBille seo, lena n-áirítear ionadú ar an téarma “truailliú” le “gníomh gnéasach”. Cibé scéal é, tá imní ar OCO nár áiríodh formhór na moltaí a rinneadh sa Bhille. Coinneoidh OCO súil ar próiseas leanúnach reachtúil an Bhille seo.

An Bille Oideachais (Ligean Isteach i Scoileanna) 2015

I mí Aibreáin 2015, d’fhoilsigh an tAire Oideachais agus Scileanna an Bille Oideachais (Ligean Isteach i Scoileanna) 2015. Tar éis athbhreithniú a dhéanamh ar an mBille, scríobh an tOmbudsman do Leanaí chuig an Aire Oideachais agus Scileanna i mí Bealtaine 2015 chun roinnt breithniúcháin a lua faoin dréachtreachtaíocht, ag cur san áireamh comhairle a chuir an Oifig ar fáil faoi Scéim Ghinearálta an Bhille Oideachais (Ligean Isteach i Scoileanna) 2013.

D'imigh Bille 2015 i ngleic le roinnt cúiseanna imní a d'ardaigh an Oifig seo inár gcomhairle maidir le Scéim Ghinearálta 2013. Maidir leis sin, cúis áthais é don Oifig go háirithe go ndéanann Bille 2015:

- eisiámh ar fhoráil a bhí sa Scéim Ghinearálta maidir le cumhacht mholta scoileanna diúltú leanbh a ligean isteach i scoil ar bhonn tuairime ó Fheidhmeannacht na Seirbhíse Sláinte nó ó An Garda Síochána i ndáil leis an éifeacht a bheadh ag ligean isteach leanbh áirithe ar shábháilteacht daltaí eile;
- inniúlacht coistí achomhairc Alt 29 a choinneáil le go bhféadfaidh siad breithniú a dhéanamh ar achomhairc maidir le rollúchán; agus
- forálacha a áireamh a éilíonn ar an gComhairle Náisiúnta um Oideachas Speisialta agus ar an nGníomhaireacht um Leanaí agus an Teaghlach, faoi seach, aird a bheith acu ar mhianta an linbh agus leas is fearr an linbh agus iad ag sannadh scoile don leanbh i gceist.

I roinnt réimsí tábhachtacha eile, ní dheachthas i ngleic le roinnt de chúiseanna imní agus moltaí comhfhreagracha na hOifige seo le Bille 2015. I ndáil leis sin, mhol an tOmbudsman do Leanaí go ndéanfaí breithniú eile ar roinnt de na nithe sin, lena n-áirítear saincheisteanna a bhaineann le maolú beartas i gcásanna ina mbeadh iomarca daoine cláraithe. I measc na bpríomh-mholtaí a rinne an Oifig bhí, ar an gcéad dul síos, nár chóir go ndéanfaí aon fhoráil do mhaolú i ndáil le critéar iarscoláireachta toisc go bhféadfadh idirdhealú éagóracha tarlú go hindíreach dá bharr. Ar an dara dul síos, d'ardaigh an Oifig cúiseanna imní maidir leis an eisceacht a eascraíonn as Alt 7 den Acht um Stádas Comhionann a cheadaíonn go gcaithfí níos fabhraí le leanbh ó thaobh rochtain a fháil ar oideachas ar bhonn a reiligiúin.

Cé go dtuigimid na dúshláin a bhaineann leis na cúrsaí seo, táimid fós den tuairim gur gá teacht ar réiteach ina leith ionas go gcuimseofaí go hiomlán cearta agus dínit leanaí agus dualgais idirnáisiúnta na hÉireann faoi Choinbhinsiú na NA um Chearta an Linbh agus go háirithe: ceart gach linbh nach ndéanfaí idirdhealú éagórach orthu ar aon fhoras (Airteagal 2) agus go mbeadh a leas is fearr ar an bpríomhbhreithniúchán in aon ghníomhartha a bhaineann leo, lena n-áirítear gníomhartha de chuid foras reachtúil agus údarás riaracháin (Airteagal 3).

Scéim Ghinearálta an Bhille um Chosaint Idirnáisiúnta 2015

D'fhoilsigh an tAire Dlí agus Cirt agus Comhionannais an Bille um Chosaint Idirnáisiúnta ar an 25 Márta 2015. Is í aidhm shonraithe na reachtaíochta beartaithe nós imeachta aonair a thabhairt isteach chun scrúdú a dhéanamh ar iarratais ar chosaint idirnáisiúnta (nó tearmann) in Éirinn, lena gcuimsítear incháilitheacht do stádas teifigh agus incháilitheacht do chosaint choimhdeach. D'áirigh sé sin freisin measúnú a dhéanamh ar aon fhoras eile arna gcur i láthair ag an iarrthóir do chead fanacht sa Stát. Inár n-aighneacht chuig an Aire Dlí agus Cirt agus Comhionannais agus chuig an gCoiste Oireachtais um Chearta, Cosaint agus Comhionannas, ba chúis áthais é don Oifig seo gur foilsíodh an Scéim Ghinearálta agus a chuspóir sonraithe foriomlán chun gnás iarratais aonair a thabhairt isteach d'iarrthóirí ar chosaint idirnáisiúnta.

Dhírigh aighneacht OCO ar bhéim a leagan ar roinnt réimsí ina bhfuil gá feabhas a chur ar reachtaíocht ar mhaithe le leanaí tionlactha agus neamhthionlactha ionas go mbeadh Éire ag comhlíonadh níos fearr a dualgais idirnáisiúnta maidir le cearta an duine.

I ndáil leis an Scéim Ghinearálta ina hiomláine, mhol an Oifig seo, d'fhonn foráil do chur chuige leanbhlaránithe, ba chóir comhtháthú cearta a dhéanamh ar an bprionsabal caitheamh le leas an linbh ar an n-í is tábhachtaí i ngach gníomh a bhaineann le leanaí agus ar an bprionsabal go n-éistfí le leanaí agus go dtabharfaí aird mar is cuí dá dtuairimí siúd, i ngach rannóg chuí de gach reachtaíocht.

Rinne OCO moltaí freisin do ghairmithe a bhfuil dualgais orthu i leith leanaí tionlactha agus neamhthionlactha agus a dhéanann cinntí maidir leo, lena n-áirítear oiliúint ar conas cur chuige leanbhlaránithe a chur i bhfeidhm ina gcleachtas agus ina gcinnteoireacht.

Maidir le mionaoisigh neamhthionlactha, mhol an Oifig gur chóir don reachtaíocht bheartaithe sainmhíniú atá aitheanta go hidirnáisiúnta a chuimsiú de cad is 'mionaoiseach neamhthionlactha ann' agus gur chóir dó foráil do chaomhnóir neamhspleách a cheapadh, a bheadh ann mar phléadálaí agus a dhéanfadh ionadaíocht thar ceann an linbh tríd an bpróiseas.

I ndáil le mionaoisigh neamhthionlactha, molann OCO gur chóir an Scéim Ghinearálta a leasú le go bhforáilfí do shásra chun go bhféadfadh leanbh tionlactha iarratas a dhéanamh as a stuaim féin, le haird ar chúinsí ar leith an cháis sin agus leas is fearr an linbh i gceist. Mhol an Oifig freisin gur chóir don reachtaíocht bheartaithe foráil do bhreithniúchán ar leithligh an linbh i gcás go raibh an leanbh mar chuid d'iarratas iomlán teaghlaigh agus sna cásanna sin d'fhéadfadh breithniúchán ar leithligh dá leithéid a bheith chun leasa an linbh.

Maidir leis an éiginnteacht a bhaineann le haois, luaigh an Oifig go bhfuil neamhréireachtaí ann sa Scéim Ghinearálta maidir leis an mbonn tuisceana gur leanbh é/i an t-iarrathóir i gcás go bhfuil éiginnteacht ann maidir leis an aois. Mhol OCO gur chóir go mbeadh an reachtaíocht sainráite ó thaobh foráil d'fheidhmiú an bhoinn tuisceana gur leanbh an té atá i gceist sna cásanna ina bhfuil éiginnteacht ann faoin aois, agus go mbeadh na cosaintí comhfhreagracha ag gabháil leis sin do na daoine i gceist de réir na gcaighdeán idirnáisiúnta. De bhreis air sin, mhol an Oifig, i gcás ina raibh amhras fós ann faoi aois an iarratasóra tar éis scrúdú leighis gur chóir go mbeadh feidhm ag an mbonn tuisceana go bhfuil an t-iarrathóir faoi bhun aois 18.

