

Tuesday, 18<sup>th</sup> July 2006

## **Speech by Ombudsman for Children, Emily Logan, at the MacGill Summer School**

I have the honour of being the first Ombudsman for Children in the Republic of Ireland, an Office established through primary legislation. It is an enormous privilege and an enormous challenge. I was interviewed for the post a little over two years ago by a group of fifteen young people from diverse communities ranging from 11 to 18 years of age. Just three adults participated in the interview process. I was appointed by Her Excellency President Mary McAleese and report directly to the Oireachtas.

The first function of the Office is to provide an independent complaints handling service in relation to services provided by public bodies. The key criterion for any intervention I might make is that a child has or may have been negatively affected by the action or the inaction of a public body. It is often inaction which is at the root of complaints. Complaints can be made directly by children, young people or by adults on their behalf. To date, approximately 15% of concerns expressed to our Office have come directly from young people.

An Ombudsman with a human rights brief is a new concept in Ireland. It is new because in addition to providing the well understood complaints handling service, I am also charged with a statutory mandate to promote the rights and welfare of children. This second, far more wide-reaching, function of the Office is the promotion of children's rights, including the UN Convention on the Rights of the Child (UNCRC). In 1989, the United Nations Assembly adopted the UN Convention on the Rights of the Child, a unique document in terms of international consensus on how children should be treated and respected.

My comments this evening are based on direct contact with more than 600 children, young people and their families through our complaints function, and contact made with thousands through our promotional role.

## **Child Protection**

We have a system and a State that, I believe, continue to lack capacity to provide adequate child protection services.

In January 2006, I made a submission to the Oireachtas Committee on Health and Children. It contained a summary and analysis of 61 complaints affecting 94 children made to my Office by members of the public up to December of last year. The complaints indicate concerns about the capacity of the system to respond to reports of child abuse, in all its forms.

The complaints indicated concerns about the way in which reports of child abuse were handled by the relevant authorities. The main issues highlighted were:

- difficulties in accessing services;
- a lack of information and awareness about child protection services;
- delays in intervention;
- a lack of adequate support after the disclosure of abuse had been made;
- a lack of respect for the voice of the child; and
- a reluctance to intervene in family contexts.

My role, as Ombudsman for Children, is to give a voice to those children and young people who have experienced or who are experiencing abuse. While the role of investigating the substantive issue of child abuse lies with the other agencies, the Ombudsman for Children's Office has a role in making sure that these agencies respond to children in an appropriate way. Many families have contacted my Office because they do not know where else to go for help. I believe that the experience of the children and families contacting my Office

had to be put into the public domain so that measures could be taken to give them and other families like them the support they deserve.

Children who have been through this process have told me that they do not trust the system. They feel that they were not believed, that people did not take them seriously. Children have been saying this for years and they are still saying it to me in 2006.

It is imperative that we create a culture where it is safe for a child to disclose abuse and where adults they tell are empowered to respond. The current system is not child focused. Much of the responsibility to disclose is placed on the child, who has already suffered dreadful trauma.

In the aftermath of Ferns, the Government announced a review of *Children First – the National Guidelines for the Protection and Welfare of Children*. It is important to realise that reviews of these guidelines have already been undertaken. Anything less than a comprehensive review of child protection policy, practice and procedure will fall short of what is required to put things right. In my submission to the Minister for Children's Office, I have suggested that time must be given to ask children and families who have been through this system about their experience. What was it like? Could it have been better? What could we do to improve the service and support you through this process?

As always, I received a polite response which informed me that this is a 'delicate matter' – inferring that they have no intention of asking children and families what or how things could be better. I am suggesting that we ask those in the midst of this trauma, those for whom this experience is very real.

We heard in May of this year, evidence given at the Child Abuse Commission, that as far back as 1954, nine children were being transferred from St. Joseph's in Kilkenny to a reformatory in Limerick because of their 'misbehaviour'. To one Department of Education inspector, Anna McCabe, this seemed strange. In the absence of child protection policies or guidelines,

she took responsibility and she took time to talk with the children and discovered that they had been sexually assaulted.

So why is it that a suggestion in 2006 that we ask children about their experience is met with resistance, when as far back as 1954 someone who was willing to take responsibility took time to talk with them? Is it because the system of child protection is there above all to protect itself?

