

Report to the Oireachtas - A review of
complaints on behalf of children with special
needs regarding the provision of housing

September 2009

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1. EXECUTIVE SUMMARY

In recent years, the Office of the Ombudsman for Children (OCO) has received an increasing number of complaints regarding the actions of local authorities when providing housing for children with special needs. This special report contains a review of a representative sample of these complaints relating to 57 children with special needs.

A suitable home – one which meets the needs of children with special needs – impacts very considerably on the child's quality of life, participation in family life, relationships with family members and also on their sense of self. In preparing this report, the OCO has consulted with groups of children with special needs and their parents to hear their views and experiences in seeking a suitable home from a local authority.

This report contains a review of the complaints that have been received and an outline of the issues highlighted by children with special needs and their parents during the consultation exercise undertaken by the OCO. The report aims to communicate the concerns raised with the OCO in order to inform current and future policy and practice development in this important area.

The six recurring concerns regarding local authorities' housing services for children with special needs outlined in this report are:

1. Difficulties accessing suitable Local Authority Housing for children with special needs due to how their needs are prioritised or assessed in the allocation process.
2. Delays in providing housing for children with special needs which sometimes amount to a significant portion of a child's life.
3. The lack of a child-centred approach to meeting children's special needs across relevant public bodies.
4. Disagreement regarding what constitutes a suitable housing standard for children with special needs, including issues to do with the guidance available to support local authorities in meeting children's special needs and the perceived poor consultation and/or communication with families to assess these needs.
5. Insufficient or inadequate housing stock to cater for the needs of children with disabilities in the short and long term despite a national commitment to 'lifetime' adaptable housing.
6. Difficulties with the Housing Adaptation Grant for people with disabilities.

In addition, a number of examples of good practice displayed by local authorities are detailed in this report.

Article three of the UN Convention on the Rights of the Child provides that 'the best interests [of the child] should be a primary consideration' in all matters which

impact on the child. A range of difficulties outlined in the report stem from the absence of any positive obligation on administrative authorities to consider the child's best interests when making decisions that impact on the child.

Consequently, children's voices and needs are often silent and not adequately recognised in housing policy and practice.

Following the examination of the recurring concerns regarding local authorities' housing services for children with special needs **the six key recommendations arising from this special report are:**

1. The Department of the Environment, Heritage and Local Government should consider the particular housing requirements of children with special needs when developing and/or reviewing national housing policy.
2. All local authorities should recognise the particular housing requirements of children with special needs, and their families, and should reflect these requirements when devising and implementing their schemes of letting priorities.
3. The specific requirements of children with special needs should be recognised in the sectoral plan, currently being prepared, regarding the Housing Strategy for People with Disabilities.
4. Central and local Government authorities should recognise that children with special needs in need of housing must be central to the process of allocating housing to their family.
5. Local authorities should improve consultation and engagement with children with special needs and their families, and adopt a more integrated and long-term approach to meeting the needs of these children.
6. **Most importantly:** Childhood is short – delays in meeting the particular housing requirements of a child with special needs can have a serious and negative effect on the child, impacting on their childhood experiences and resulting in difficulties that may extend over a significant period of their childhood. The pressing need to resolve – in a timely manner – the housing difficulties of children with special needs should be recognised.

The OCO is submitting these recommendations to the Minister of the Department of the Environment, Heritage and Local Government to advocate change in housing services for children with special needs.

2. REPORTED IMPACT ON CHILDREN'S LIVES

In most instances the complainants felt that the quality of life of the children involved in these cases, detailed below, was restricted due to the inadequacies of the accommodation they were currently residing in. This was also highlighted by the young people and parents who participated in the OCO consultation.

Parents spoke about how difficulties with accessibility and suitable housing impacted on the young people's ability to participate in family life, and interact with family members and peers.

Parents also spoke about how unsuitable housing impacted on children's emotional welfare and sense of self. In particular they described how children felt different, or felt isolated in their own home and how this impacted on their mood and their ability to participate in their lives.

Furthermore families raised concern about the impact of the lack of suitable housing on their child's development. In particular parents spoke about the lack of space and the restrictions this has on mobility, access to use of specialised equipment and ability to undertake the required therapeutic exercises.

This situation was often further exacerbated due to the length of time involved in trying to access adequate housing. In a number of complaints received by the OCO, professionals and parents reported that unsuitable housing had led to significant developmental delays for the children concerned. They contended that it is harder for children to be able to develop their physical abilities and skills as they get older and questioned the impact of this on their child's development in the long term.

One young person consulted by the OCO for this special report emphasised the importance of appropriate housing for a young person's identity and well being. He described the provision of suitable housing as more than accessibility and that it is "about respect". Another child expressed fear for her safety as she had fallen down the stairs and was afraid of a further accident.