Inár n-aighneacht, mholamar freisin gur chóir don reachtaíocht bheartaithe a chinntiú go dtugtar an t-aitheantas cuí d'ilchineálacha na gcineálacha teaghlaigh agus gur chóir don Aire tús áite a thabhairt do chásanna, de réir mar is cuí, ag tagairt d'aois agus a stádas mar mhionaoiseach neamhthionlactha. Chomh maith leis sin, mhol OCO i ndáil leis na gnásanna beartaithe maidir le scrúdú leighis a úsáid chun cinneadh ar aois an mhionaoisigh neamhthionlactha; gur chóir méarlorg a thógáil chun a fháil amach an ndearna an té seo iarratas ar thearmann i stát eile san AE; agallaimh phearsanta a úsáid; agus an t-iarrthóir a chur faoi choinneáil.

Ina dhiaidh sin foilsíodh an Bille um Chosaint Idirnáisiúnta ar an 19 Samhain 2015 agus síníodh é sin sa dlí an 30 Nollaig 2015. Cé go raibh roinnt leasuithe dearfacha a rinneadh ar an mBille i ndáil le leanaí, bhí roinnt réimsí ann nár cloíodh le comhairle na hOifige iontu ó thaobh a chinntiú go rabhthas ag comhlíonadh na bpríomhphrionsabal de Chearta an Linbh. Cé go bhfuil tagairtí teoranta ann san Acht do leas is fearr an linbh mar phríomhbhreithniúchán in ailt shonracha, ní chuireann sé é sin i bhfeidhm i ndáil leis an bpróiseas cinnteoireachta do chinneadh cosanta i gcásanna ina bhfuil sé i gceist leanbh a dhíbirt as an tír. Ba chóir go mbeadh leas is fearr an linbh ina phríomhbhreithniúchán i ngach gné a bhaineann leis an ngnás cosanta.

Ní áirítear san Acht dualgas dearfach éisteacht leis an leanbh agus aird chuí a thabhairt ar a dtuairimí. Go háirithe, cé go bhforáiltear do chúinsí inar féidir le fostaí de chuid na Gníomhaireachta um Leanáí agus an Teaghlach cur isteach ar chosaint idirnáisiúnta do mhionaoiseach neamhthionlachta, níl aon fhoráil ann do dhuine a cheapadh mar chaomhnóir chun pléadáil ar son an linbh agus cuidiú leo tríd an bpróiseas. De bhreis air sin, ní chuimsíonn an tAcht an sainmhíniú atá aitheanta go hidirnáisiúnta ar cad is 'mionaoiseach neamhthionlactha' ann.

Chomh maith leis sin, ní cheadaítear faoin Acht go ndéanfaidh leanbh iarratas as a stuaim féin, ná go mbeadh breithniúchán ar leithligh ann do leanbh laistigh d'iarratas ó theaghlach iomlán. Tá imní ar OCO i ndáil leis an bpróiseas measúnaithe aoise san Acht agus go bhféadfaí leanbh a chur faoi choinneáil faoi alt 20(7) den Acht.

An Bille um an Dlí Coiriúil 2015

Bhí sé de cheangal ar Éirinn Treoir 2012/29/AE ón AE a thrasú isteach i ndlí na hÉireann ag bunú íoshcaighdeáin maidir le cearta, tacaíocht agus cosaint d'íospartaigh na coireachta faoin 16 Samhain 2015. Ina fhianaise seo, d'fhoilsigh an tAire Dlí agus Cirt agus Comhionannais Scéim Ghinearálta an Bhille um an Dlí Coiriúil (Íospartaigh na Coireachta) an 14 Iúil 2015.

D'fháiltigh Oifig an Ombudsman do Leanaí roimh an Scéim Ghinearálta agus a haidhmeanna sonraithe i ndáil le cearta na n-íospartach agus a dteaghlaigh. De réir ár sainchúraim reachtúil faoi Alt 7(4) den Acht um Ombudsman do Leanaí 2002, dhírigh an Oifig a haighneacht ar íospartaigh na coireachta ar leanaí iad agus mhol roinnt bealaí ina bhféadfaí feabhas a chur ar an Scéim ionas gur gcuirfí san áireamh ar bhonn níos iomláine cearta agus leas leanaí ar íospartaigh na coireachta iad.

Maidir le leas is fearr an linbh, is cúis áthais é don OCO gur áiríodh an prionsabal leas is fearr an linbh a urramú i mbearta áirithe dá bhforáil faoin Scéim Ghinearálta. Cibé scéal é, ag cur san áireamh nár cuireadh i bhfeidhm fós an prionsabal leas is fearr an linbh i gcodanna eile den Scéim a bhaineann le híospartaigh ar leanaí iad, mhol an Oifig gur chóir go ndéanfaí comhtháthú níos iomláine ar an bprionsabal go mbeadh leas is fearr an libh ina phríomhbhreithniúchán mar dhualgas dearfach sa reachtaíocht mholta.

Ar an gcaoi chéanna, cé gur fháiltigh an oifig roimh an bhforáil go mbeadh ráiteas tionchair íospartaigh ann, mhol an Oifig gur chóir comhtháthú a dhéanamh mar dhualgas dearfach sa reachtaíocht mholta ar an gceart atá ag an íospartach a dtuairimí a chur in iúl go saor i gcomhthéacs an phróisis choiriúil a bhaineann lenar tharla dóibh agus go n-éistfí lena dtuairimí, de réir a n-aoise agus a n-aibíochta.

Mhol OCO freisin go bhforáilfí go gcuirfí leanaí agus a dteaghlaigh ar an eolas i ndáil leis an bpróiseas coiriúil agus go gcuirfí eolas ar fáil d'íospartaigh ar leanaí iad ar bhealach aoisbháuil.

I ndáil leis na bearta speisialta, d'fháiltigh an Oifig roimh bhearta speisialta cuimsitheachta d'íospartaigh ar leanaí iad. Cibé scéal é, mholamar go mbreithneofaí agus go ndaingneofaí na bearta speisialta d'íospartaigh ar leanaí iad, lena n-áirítear foráil do na nithe seo a leanas:

- duine tiomnaithe a cheapadh a bhfuil mar ról acu tacú leis an leanbh tríd an bpróiseas iomlán coiriúil;
- seirbhísí ullmhúcháin réamhchuirte a sholáthar d'íospartaigh ar leanaí iad; agus
- imeachtaí cuirte a bheith leanbh-bháuil

Chomh maith leis sin, mhol OCO go bhforálfadh an reachtaíocht mholta maidir le gach duine a bhfuil dualgais ghairmiúla orthu agus/nó a dhéanann cinntí a théann i bhfeidhm ar íospartaigh ar leanaí iad go mbeadh orthu, agus leanfaidís á dhéanamh, oiliúint chuí a fháil, lena n-áirítear oiliúint faoi conas cur chuige comhleanúnach a chur i bhfeidhm atá íogair do chearta agus leas na n-íospartach ar leanaí iad.

Scéim Ghinearálta an Bhille Uchtála (Faisnéis agus Rianú) 2015

D'fhoilsigh an tAire Leanaí agus Gnóthaí Óige Scéim Ghinearálta an Bhille Uchtála (Faisnéis agus Rianú) 2015 an 27 Iúil 2015. De réir shainchúram reachtúil an Ombudsman do Leanaí, dhírigh OCO an aighneacht chuig an Aire Leanaí agus Gnóthaí Óige ar na gnéithe sin den Scéim Ghinearálta a bhaineann le leanaí.

Inár n-aighneacht, d'fháiltíomar roimh fhoilseachán na Scéime Ginearálta agus a chuspóir sonraithe foriomlán bonn reachtúil a thabhairt do sholáthar eolais a bhaineann le huchtáil.

Go sonrath, is cúis áthais é don OCO gur áiríodh na forálacha seo a leanas sa Scéim Ghinearálta, a mhol an Oifig inár gcomhairle maidir leis an Acht Uchtála 2009:

- bonn tuisceana ginearálta i bhfabhar faisnéis a nochtadh do dhaoine a uchtáladh maidir lena mbreith agus lena n-uchtáil;
- ceart rochtana ar an teastas breithe bunaidh agus ar an eolas atá in aon taifid uchtála do dhaoine a uchtáladh agus atá os cionn 18 mbliana d'aois;
- soiléiriú ar chearta na bpáirtithe i ndáil le faisnéisiú agus aithint eolais, ag tabhairt treoir reachtúil don Údarás Uchtála agus do na cúirteanna tráth a nglaofaí orthu cinneadh a dhéanamh i gcás cearta a bheadh in iomaíocht lena chéile;
- bunú an Chláir Náisiúnta Faisnéise Uchtála in Éirinn.