### **Monitoring Function**

As Ombudsman for Children I have been given statutory responsibility for monitoring how the State treats children and young people. As part of this monitoring process my Office submitted an independent report to the UN Committee on the Rights of the Child on our experiences so far. We presented these experiences to the Committee in Geneva in June. The Ombudsman for Children's Act, 2002, states that 'the Ombudsman must highlight issues relating to the rights and welfare of child that are of concern to children.'

Many of the areas of deprivation are rooted in the reality that we do not think of children as individuals with rights. They are treated as either possessions of families or of the State. And it appears to me just now that it is the State who is the worst parent. Children are not recognised as individual rights holders in the Irish Constitution. Their rights remain subordinate to those of their parents and the family unit as a whole.

What is problematic in Ireland is that the threshold for State intervention in the interests of the child is extremely high because of the protections afforded to the family as a unit. And while this may not affect the average child it is certainly not the case for the more vulnerable.

The State has not implemented the recommendation of the 1996 All Party Constitution Review Group that a statement of express rights for children be inserted into the Constitution. Worse still, a recent report of an Oireachtas

Committee has proposed to roll back on the recommendations of the Review Group.

I consider that express recognition of the child as a full subject of rights in the Constitution would enhance protection for the rights and welfare of children for those who most need protection in Ireland and I would encourage the UN Committee to again raise this matter with the State later this year.

The experience of our Office in dealing with complaints is that administrative systems are overly bureaucratic and highly centralised. It is very difficult to say to complainants that they have to exhaust local procedures before we can help. By the time they get to us they are already frustrated and reluctant to return to local procedures.

There is often inflexibility in decision making which suggests that the best interests of the child are not at the core of decision making.

Many of those who contact my Office are not aware of internal complaints systems. Others have tried to secure their entitlements but have endured long delays in the delivery of services or have had no success at all. Persons working with some of the most vulnerable children in the State, such as Separated Children Seeking Asylum and Children in Detention often have not received appropriate training relevant to their role.

### **Child Deprivation**

The concept of deprivation sounds outdated but it is very real. I prefer to conceptualise deprivation as the lack of achievement of rights.

People tend to equate deprivation with material deprivation but modern concepts of poverty focus not just on material indicators but also on issues of

perceived well-being, exclusion and marginalization. On all of these counts, children are probably the most vulnerable citizens of the state.

Thinking of deprivation as the denial of rights fundamentally alters our perceptions and it should alter our response.

In times of such economic confidence, perhaps many of our children have experienced improved material well-being (certainly not all!) but for many the same old issues persist, issues of bullying, abuse in all its forms, and exclusion through not being listened to or heard remain as terrifying or frustrating as ever.

One of the most fundamental rights set out in the Convention on the Rights of the Child is the right to have a say in decisions that affect you: the right to participate. This right to participate places no obligation on the child to participate. It moves away from a paternalistic model to one that accepts the differing capacities of children and their families to become actively involved on issues of their own rights. From this perspective, it is important that the state and its systems should recognize that some children and families do not have the capacity to easily participate.

The State appears to be afraid of the economic repercussions of recognizing rights but in all the complaints I have heard, I have only *once* come across someone who was seeking compensation. In fact, I would like to point out that in many, many cases, children and their parents just want a simple apology. They want someone to accept or acknowledge that what happened to them was unfair or wrong. In the case of abuse, it is only the acknowledgement or recognition of the abuse which can set the foundation for them getting on with the rest of their lives. Not only have they been abused, but they go on to find that they are also denied the simple act of acknowledgement which could start their healing. Can we really accept systems which double the impact of child abuse by denying people the basis of living and loving: self-esteem and self-respect? To me this is deprivation at its deepest – children ignored, not listened to, made to feel like ghosts living some separate life from others.

But I also hear many things which hearten me greatly. I have often been struck by the altruistic nature of complaints. Many children want things to be better for other children. It is incredible to hear a 16-year old say that they know it is too late for them but they would like things to change for other children.

It is also striking that 30% of all complaints received by my Office relate to children with special needs. Children with disabilities are finding it very difficult to attain the support they are entitled to and will no doubt continue to do so unless action is taken to redress the accountability deficit, which persists in Ireland.

To summarise I wish to leave you with three main points:

1. All the policies, strategies and guidelines in the Government Publications Office in Molesworth Street are worth nothing if they do not result in changed behaviour by individuals who operate services.
2. People in services need to be trained and empowered to make decisions that provide flexibility and responsiveness to people. The systems are there to serve, not to exclude.
3. Children are not mini adults, they are individuals in their own right who need not just to be listened to but heard.

**ENDS**