In light of the amount of time spent by children with special needs in their home, the importance of suitable and safe housing was an issue highlighted by other young people and parents involved in the consultation process.

The difficulties described and experienced by these parents led one person to comment that this shows that "kids with special needs are not recognised properly".

Parents were of the view that their children's particular needs were not adequately recognised and responded to regarding their housing needs.

Particular emphasis was placed on the importance of recognising that all children are different and that provision of services should be based on matching this to the particular child's needs. This was also raised by the young people.

3. HOUSING POLICY IN IRELAND – A BRIEF OVERVIEW

The stated aim of housing policy in Ireland is that every household should have access to an affordable dwelling of good quality, suited to its needs, in a good environment and, as far as possible, at the tenure of its choice.

In December 2005, the Government published the *Housing Policy Framework - Building Sustainable Communities* document. Greater detail outlining the actions required if the goals in this framework were to be achieved was set out in the policy statement, *Delivering Homes, Sustaining Communities*. A National Housing Strategy for People with a Disability is expected to be developed and implemented by the end of 2009.

The Department of the Environment, Heritage and Local Government is the Department primarily responsible for the formulation and implementation of housing policy and for the preparation of legislation and regulations in relation to housing.

In accordance with the Local Government Act 2001, the Housing Acts 1966-2004, the Disability Act 2005 and regulations made pursuant to those Acts, local authorities deliver the bulk of the housing services for which the Department is responsible.

4. THE SIX KEY ISSUES RAISED THROUGH A REVIEW OF COMPLAINTS RECEIVED AND CONSULTATION WITH CHILDREN WITH SPECIAL NEEDS AND THEIR PARENTS

Children with special needs live in a range of accommodation types, including privately owned and rented dwellings, social housing and residential centres.

The OCO is mandated to examine complaints regarding the administrative actions of public bodies, and between January 2005 and the end of August 2009 a total of 140 complaints about children's housing situations were made to the OCO, 81 of which were made on behalf of children with special needs. This figure (140) represents 4.5% of the total number of complaints received by the office over this time period.

Of the complaints received, 52 families, through the guidance of the OCO, found an early resolution of their complaint. 29 complaints were further investigated by the OCO as no early resolution was found. These 29 complaints related to 57 children with special needs.

This report provides analysis of these 29 complaints as the issues raised in these complaints were representative of the type of issues brought to the attention of the OCO.

The complaints brought to the attention of the OCO concerned children with a range of special needs including sensory, behavioural, physical and learning difficulties as well as complex health care requirements. The six recurring concerns regarding local authorities' housing services for children with special needs outlined in this report are:

1. Difficulties accessing suitable Local Authority Housing for children with special needs due to how their needs are prioritised or assessed in the allocation process.
2. Delays in providing housing for children with special needs which sometimes amount to a significant portion of a child's life.
3. The lack of a child-centred approach to meeting children's special needs across relevant public bodies.
4. Disagreement regarding what constitutes a suitable housing standard for children with special needs, including issues to do with the guidance available to support local authorities in meeting children's special needs and the perceived poor consultation and/or communication with families to assess these needs.
5. Insufficient or inadequate housing stock to cater for the needs of children with disabilities in the short *and* long term despite a national commitment to 'lifetime' adaptable housing.
6. Difficulties with the Housing Adaptation Grant for people with disabilities.

These six recurring concerns are now addressed in more detail.

ONE

DIFFICULTIES ACCESSING SUITABLE LOCAL AUTHORITY HOUSING FOR CHILDREN WITH SPECIAL NEEDS DUE TO HOW THEIR NEEDS ARE PRIORITISED OR ASSESSED IN THE ALLOCATION PROCESS.

Key findings

- **The way in which children with special needs are prioritised varies from county to county**
- **When it comes to allocating housing there are many disputes between local authorities and families as to what constitutes a 'reasonable offer'**

- **There are instances where the medical and other needs of children are not taken appropriately into account when considering housing and/or housing adaptation**

As part of their reserved functions, each local authority develops a Scheme of Letting Priorities which sets out how the order of priority in the letting of local authority dwellings is determined. As part of each investigation, the OCO examined the Scheme of Letting Priorities for each local authority referred to in the complaints received.

None of the schemes examined offered specific prioritisation for families where a child has a disability; however prioritisation was addressed in a number of other ways. In most cases priority was given for medical reasons, whilst in some cases priority was given on compassionate grounds or because specific houses were earmarked to cater for the needs of people with disabilities.

In four of the schemes examined, disability or medical grounds were given fourth priority in the scheme of letting priorities. There was a lack of consistency across all of the schemes examined with some noting overall priority given under exceptional social grounds or medical grounds.

From a number of cases it appears that the process in most areas is that the medical information is considered by the Area/Chief Medical Officer. In some of the cases under examination it appeared that there were no clear guidelines on what information was required for consideration for medical priority and when this should be referred to the Medical Officer.