Cé gur fháiltíomar roimh na tagairtí sa Scéim Ghinearálta do leas is fearr an linbh a bheith ina phróimhbhreithniúchán, luaigh an Oifig go raibh an Scéim ina tost seachas sin maidir le cearta leanaí ó thaobh soláthar eolais de maidir lena n-uchtáil.

I ndáil le forálacha na Scéime Ginearálta maidir le faisnéis do dhaoine uchtáilte i gcás go ndearnadh ordú uchtála roimhe sin, nó tar éis thosach feidhme na reachtaíochta molta, luaigh an Oifig go dtagraíonn "duine uchtáilte" do dhuine atá os cionn 18 mbliana d'aois.

Cé go n-admhaítear nach dearbhcheart é an ceart chun faisnéis a fháil agus gur eolas thar a bheith íogair é an t-eolas faoi na tuismitheoirí breithe, chuir OCO a cúis imní in iúl nár sonraíodh sa Scéim Ghinearálta an ceart ag leanaí uchtáilte faisnéis a fháil maidir lena mbreith agus lena mbunús. Ag tagairt don mholadh a rinne Coiste na NA um Chearta an Linbh gur chóir faisnéis faoi dháta agus áit breithe linbh agus a thuismitheoirí breithe a choinneáil, agus i gcás gur féidir é, a chur ar fáil do leanbh ar a hiarraidh agus i gcás go mbeadh sé sin chun leasa is fearr an linbh, mhol an Oifig seo:

- Ba chóir go mbeadh an ceart ag leanbh uchtáilte faisnéis a fháil faoina mbreith agus a mbunús sonraithe go soiléir neamh-dhébhrioch i ngach alt cuí sa reachtaíocht mholta.
- Ba chóir go gcuirfí le mírchinn 13 agus 14 le go n-áireofaí an ceart a bheith ag leanaí uchtáilte rochtain a fháil ar a dteastas breithe. Maidir leis sin, ba chóir foráil le haghaidh tástála don "aibíocht imleor" seachas aois a shonrú ag a bhféadfadh an leanbh uchtáilte rochtain a fháil ar an fhaisnéis sin

- Ba chóir go mbeadh an bonn tuisceana ginearálta i bhfabhar go ndéanfaí eolas a fhaisnéisiú do leanaí uchtáilte chomh maith céanna le daoine uchtáilte maidir lena mbreith agus a n-uchtáil.
- Ba chóir go ndéanfaí foráil do thuairimí leanaí a chloisteáil agus a chur san áireamh, de réir a n-aoise agus a n-aibíochta agus a gcúinsí sonracha, tráth a mbeadh cinneadh á dhéanamh cibé acu ar chóir rochtain a bhronnadh ar leanbh uchtáilte ar theastas breithe.

Maidir le faisnéis a sholáthar i ndail le leanbh uchtáilte do thuismitheoir breithe agus thuismitheoir a d'uchtáil iad faoi seach (Míchinn 16 agus 17), luaigh an Oifig nach ndearna an reachtaíocht mholta aon tagairt don cheart atá ag leanaí go n-éistfí lena dtuairimí agus go gcuirfí na tuairimí sin san áireamh.

Dá réir sin, mhol OCO gur chóir go ndéanfaí comhtháthú mar dhualgais dhearfacha ar an bprionsabal go n-éistfí le leanbh agus go dtabharfaí aird mar is cuí dá dtuairimí, de réir a n-aoise agus a n-aibíochta agus a gcúinsí sonracha, i gcomhthéacs an Ghníomhaireacht um Leaná agus an Teaghlach a bheith ag déanamh cinntí i leith na faisnéise a lorgaíodh a nochtadh.

Maidir leis an soláthar faisnéise don thuismitheoir a d'uchtáil an leanbh faoin leanbh uchtáilte faoi aois 18, mhol an Oifig gur chóir breithniú a dhéanamh ar an bhforáil a bhaint ón Scéim Ghinearálta, a thugann cead don thuismitheoir breise diúltú faisnéis chuí neamh-aitheantais sláinte a scaoileadh faoi shláinte an linbh. Chomh maith leis sin, mhol an Oifig go bhforálfaí go mbeadh cead an nGníomhaireacht um Leaná agus an Teaghlach eagar a chur ar fhaisnéis aitheantais a bheadh ar fáil i gcáipéisíocht leighis, dá mba ghá é, agus d'fhonn a chinntiú go mbeadh rochtain ag an leanbh uchtáilte ar an bhfaisnéis chuí faoina stair sláinte agus leighis.

D'fhoilsigh an Comhchoiste Oireachtais maidir le Sláinte agus Leaná a Thuarascáil maidir Scrúdan Réamhrechtach na Scéime Ginearálta sa Mhírcheann sa Bhille Uchtála (Faisnéis agus Rianú) i mí na Samhna 2015. D'fhaomh an Rialtas dréachtú an Bhille leasaithe ionas go n-áireofaí é seo sa Tuarascáil i mí na Nollag 2015. Déanfaidh an oifig monatóireacht ar fhorbairtí tráth a mbeidh an dréacht-Bhille foilsithe.

Athchóiriú ar na Socruithe don Chaomhnóir ad Litem

I mí na Samhna 2015, chuir Oifig an Ombudsman do Leaná freagra ar Pháipéar Comhairliúcháin a d'éisigh an Roinn Leaná agus Gnóthaí Óige (DCYA) maidir le beartas molta chun athchóiriú a dhéanamh ar shocruithe caomhnóir ad litem (GAL) in imeachtaí faoin Acht um Chúram Leaná 1991.

Is imeachtaí thar a bheith tromchúiseach agus íogair iad imeachtaí cúraim leanaí. Tá na leanaí i gceist thar a bheith leochaileach; féadfaidh na himeachtaí féin a bheith fada; casta agus freasúrach; agus is féidir impleachtaí mór fadtéarmacha a bheith ag baint leis na himeachtaí céanna. Rinn OCO breithniúcháin maidir le tograí na Roinne Leaná agus

Gnóthaí Óige ar mhaithe lena chinntiú go ndéanfaí na himeachtaí cúraim atá i bhfeidhm ar leanaí faoi Acht 1991 a bhreithniú go cúramach, go ndéanfaí iad a chur chun cinn agus go ndéanfaí iad a chosaint.

Maidir leis seo, chuir an Oifig a tuairim in iúl, d'ainneoin go déanann an chúirt an caomhnóir ad litem a cheapadh, i=gur ghá go mbeadh mar bhonn is taca ag an gcur chuige beartais chun socrúithe GAL a athchóiriú faoin Acht go n-aithneofaí gur seirbhís go príomha atá i gceist leis an gcóras caomhnóir ad litem, ar seirbhís ríthábhachtach í chun cearta leanaí a chur chun cinn i gcomhthéacs imeachtaí cúirte a théann i bhfeidhm ar na leanaí sin.

Ag fáiltiú roimh an togra seo seirbhís aontaithe do chaomhnóirí ad litem a bhunú ar bhonn náisiúnta le haghaidh na n-imeachtaí cúirte leanaí go léir faoi Chodanna IV, IVA agus VI den Acht um Chúram Leanaí

1991, mhol an oifig gur chóir go bhforálfadh na príonsabail agus na beartais is bonn agus taca leis an tseirbhís nua le go mbeadh an tseirbhís: leanbhlárnaithe agus bunaithe ar chearta leanaí; neamhspleách, inrochtana i bprionsabal d'aon leanbh ar ghá dóibh dul tríd imeachtaí cúraim faoi Acht 1991; cuntasach; trédhearcach agus inrochtana. I ndáil le príonsabal an neamhspleáchais, tá OCO den tuairim gur ghá don tseirbhís náisiúnta mholta a bheith go hiomlán neamhspleách.

Maidir leis seo, measann an Oifig gur chóir go dtiocfadh maoiniú don tseirbhís náisiúnta agus d'focaíocht na gcaomhnóirí ad litem ó fhoinsé neamhspleách rialtais agus nár chóir aon ról a bheith ag an nGníomhaireacht um Leanaí agus an Teaghlach in airgead a íoc amach.

