

Opinion article by the Ombudsman for Children for the Daily Mail following the publication of the final report of the Commission of Inquiry into Child Abuse

I was appointed Ombudsman for Children the day after details emerged that Ian Huntley had ten years of inappropriate behaviour with children. The first question I was asked by a journalist was whether children in Ireland were safer now that there was an Ombudsman for Children.

Yesterday, the inquest found a verdict of unlawful killing in the death of Lean and Shania Dunne and their mother, and the suicide of their father just over a week after the Minister for Children published the Inquiry report into the family's deaths. In January, the harrowing details of the Roscommon case emerged.

Earlier this week, we saw the publication of the report by the Commission to Inquire into Child Abuse. The report represents the culmination of a great deal of work carried out, not only by the Commission, but also by all those who struggled to make sure that the State and the Church accepted their responsibility for the innumerable personal tragedies outlined and alluded to in the text of the report. The horrific personal experiences it catalogues make it a shocking indictment of a deferential Irish society and the damage done because of lack of a fundamental respect toward children and childhood.

The Commission was unequivocal in concluding that the abuse it examined was not simply the result of individual actions. While the root causes are complex, an absence of standards of care, an absence of accountability, the culture of fear coupled with the lack of respect for children contributed significantly to years of shameful behaviour towards children. The manner in which the system was set up and operated allowed this abuse to happen in the first place, inculcated a fear which stifled attempts to disclose it and failed to address it when it was reported.

We should be clear, however, that the Commission's findings do not only address events that happened in the past. The recommendations contained in the report have immediate and contemporary relevance for children in Ireland today. Although the nature of residential and other forms of care has changed enormously and for the better over the years, many of the systemic deficits identified in the report have yet to be fully addressed. Indeed, sixteen of the twenty recommendations made by the Commission relate to the future prevention of abuse of children in institutions and to the protection of children from such abuse.

A number of recommendations in the Commission's report concern children currently in care and relate to issues such as; fear of disclosure, continuity of care, aftercare and lack of consultation. Much of these echo concerns raised directly by children through the complaints function of my Office. Research undertaken for my Office by Dr Ursula Kilkelly of University College Cork, identified children without parental care as a particularly vulnerable group that may suffer multiple breaches of, and face multiple barriers to their rights. The problems that these children may encounter cut across many areas of their lives including their right to protection, education, material well-being and health care being ignored or placed at risk. The majority of children contacting my Office are children in the care system. They tell us about their lack of involvement in their care planning, not being consulted about their placements, a lack of an allocated social worker and their basic need for attachment with their families, in particular siblings not being met. The single most common issue raised with my Office by young people continues to be the lack of respect for their views and opinions.

Another of the Commission's recommendations is that Children First: National Guidelines for the Protection and Welfare of Children should be uniformly and consistently implemented throughout the State in dealing with allegations of abuse.

Last year on 20th November my Office launched a systemic investigation into the implementation of Children First: National Guidelines for the Protection and Welfare of Children. At the time of launching this investigation I said that I was concerned about the partial or non-implementation of these guidelines by the HSE and how this could result in systemic deficits in the management and care of children. The investigation, which is ongoing, is focusing on the Health Service Executive, as the statutory agency responsible for the implementation of Children First Guidelines and the Department of Health and Children/Office of the Minister for Children and Youth Affairs (OMCYA), as the body responsible for monitoring this.

Information had emerged about the implementation of Children First through complaints and investigations undertaken by my Office which raised serious concerns. Coupled with the ongoing concerns about child protection which I have previously raised with relevant Ministers and the Oireachtas, and the disturbing results of a review undertaken by the OMCYA which was published last year, I felt compelled to act. I initiated an independent, systemic, national investigation into the operation of Children First. The Ombudsman for Children Act, 2002, gives me the power to undertake investigations of my own volition.

At the beginning of this year, on 9th January, I launched an investigation into how the Department of Health and Children and the Health Service Executive handled the recent audit into child protection policies in the Catholic Church. I was deeply concerned that any entity could choose not to cooperate with the statutory body responsible for child protection.

One of the most disturbing aspects of the Commission's report was that the State had knowledge of the terrible abuse that was being perpetrated on children. The UN Convention on the Rights of the Child, which Ireland signed in 1992, requires States to take all appropriate legislative, administrative, social and educational measures to protect children from all forms of physical or mental violence, injury,

abuse, neglect or exploitation. Such protective measures should include effective procedures for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment.

The provisions of the European Convention on Human Rights (ECHR) are also relevant in this regard. Under Article 3 of the European Convention on Human Rights Act 2003, every organ of the State is required to perform its functions in a manner compatible with the State's obligations under the provisions of the Convention. Article 3 of the Convention imposes a positive obligation on the State to take measures designed to ensure that individuals within their jurisdiction are not subjected to torture or inhuman or degrading treatment, including such ill-treatment administered by private individuals. In particular, these measures should provide effective protection for children and include reasonable steps to prevent ill-treatment of which the relevant authorities have or ought to have knowledge. The European Court of Human Rights has held that in situations where public authorities responsible for child protection were or should have been aware of serious child abuse and did not address it adequately; the State may be held responsible for violating Article 3 of the Convention.

It is unfortunately impossible to make sure that all children will be fully protected from abuse in all circumstances. In light of the Commission's findings we can, however, ask if our child protection and child care systems are as sound as they can possibly be to ensure that threats to children are reduced to a minimum. Sadly, they are not.