I ndáil le ceapachán na gcaomhnóirí ad litem, tá an Oifig buartha go ndearna Páipéar Comhairliúcháin DCYA ceapachán na gcaomhnóirí seo a shuí ar bhealach atá níos lánroghnaí agus níos forordaithí ná mar is ceart faoi Airteagal 42A.4 den Bhunreacht nó Airteagal 3 agus 12 de Choinbhinsiún na NA um Chearta an Linbh. Cé nach bhfuiltear ag moladh go ndéanfaí caomhnóir GAL a cheapadh go huathoibríoch i ngach cás, tá an Oifig den tuairim gur chóir go mbeadh bonn tuisceana ann i bhfabhar ceapacháin. Maidir leis seo, tá an Oifig den tuairim gur chóir go mbeadh an chinnteoireacht cás ar chás maidir le ceapachán GAL tiomáinte ag dhá bhreithniúchán: an gá a chinntiú go gcosnófaí leas is fearr an linbh agus a chinntiú go lorgófaí tuairimí an linbh ina aon chás ina bhfuil an leanbh ábalta a t(h)uairimí fáin a chur in iúl. De bhreis air sin. Mhol OCO maidir le haon chás ina gcinnfeadh an chúirt gan caomhnóir ad litem a cheapadh, gur chóir go dtabharfaí an chúis leis an gcinneadh sin.

I measc na moltaí a rinne an Oifig maidir le raon saincheisteanna breise a ardaíodh sa Pháipéar Comhairliúcháin ag DCYA bhí siad seo:

- Ina bhreithniúchán i ndáil leis an bhféidearthacht go bhféadfadh leanbh a (h)ionadaí féin dlí a bheith aige agus caomhnóir ad litem ag an am céanna, d'fhéadfadh DCYA

breathnú ar an gcur chuige dá bhforáiltear faoi the Children Act 1989 sa Bhreatain agus sa Bhreatain Bheag.

- Ba chóir breithniú breise a dhéanamh ar an tsaincheist a bhaineann le stádas páirtí don leanbh agus, go háirithe, an cheist a bhaineann leis an leanbh a bheith ina pháirtí d'imeachtaí cúirte a théann i bhfeidhm air/uirthi trí chaomhnóir ad litem a cheapadh.
- Ba chóir go ndéanfaí ról, cumhachtaí agus dualgais an chaomhnóra ad litem a shainiú go soiléir sa dlí agus i rialacháin, de réir mar is cuí.
- Ba chóir go dtuigfí gurb é ról príomha GAL ionadaíocht a dhéanamh ar an leanbh trína fháil amach cad iad tuairimí an linbh féin agus iad a chur in iúl don chúirt trí mholadh don chúirt cad a mheasann sé/sí ba chóir a bheadh chun leasa is fearr an linbh.
- Is gá do neamhspleáchas na gcaomhnóirí ad litem a bheith cosanta go hiomlán d'fhonn maolú ar aon riosca a bhainfeadh óna gcumas feidhmiú go héifeachtach ar son an linbh.
- Níor chóir go mbeadh na téarmaí tagartha i ndáil le disciplíní gairmiúla na gcaomhnóirí ad litem a bheith róchúng nó rótheoranta.
- Fáiltítear roimh an togra sa reachtaíocht dul i ngleic le ceist theidlíocht an linbh cóip de thuarascáil an GAL a fháil. Agus foráil dá leithéid á dréachtú, is gá breithniú a dhéanamh ar a chinntiú go dtabharfaí an tacaíocht cheart don leanbh an fhaisnéis atá sa tuarascáil sin a thuiscint.

4.4. Rannpháirtíocht sna Sásraí Monatóireachta Idirnáisiúnta

Rannpháirtíocht i bPróiseas Monatóireachta agus Tuairiscithe UNCRC

Tar éis d'Éirinn Coinbhinsiún na NA um Chearta an Linbh (UNCRC) a dhaingniú in 1992, tá sé de cheangal ar Éirinn tuarascálacha tréimhsiúla a chur faoi bhráid Choiste na NA um Chearta an Linbh maidir le bearta atá á nglacadh ag an tír chun a dualgais a chomhlíonadh maidir le cearta leanaí a urramú, a chosaint agus a chomhlíonadh faoin gCoinbhinsiún.

Le linn 2015, d'fhéach Coiste na NA um Chearta an Linbh ar an trío agus an ceathrú tuarascáil de chuid na hÉireann in éineacht. Mar chuid den phróiseas monatóireachta agus tuairiscithe, bhreithnigh an Coiste freisin tuarascálacha comhroghanna a d'ullmhaigh institiúidí neamhspleácha um chearta daonna agus eagraíochtaí na sochaí sibhialta.

I mí Aibreáin 2015, chuir Oifig an Ombudsman do Leanaí tuarascáil chomhroghanna eile faoi bhráid Choiste na NA um Chearta an Linbh. Bhí na himscrúduithe reachtúla arna ndéanamh ag an Oifig nó thar ceann na hOifige mar bhonn is mar thaca go príomha leis an tuarascáil sin; chomh maith le comhairle arna tabhairt ag an Oifig don Rialtas faoi athruithe reachtúla a rachadh i bhfeidhm ar leanaí; agus an obair dhíreach a rinne OCO le leanaí agus daoine óga.

Ag cuimsiú na tréimhse ón uair dheireanach a rinne Coiste na NA iniúchadh ar Éirinn in 2006 chuig deireadh Mhárta 2015, chuir tuarascáil na hOifige anailís neamhspleách

ar fáil ó dhearcadh chearta an linbh faoi raon ilchineálacha saincheisteanna a théann i bhfeidhm ar chearta agus leas leanaí in Éirinn. I measc na réimsí a ndearna ár dtuarascáil chomhroghanna iniúchadh orthu bhí siad seo a leanas:

- creat bunreachtúil agus reachtúil na hÉireann;
- beartas agus straitéis phoiblí maidir le leanaí agus comhordú ar bheartas a théann i bhfeidhm ar leanaí;
- pleanáil buiséid, comhordú agus meastóireacht i ndáil le leanaí;
- feachtas a spreagadh agus oideachas maidir le cearta leanaí;
- toiliú cóireáil leighis a fháil;
- aois na freagrachta coiriúla;
- an aois vótála;
- saincheisteanna a bhaineann le prionsabal na neamh-idirdhealaitheachta, lena n-áirítear i gcomhthéacs an oideachais;
- an gá atá ann príomhshruathú a dhéanamh ar na prionsabail a bhaineann le leas is fearr an linbh a bheith ina phríomhbhreithniúcháin agus tuairimí leanaí a urramú sa dlí, sa bheartas, agus sa ghnáthamh a théann i bhfeidhm ar leanaí;
- cearta sibhialta agus saoirsí leanaí, lena n-áirítear nithe a bhaineann le clárú breithe, céannacht inscne, saoirse reiligiúin, agus rochtain leanaí ar fhaisnéis agus cosaint ó ábhar atá dochrach dá bhfolláine;
- foréigean i gcoinne leanaí, lena n-áirítear saincheisteanna a bhaineann le mí-úsáid leanaí agus faillí ina leith, pionós corpartha agus bulaíocht;
- cúrsaí a bhaineann le hathchóiriú an dlí teaghlaigh agus nithe a bhaineann le leanaí faoi chúram malartach agus maidir le huchtáil;
- tacaí agus seirbhísí do leanaí faoi mhíchumas;
- sláinte agus seirbhísí sláinte do leanaí, lena n-áirítear meabhairshláinte;
- bochtaineacht leanaí; leanaí, daione óga agus teaghlaigh gan dídean;
- oideachas, lena n-áirítear nithe a théann i bhfeidhm ar leanaí a bhfuil riachtanais speisialta oideachais acu;
- bearta cosanta speisialta, go háirithe maidir le leanaí atá i gcoinbhleacht leis an dlí, leanaí a bhaineann le mionlaigh eitneacha, leanaí ar iarrthóirí tearmainn iad agus leanaí a tháinig ar inimirce.

I dtuarascáil chomhroghanna OCO rinneadh breis is seasca moladh maidir le hathruithe sa dlí, beartas, gnáthamh agus cleachtas a measaimid a bhfuil gá leo d'fhonn dul chun cinn a dhéanamh i gcomhlíonadh dhualgais na hÉireann maidir le leanaí faoi UNCRC agus, leis sin, réadú chearta leanaí in Éirinn a chur chun cinn.

Chomh maith leis sin, leagtar amach sa tuarascáil chomhroghanna seo, sonraí an fhoilseacháin *A Word from the Wise* de chuid na hOifige. Tá dlúthdhiosca ag gabháil leis an leabhrán seo ar a bhfuil scéalta faoi sheacht gcinn de chásanna a raibh an Oifig dá n-imscrúdú agus a leagann béim ar shaincheisteanna córasacha a bhí ag dul i bhfeidhm ar leanaí agus daoine óga in Éirinn. Tá na scéalta inste ag na leanaí agus daoine óga i gceist,

agus i roinnt cásanna ag na tuismitheoirí, agus tugann na scéalta seo léargas áirithe dúinn ar na dúshláin a mbíonn ar leanaí, daoine óga agus a dteaghlaigh aghaidh a thabhairt orthu in a lán príomhréimsí, lena n-áirítear oideachas, cúram sláinte, tithíocht agus iarchúram. Tá trí cinn de na scéalta sin le fáil thíos, ach is féidir teacht orthu go léir ag www.oco.ie/wp-content/uploads/2014/03/A-Word-from-the-Wise.pdf agus tá an cháipéis iomlán ar fáil ag www.oco.ie/publications/reports-to-the-un/.

I mí an Mheithimh 2015, d'fhreastail an tOmbudsman do Leanaí agus foireann OCO ar chruinniú réamhsheisiúin le baill de Choiste na NA um Chearta an Linbh, a reáchtáladh ag Palais des Nations sa Ghinéiv. Bhí an cruinniú seo ina dheis luachmhar agus cuiditheach don Oifig an Coiste a chur ar an eolas is déanaí faoi raon saincheisteanna a bhaineann le cearta leanaí in Éirinn agus dearcadh neamhspleách, bunaithe ar chearta leanaí, a sholáthar faoi roinnt de na príomhbhearta a bhfuil gá iad a chur chun cinn ionas go mbainfear amach cearta leanaí in Éirinn.

Tar éis an chruinnithe réamhsheisiúinaigh seo, d'fhoilsigh an Coiste um Chearta an Linbh Liosta Saincheisteanna maidir leis an tríú agus an ceathrú tuarascáil de chuid na hÉireann, a cuireadh isteach in éineacht, agus d'fhreagair Éire do na saincheisteanna sin i mí Dheireadh Fómhair 2015.

Ina dhiaidh sin, agus roimh chruinniú iomlánaíoch idir Coiste na NA um Chearta an Linbh agus ionadaithe ó Rialtas na hÉireann i mí Eanáir 2016, rinne Oifig an Ombudsman do Leanaí aighneacht bhreise chuig Coiste na NA i mí na Nollag 2015. Ba é ba chuspóir leis an aighneacht sin eolas achomair chun dáta a sholáthar maidir le forbairtí ábhartha a tharla, lena n-áirítear maidir le cosaint idirnáisiúnta, bochtaineacht leanaí, cosaint leanaí agus oideachas.

Scéal Cháit

Fuair an OCO gearán ó Rita. Bhíothas tar éis a hiníon a thógáil isteach in aonad timpistí agus éigeandála mórospidéil, tar éis don chailín iarracht lámh a chur ina bás féin don dara huair.

Ansin aistríodh Cáit chuig barda síciatrach do dhaoine fásta ag an ospidéal céanna, ag feitheamh le háit in aonad meabhairshláinte níos oiriúnaí do dhéagóirí. Tráth a ndeachthas i dteagmháil leis an OCO faoi seo, ní raibh aon áit in aonad do dhéagóirí curtha ar fáil go fóill di agus rinne a máthair gearán nach raibh an suíomh seo oiriúnach di ar chor ar bith, agus go raibh sé ag cur a hiníne i mbaol níos mó agus nach raibh sé chun a leasa is fearr.

Bhí an gearán seo ar cheann den iliomad gearán a fuair OCO le déanaí a bhain le leanaí a raibh deacrachtaí meabhairshláinte acu a chur in aonaid do dhaoine fásta, a bhí go hiomlán mí-oiriúnach dóibh.

Is léiriú iad na gearáin seo ar na deacrachtaí atá ann ar bhonn náisiúnta agus réigiúnach maidir le leanaí ag rochtain socrúchán agus tacaí meabhairshláinte.

Cáit:

An chéad uair a rinne mé iarracht lámh a chur i mo bhás féin, measaim go raibh mé ag iarraidh go n-éistfí le mo theachtaireacht 'tar i gcabhair orm'. Ach ní raibh aon chabhair ann dom dáiríre. Is áit thar a bheith scanrúil é A&E. Bhí an t-aonad do dhaoine fásta mar a bheadh príosún. Níor chuidigh an chomhairleoireacht a fuair mé ó CAMHS (Child and Adolescent Mental Health Services) liom ar chor ar bith.

Tar éis dom iarracht ar fhéinmharú le paraicéiteamól bhíos trína chéile ar fad ar fad. Bhí sé ar an bpian is measa a bhrath mé riamh. Ach níor theastaigh uaim filleadh ar an mbaile mar go raibh eagla orm cad a dhéanfainn ann. Thuig mo mháthair go raibh gá agam seal a chaitheamh in ionad cónaitheach. Ach ní raibh mórán le tairiscint dúinn – ní raibh ar fáil ach an t-aonad do dhaoine fásta.

Droch-eispéireas amach is amach a bhí san ionad do dhaoine fásta. Bhíos i seomra i m'aonar. Agus bhíothas ag faire orm 24/7. Ní raibh cead agam dul isteach sa phríomhbharda. Ní raibh cead agam cith a ghlacadh ná dul go dtí an leithreas liom féin. Ní fhéadainn dul go dtí an siopa – fiú amháin le mo mháthair. Níor bharr me mo chosa mar go mbeidís ag stánadh orm. Bhí mé an-leochaileach. Is gráin liom nuair a bhíonn daoine ag breathnú ar mo chorp.

An t-aon ghleacaíocht a bhí ar fáil ná ar an muileann coise. Bhí sé an-fhuar sa seomra sin. Bhain mé úsáid as cúpla uair ach bhí sé thar a bheith leadránach agus mar sin d'éirigh mé as tar éis tamaill. Bhí neamhord itheacháin agam agus mar sin chaill mé 3 kg ar an muileann coise.

Tá aithne mhaith agam orm féin. Ní raibh an áit seo go maith do dhuine óg de mo leithéidse. Bhíos i m'aonar. Ní hé amháin nach raibh an áit seo oiriúnach ach bhí sé dochrach dom. Bhrath mé gur ligeadh síos mé. Bhí gá agam le cúnaimh agus ní raibh sé ar fáil. Ach bhí roinnt de na haltraí go hiontach ar fad.

Bhí comhráite maithe againn lena chéile. Sin é an t-aon rud a tháinig i gcabhair orm. Bhí muinín ag roinnt de na haltraí ionam. Chuidigh siad liom le linn an ama sin. Chuidigh siad liom le mo smaointeoireacht. Léiríonn sé sin cén sórt ruda a d'fhéadfadh a bheith cabhrach do mo leithéid, dá ndéanfaidís i gceart é.

Bhí fhios agam go bhféadfadh biseach a theacht orm. Bhí mo mháthair iontach tacúil ach bhí fhios agam go mbeadh orm troid ar mo shon féin freisin. Táim fós ann mar fhianaise air sin. Is ag an tráth sin ar chuir mé spéis sa ghairm mé féin. D'fhéadfainn b'fhéidir cuidiú le duine eile mé féin? Táim ag súil anois freastal ar an ollscoil má éiríonn liom na pointí a bhaint amach. Fiú amháin más féidir liom difríocht bheag a dhéanamh sa saol is fiú é.

Bhí an-droch eispéireas agam agus níor chóir do dhéagóirí eile é sin a fhulaingt ach oiread. Is cúis náire an easpa áiseanna agus easpa foirne. Teastaíonn ó dhaoine cúram a dhéanamh díot – agus tá a lán díobh go maith ag a bpost ach níl dóthain foirne ann agus níl spásanna ann do leanaí ná freastal seirbhíse lasmuigh d’uaireanta oifige. Ba chóir go mbeadh bardaí oiriúnacha ann do dhaoine ar m’aoise. Níl sé d’acmhainn ag an aonad do dhaoine fásta freastal ar leanaí. Níl sé cóir ná cothrom orainn ach níl sé cóir ar an bhfoireann ach oiread.

Tá a lán ar eolas agam anois faoi mheabhairshláinte. Faoin gcóras agus faoi laig an chórais sin. Tá aithne níos fearr agam orm féin anois. Tá a lán le rá agam dom féin sa saol agus faoin saol. Is díol trua é nár éist na daoine cearta liom ag an am ceart.

Scéal Tracey agus Keith

Rinne Rose teagmháil le OCO i mí Bealtaine 2014. Bhain a gearán le soláthar tithíochta údaráis áitiúil agus conas a d’imigh siad i ngleic le heaspa dídine a teaghlach.

Bhain an gearán tosaigh le heaspa cóiríochta iomchuí di féin agus dá leanaí, Tracey agus Keith. D’inis Rose don OCO go raibh sí féin agus a leanaí ag roinnt tí i mBaile Átha Cliath lena beirt deartháireacha, agus bhí madra tarbh-bhrocaire ag duine de na deartháireacha a bhain greim as a hiníon. Dá bharr sin bhí ar Tracey dul isteach san ospidéal agus dul faoi obráid. Rinne Rose gearán freisin nach raibh sí in ann úsáid a bhaint as na háiseanna níocháin sa teach agus go raibh an-droch-chaoi ar an bhfolcadán.

Dúirt Rose gur inis an t-údarás áitiúil di nach bhféadfadh sí fanacht ina teach lena deartháireachta, mar go raibh an bheirt acu ina mbaol do na leanaí agus mar nach raibh cead aici ón údarás áitiúil áitriú chuig an teach sin pé scéal é. Cibé scéal é, ag an tráth úd ní raibh an t-údarás áitiúil tar éis aon chóiríocht eile a sholáthar don teaghlach, agus dá bhrí sin tharla go raibh Rose, Tracey agus Keith gan dídean ansin.

Dúirt Rose gur cuireadh í féin agus sa leanaí i gcóiríocht éigeandála mhí-oiriúnach. Tugadh tosaíocht tithíochta don teaghlach mar go raibh deacrachtaí acu i bpróiseáil a n-iarratais; go praiticiúil bhí pionós á ghearradh ar an teaghlach mar gheall ar iompar frithshóisialta a tharla ceithre bliana roimhe sin.

Tracey:

Níl mo sheomra codlata féin amach. Tá ceithre leaba bhuinc ann. Tá mo theidís agam. Tá sé préachta fuar. Uaireanta ar maidin faighimid ár mblaincéid agus ár bpiliúir agus téimid isteach sa leaba le mamaí. Ach ní bhímid déanach dom scoil riamh. Ní gnáth-theach é seo. Níl cead againn ár gcairde a thabhairt abhaile linn. Níl cead againn dul amach mar go bhfuil daoine eile ann. Níor thug mé riamh aon chara liom abhaile chun fanacht thar oíche.

Nuair a shamhláim teach ceart smaoiním ar theach le cairpéad suas an staighre. Dúnaim mo shúile agus tá gnáthchistin mhór againn. Tá doras gloine ar an gcuisneoir. Tá seomra suí ann. Tá tolg mór ann le spás do thriúr. Tá tinteán i ngach seomra agus tá sé cluthar.

Thuas staighre tá 3 sheomra codlata ann. Agus tá dhá sheomra folctha ann. Tá cófraí agus teas i ngach seomra. Samhláim póirse agus gairdín tosaigh le madra ann. Tá a lán gloine ann agus tá an ghrian ag taitneamh isteach. Tá gairdín cúil ann freisin ina bhfuil trampailín – ó, agus crann úll.

Keith:

Tá sé chomh fuar anseo. Sin an chúis go bhfuil blaincéad mór seascair agam. Roinnim é le mo mháthair agus mo dheirfiúr. Ní maith liom nuair a dhéanann daoine bulaíocht orm. Níl aon thuas staighre ann. Níl aon spás súgartha ann ach i mo sheomra agus tá sé sin lá le héadaí. Tá mé brónach mar nach bhfuil aon mhadra anseo. An t-árasán ina rabhamar roimhe seo bhí boladh uaidh. Bhíodh na daoine thuas staighre ag troid. Lá amháin d'ionsaigh sé cailín lasmuigh dár ndoras tosaigh a bhí ag iompar clainne. Ní fhéadaimis dul thar bráid.

Measaim dá bhféadfainn teach a bheith agam – bhuel bheadh seomra suí ann agus, ó féach sin uisce óil an mhadra. Tá an teilifís ar siúl agus tá mata deas dubh agus bán i mo sheomra. Tá dhá leaba agam ionas gur féidir le mo chara fanacht thar oíche liom. Tá pictiúir ar na ballaí agam – níl cead agam aon cheann a chur ar na ballaí sa teach seo.

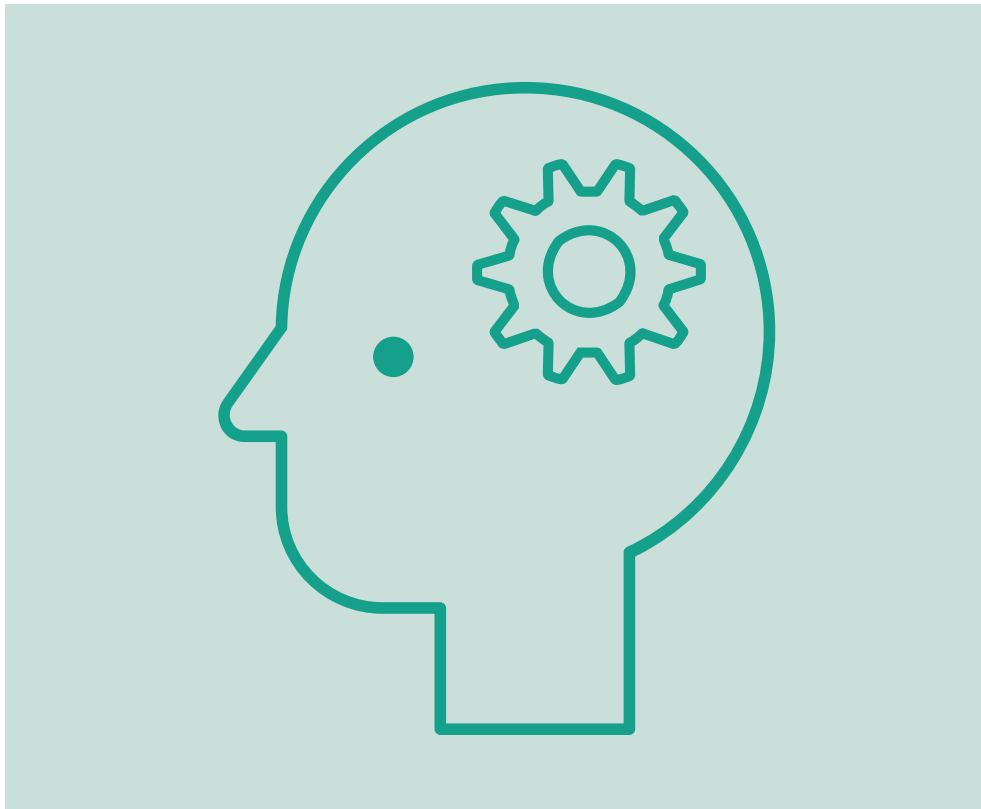
Sa ghairdín tá potaí bláthanna anseo is ansiúd. Tá tramapilín ann agus tá caisleán aeir.

Dá mbeadh teach againn níor ghá dúinn a bheith ag aistriú thart an t-am ar fad. Tá Mamaí tar éis a bheith ag caoineadh faoi sin.

Scéal Danny

Rinne Sarah teagmháil le OCO maidir lena mac 16 bliana d'aois, Dany, a bhí tar éis Gortú Faighte Intinne a fháil i dtimpiste gluasteáin ag aois 15. Bhain an gearán le heaspa seirbhísí tiomnaithe do dhaoine idir 13 agus 17 mbliana d'aois tar éis dóibh ABI a fháil, agus easpa tacaíochta eagraithe a bheith ar fáil do Danny agus a theaghlach, agus easpa pointe fócais le freagracht as cúnamh a sholáthar do theaghlaigh sna cúinsí seo. Chuir an gearánach in iúl an deacracht agus na dúshláin a raibh ar Danny agus a phléadálaithe aghaidh a thabhairt orthu agus iad ag lorg seirbhísí agus tacaí síciatracha ar a shon.

Ba léiriú an gearán ar go mbeadh formhór na n-eagraíochtaí a ndearna máthair Danny teagmháil leo in ann cabhrú leo dá mba rud é go raibh a mac 12 bhliain nó níos óige, nó dá mbeadh sé cóngarach d'aois 18, ach níor ghlac aon eagraíocht freagracht as an scéal, go háirithe dá aoisghrúpa. Mar sin tháinig sé chun solais go bhfuil bearna ann sna seirbhísí sláinte do dhaoine d'aois áirithe a bhfuil ABI orthu.



Danny:

Ní chreidim chomh deacair is atá sé ar mhamaí na seirbhísí is gá a fháil. Tagann intinn an duine óig chuige féin níos gasta agus níos fearr ná intinn duine níos sine. Dá thapúla a fhaightear seirbhísí, is ea fearr agus is gasta a thiocfaidh feabhas ort. Níor chóir go gcuirfí am amú ag troid ar son seirbhísí.

Níl an t-ádh céanna ar dhaoine eile is atá ormsa. Ar a laghad tá mo mháthair ag troid ar mo shon. Murach sin níl fhios agam cad a dhéanfainn. Bhí uirthi éirí as a post. Ní gach teaghlach ar féidir leo é sin a dhéanamh.

Thosaigh mé achainí i ngach soil i mo chontae ag impí orthu seirbhísí a sholáthar do dhéagóirí a bhfuil Gortú Faighte Inchinne acu. D'fhorbair sé sin agus anois tá achainí á chur faoi bhráid na Dála. Ansin d'éirigh linn am a fháil ar an Teilifís agus ar an raidió. Labhair mo dheartháir níos óige, Leo don chéad uair faoi seo go léir. D'fhéadfá na mothúcháin a chloisteáil ina ghuth. Is cruthúnas é sin go bhfuil rud éigin tábhachtach le rá ag daoine óga cosúil linne. An bhfillfidh mé riamh ar an spórt? Spreag sé sin mé. Thaitin sé liom nuair a rinne mé teiripí éagsúla agus bhí rath air sin.

Bhí sé deacair filleadh ar scoil. Ach bhí mé ag súil go mór leis. Bhí normáltacht éigin ag baint leis. Ach tar éis fiú rang amháin bhíos traochta. Bhí na múinteoirí ag breathnú orm trí shúile éagsúla anois. Ní fhaca siadsan ach duine le gortú intinne.

Mar sin, d'aistrigh mé scoil. Ní fiú a lua go raibh eagla orm, ach do bhí. Ach tús iontach maith a bhí ann agus ghlac daoine liom. Tá cairde iontacha gnóthaithe agam. Tá na múinteoirí ar fheabhas ar fad. Táimse den tuairim nár chóir dearmad a dhéanamh ar dhaoine óga. Tá muid tábhachtach. Tá mo dheartháir níos óige Leo ar fheabhas ar fad. Ní raibh sé ach 12 ag an uair, agus tá sé mar a bheadh cosantóir agam. Ar bhealach chuidigh sé liom mo neamhspleáchas a aimsiú arís. Is cuimhin liom siúl síos an tsráid lá amháin agus bhí mé ag breith ar lámh mo mháthar. Bheartaigh Leo siúl in aice liom ar eagla na heagla go bhfeicfeadh na leids eile mé ag breith ar lámh mo mháthar.

Measaim go bhfuil sé cóir cothrom a rá go bhfuil gach seans ag dul dom sa saol tar éis an méid íobairtí go léir a rinne mo mháthair chun todhchaí a thabhairt dom. An rud a scanraíonn mé ná go bhfuil daoine eile a mbeidh gortú intinne orthu agus nach mbeidh mórán cúnaimh le fáil acusan.

Ba bhreá liom dá bhféadfadh duine a bhfuil gortú intinne acu dúiseacht maidin amháin agus a fháil amach go bhfuil gach uile sheirbhís ar fáil dóibh agus dá dteaghlach agus bheadh an toradh i bhfad níos fearr dóibh.

Athbhreithniú Uilíoch Tréimhsiúil

In 2016, déanfaidh Comhairle na NA um Chearta an Duine iniúchadh ar thaifead na hÉireann ó thaobh chearta an duine de don dara huair i gcomhthéacs phróiseas Athbhreithniú Uilíoch Tréimhsiúil (UPR) na NA.

Chuir Oifig an Ombudsman do Leanaí aighneacht faoi bhráid UPR i mí Mheán Fómhair 2015. De réir ról OCO mar institiúid neamhspleách um chearta daonna in Éirinn. Díríonn aighneacht na hOifige ar béim a leagan agus moltaí comhfhreagracha a dhéanamh, maidir le raon saincheistanna a bhaineann le cearta leanaí in Éirinn. I measc na saincheistanna a cuimsíodh in aighneacht OCO bhí leas agus cosaint leanaí, ceartas don óige, tearmann agus inimirce, bochtaineacht leanaí, seirbhísí sláinte, agus oideachas. .

Leanfaidh an Oifig ag glacadh páirte i bpróiseas UPR, le linn 2016.

4.5. Taighde

Rialtas Leanbh-bháúil

Le tacaíocht ó Chumann Idirnáisiúnta na nOmbudsman, rinne OCO coimisiúnú ar chomhairliúchán in 2014 faoi rialtas leanbh-bháúil a bheith ann.

Is éard a spreag an staidéar seo ná go raibh constaicí ann i mbealach leanaí agus a dteaghlaigh maidir le cearta a bhaint amach i réimse an riaracháin phoiblí, mar atá sonraithe ag an OCO trí iniúchadh agus imscrúdú a dhéanamh ar ghearáin a bhaineann le gníomhartha comhlachtaí poiblí. Tar éis próiseas tairisceana iomaíoch, bronnadh an Conradh don staidéar seo ar an Child Law Clinic, Scoil an Dlí ag Coláiste na hOllscoile, Corcaigh.

Tríd is tríd, is é aidhm an staidéir seo roinnt cur chuige a shainaithint atá cearta-bhunaithe agus leanbhbháúil i leith an riaracháin phoiblí, chun bonn eolais a sholáthar d'fhorbairt moltaí ina bhféadfaí leasuithe a dhéanamh.

Le linn 2015, cuireadh na trí pháosa oibre seo a leanas i gcrích mar chuid den staidéar:

- anailís ar an taighde agus litríocht atá ann cheana féin maidir le rialtas atá leanbh-bháúil;
- anailís ar an bhfaisnéis atá ar fáil i mbunachar sonraí OCO maidir leis na deacrachtaí a tháinig chun solais do ghearánaigh a leag béim ar shaincheistanna córasacha ; agus
- comhairliúchán le daoine óga agus lena dteaghlaigh maidir leis na constaicí ina aghaidh rochtain a fháil ar sheirbhísí agus a n-idirghníomhartha leis an comhlachtaí poiblí.

I bhfianaise na dtorthaí tá sé beartaithe ag OCO síneadh a chur leis an staidéar agus an ceathrú gné, is é sin comhairliúchán le comhlachtaí poiblí agus le soláthraithe seirbhíse ag féachaint lena ndearchtaí a fháil faoi na saincheistanna a ardaíodh agus conas is féidir na constaicí sin a shárú chun rialtas leanbh-bháúil a chur chun cinn. Cuirfidh an Child Law Clinic an páosa taighde seo i gcrích le linn 2016/2017, agus ina dhiaidh sin tá sé beartaithe ag OCO tuarascáil deiridh den staidéar a fhoilsiú

4.6. Rannpháirtíocht le Líonraí Idirnáisiúnta

Tá sé ina fheidhm ag an Ombudsman do Leanaí faoi Acht 2002 comhoibriú le hOmbudsmen do Leanaí i stáit eile. Le linn 2015 leanamar ag cothú na rannpháirtíochta leis an Líonra Eorpach Ombudsman do leanaí (ENOC), agus leis na Coimisinéirí do Leanaí sa Bhreatain.

Chomh maith leis sin, labhair an tOmbudsman ag comhdháil sa Phortaingéil faoi chearta idirnáisiúnta leanaí chun comóradh a dhéanamh ar cheiliúradh 25 Bliain don tír sin ó síníodh UNCRC.



A big thanks to young people from Calasanctius College & from The Daybreak Programme for visiting us this week



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RANNÓG 5 **ACMHAINNÍ**

Rialú Airgeadais

Déanann an Roinn Leanaí agus Gnóthaí Óige buiséad an Ombudsman do Leanaí a leithdháileadh. In 2015 ba é €1.949m an leithdháileadh airgeadais d’Oifig an Ombudsman do Leanaí.

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 as a chinntiú go bhfuil idirbhearta na hOifige rialta.

Áirítear i measc na bhfeidhmeanna is bonn agus taca leis na freagrachtaí sin, údarú agus monatóireacht a dhéanamh ar earraí agus seirbhísí, próisis thairisceana, feidhmiú an phárolla, agus tiomsú tuairisceán míosúil.

Tá Ráitis Airgeadais na hOifige faoi réir ag iniúchóireacht ag an Ard-Reachtair Cuntas agus Ciste. Tharla iniúchóireacht ar chuntais 2015 i mí an Mheithimh 2016. Dé ghnáth ní dhéantar iniúchóireacht ar Ráitis Airgeadais do bhliain áirithe tráth fhoilsiú na tuarascála bliantúla cuí. Chomh luath agus a dhéanann Oifig an Ard-Reachtair Cuntas agus Ciste faomhadh orthu, foilsítear iad ar shuíomh gréasáin OCO agus tá cuntais bhliantúla do gach bliain suas go dtí 2014 ar fáil ar www.oco.ie.

Chuir na Cuntasóirí Cairte Crowleys DFK seirbhísí cuntasáochta ar fáil don Oifig le linn 2015.

Meáin

Tar éis di a bheith ina hOmbudsman do Leanaí ó bhunaíodh Oifig an Ombudsman do Leanaí sa bhilain 2004, d’éirigh Emily Logan as agus tháinig an Dr Niall Muldoon i gcomharba uirthi mar Ombudsman do Leanaí in 2015. Mar thoradh ar an mórathrú seo sa phearsanra léirigh na meáin a lán spéise agus clúdaíodh é go mór sna meáin. Labhair Niall ar a lán meán náisiúnta agus bhí clúdach sna meáin chlóite freisin, agus ar line.

Léirigh na meáin spéis fhairsing freisin in obair Oifig an Ombudsman do Leanaí in 2015, go háirithe maidir lenár dteacht os comhair trí cinn de Choistí Oireachtais ag céimeanna éagsúla le linn na bliana. I mí an Mhárta rinneamar cur i láthair os comhair an Chomhchoiste Oireachtais maidir le Seirbhís Phoiblí, Maoirseacht agus Achainíochas; i mí Bealtaine tháingamar os comhair an Chomhchoiste Oireachtais maidir le Sláinte agus Leanaí, agus Clúdaíodh na láithreachtaí seo go mór sna meáin, maille leis an méid a bhí le rá againn. I mí Aibreáin d’fhoilsíomar ár dtuarascáil do Choiste na NA um Chearta an linbh agus i mí an Mheithimh chuireamar an tuarascáil i láthair sa Ghinéiv. Clúdaíodh an dá ócáid sin sna meáin freisin.

Ar cheann de na saincheistanna a bhí á ardú ag an OCO leis an Rialtas le blianta fada tá cur le sainchúram OCO le go n-áireofaí leanaí atá sa Soláthar Díreach agus leagamar béim air sin nuair a fuair an deis teacht os comhair an Chomhchoiste Oireachtais maidir le Seirbhís Phoiblí, Maoirseacht agus Achainíocha agus ina dhiaidh sin chuir siadsan tuarascáil ar fáil ag moladh go gcuirfí lenár sainchúram de réir ár n-iarratais. Ba é toradh obair an choiste agus ár fhreagairt dó sin ná go bhfuarthas a lán clúdaigh sna meáin.

In 2015 chinn an Coiste Eorpach um Chearta Sóisialta go raibh Éire ag sárú Chairt Shóisialta na hEorpa mar go bhfuil cosc ar phionós corpartha.

Bhíomar i gcónaí den tuairim gur chóir go ndéanfaí Cairt Shóisialta na hEorpa a chur i bhfeidhm ina hiomláine agus chlúdaigh na meáin é sin go fairsing freisin.

In 2015, mar thoradh ar imscrúdú a rinne OCO cinneadh go raibh bearnaí ann sa chur chuige maidir le hionaid chónaitheacha do leanaí, arna rith ag gníomhaireachtaí deonacha agus príobháideacha, a chlárú agus cigireacht agus monatóireacht a dheanamh orthu. Chlúdaigh na meáin go fairsing foilsíú na tuarascála seo i mí Lúnasa.

Gnóthaí Poiblí

Tuairiscíonn an tOmbudsman do Leanaí go díreach don Oireachtas agus tá mandáid reachtúil aige comhairle a sholáthar d’Airí Rialtais maidir le dlíthe agus beartais a bhfuil tionchar acu ar leanaí.

In 2015, lean Oifig an Ombudsman do Leanaí den chaidreamh táirgiúil le hAirí, le Comhchoistí Rialtais agus le hurlabhraithe tábhachtacha. Chomh maith le teacht os comhair trí cinn de Chomhchoistí Oireachtais, rinneamar aighneachtaí freisin agus bhí plé againn le hAirí, le hoifigigh ó ranna éagsúla agus le ceapthóirí reachtaíochta. Rinneamar aighneachtaí maidir leis an mBille um an Dlí Coiriúil (Cionta Gnéasacha) 2014; an Bille Oideachais (Ligeán Isteach i Scoileanna) 2015; Scéim Ghinearálta an Bhille um Chosaint Idirnáisiúnta 2015; an Bille Ceartais Choiriúil (íospartaigh na Coireachta) 2015; Scéim Ghinearálta an Bhille Uchtála (Faisnéis agus Rianú) agus Athchóiriú ar na Socruithe le haghaidh Caomhnóirí ad Litem.

Tá sé de cheangal ar Éirinn tuarascálacha tréimhsiúla a chur faoi bhráid Choiste na NA um Chearta an Linbh maidir le bearta atá á gcur i bhfeidhm chun cearta leanaí a urramú, a chosaint agus a chomhlíonadh. I mí Aibreáin 2015, cuireamar tuarascáil chomhroghanna faoi bhráid Choiste na NA um Chearta an Linbh. I mí an Mheithimh 2015, d’fhreastalaíomar ar chruinniú réamhsheisiúnach le baill de Choiste na NA um Chearta an Linbh sa Ghinéiv.



OCO @OCO_ireland · 1 Dec 2015

A big thanks to students from St Nathy's College, Ballaghaderreen for visiting us @oco_ireland today.



OCO @OCO_ireland · 24 May 2015

Ombudsman for Children honoured to attend presentation of #Tipperary Peace Award to @UN SG Ban Ki-moon #UNSGIreland



Acmhainní Daonna

Mar gheall ar go raibh daoine éagsúla ag dul chun cinn ina ngairmeacha tháinig athruithe móra ar an bhfoireann le linn 2014 / 2015 agus tháinig roinnt folúntas chun cinn dá bharr. Fuarthas cead ón Aire Leanaí agus Gnóthaí Óige² i mí Bealtaine 2015 roinnt de na folúntais sin a líonadh san Oifig. Déantar daoine a earcú chuig na poist éagsúla tríd an tSeirbhís um Cheapacháin Phoiblí agus cé go ndearnadh roinnt dul chun cinn bhí moill ann mar gheall ar leithdháileadh ó phainéil éagsúla a bunaíodh ar fud grad éagsúil.

Millennium House – úsáid an áitribh

Chomh maith le ceardlanna faoi oideachas ceart daonna a réachtáil le leanaí agus daoine óga, lean an Oifig lena clár coibhéiseach do mhic léinn iarchéime. Cuireann an Oifig áiseanna Millennium House ar fáil mar ionad d'ócáidí atá dírithe ar chearta agus leas leanaí agus daoine óga.

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 den 5 Aibreán 2006 agus na Rialacháin ón gComhphobal Eorpach (Úsáid Deiridh Fuinnimh agus Seirbhísí Éifeachtacha Fuinnimh) 2009 (I.R. 542 de 2009)¹. Ceanglaíonn na Rialacháin ar eagraíochtaí na seirbhíse poiblí tuairisciú go bliantúil ó Eanáir 2011 maidir lena n-úsáid fuinnimh agus na gníomhartha a ghlac siad chun a dtomhaltas a laghdú.

In 2015, d'úsáid Oifig an Ombudsman do Leanaí 65.475 MWh de leictreachas i gcomparáid le 68.161 MWh in 2014. Déantar monatóireacht leanúnach ar úsáid fuinnimh. Leanann OCO ag feidhmiú córas cuimsitheach athchúrsála inmheánach.

² Faoi Alt 21(1) den Acht um Ombudsman do Leanaí 2002 (arna leaú) "the Minister for Children and Youth Affairs may, with the consent of the Minister for Finance, appoint such and so many persons to be members of staff of the Ombudsman for Children as the Minister may determine".



I think it's important for children to understand that everyone is equal because nobody should invalidate and undermine anyone solely because of how they differ from you.



I think Care is important because if you don't get care you could become sick and then you could die.
 It's important that you trust your family because if something happens you can go tell them.
 It's important also that your family care for you because you then know that you are loved and that there is someone there for you.
 everyone needs a "

#childrenrights

FAMILY



Health care is important because to survive you need good health, to get around you need good health, to go to school you need good health, to get friends you need good health, for life you need good health. Children need health care to live live at its fullest.



#HealthCare



The Right to be treated equally and fairly




It is important to know that everyone has the right to be treated equally and fairly. It is also important for people to know that they have the responsibility to treat those around them equally and fairly. It is also important to note that treating people equally and fairly does not mean ignoring their religion/culture/language and treating them "the same", it means accepting and embracing the fact that that is their culture and treating them how they wish to be treated.

#EQUALITY



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