Example – the needs of a child with a terminal illness were not adequately prioritised

The OCO was contacted by a social worker on behalf of a child who was diagnosed with a terminal illness. The child lived in a house in conditions that were causing serious difficulty with the treatment of the illness. The Local Authority was not factoring in the child's illness when considering the family's housing needs.

The Ombudsman for Children's Office expedited an examination of the complaint which found that the seriousness of the medical condition of the child was not recognised through the administrative process used by the Local Authority. An opportunity was given to the public body to resolve the matter.

Within weeks of the Ombudsman for Children receiving the complaint, the family were prioritised accordingly in the housing list for that area.

In a number of cases it appeared to the OCO that the local authorities did not consider information from advocates, including public representatives or non medical professionals, as part of the normal administrative prioritisation or complaint process. As a result, it appears that important information was logged but not used to (re)consider the particular application.

Furthermore, while medical priority applies to the allocation / transfer process, it sometimes does not appear to apply to the adaptation or repair process following the allocation of a house.

Example – a child with multiple severe special needs waited five years between overall priority being awarded and moving in

In one particular case, the OCO found that while a family was awarded overall priority in 2003 and shortly after a house was identified in June 2004 but needed adaptation to meet the needs of the child. It was 2008 before the work was completed and the family was able to move in.

Once a family reaches the top of the local authority housing list an offer of housing will be made when a house becomes available. Families may accept or refuse this offer, however if the local authority deems the offer to be 'reasonable' then the family's position on the housing list may be affected if they refuse.

The issue of what constitutes a 'reasonable offer' of accommodation is often disputed and brought to the OCO. Families raised concerns about accommodation not being adequately matched to their children's complex special needs, leading to disagreement regarding what constitutes a reasonable offer of accommodation.

Local authorities, given the level of demand for housing and their knowledge of the housing stock available, were often of the view that the offers of housing made were reasonable. However, some families believed that the offer was not, and did not, for example, meet the child's specific special needs, provide adequate living space, or was not close to the child's service provision or supports.

It is important that local authorities have robust procedures and assistance in assessing and addressing children's special needs in relation to housing in view of the range of these special needs.

Many Schemes of Letting Priorities include a clause that penalises applicants for housing for refusing a 'reasonable offer of housing'. The number of reasonable offers made before penalties are applied differs from one local authority to the next. The penalties themselves also differ ranging from reducing priority of the applicant to situations where two refusals result in no further offers of housing for

a period of 12 months. In some cases this results in families feeling constrained into accepting an offer of housing that they do not consider suitable.

While penalty clauses were contained in many Schemes of Letting Priorities, in several instances the local authority showed flexibility and acted outside of this policy. In one instance the local authority was seen to be working closely with the mother in trying to identify suitable accommodation. However, in another case a refusal of accommodation resulted in a file not being examined for four years.

Finally, a further issue raised with the OCO related to situations where the local authority offered families what they considered to be 'disability specific' housing but which in fact did not match their child's specific needs.

During the consultation with children and young people undertaken by the OCO, one young person diagnosed with Gigantism spoke about the benefits of living in supported/adapted accommodation but stated that their particular needs had not been considered and that, specifically, their bedroom was not suitable to adequately accommodate the equipment needed. This raises issues about the suitability of some disability specific housing that is currently available.

Two

DELAYS IN PROVIDING HOUSING FOR CHILDREN WITH SPECIAL NEEDS SOMETIMES AMOUNTING TO A SIGNIFICANT PORTION OF A CHILD'S LIFE

Key finding

- **Delays in meeting the housing needs of a child can have a significant, negative impact on the quality of life of the child and can run on for years in some cases**

A significant issue arising throughout the analysis of many of the complaints related to delays in the provision of suitable housing. The time scale involved in the application and subsequently the allocation of accommodation can stretch over a number of years.

From a review of the complaints, it appears that the initial stages of the application and approval of the application moves quite quickly, for example, 3-4 months. However, the difficulty arises in relation to the offer of accommodation which can take a number of years. The families have told the OCO about the impact on their quality of life when waiting for houses.

Delays appeared to arise, in part, from the lack of suitable housing stock and high demand for housing in some areas outlined above. However, delays also arose due to the administrative processes in relation to the housing allocation

and adaptation with, for example, difficulties in the medical priority processes, the design, planning and project managing of the adaptation process.

Example – a significant delay of many years

The mother, parent of a child with multiple disabilities and a visual impairment applied for Local Authority Housing when her child was aged five. The family were awarded overall medical priority some four months later. Thirteen months later a property in need of adaptation was identified. The planning and adaptation process took a considerable length of time and the housing was subsequently made available some three years and eight months later. The child by that time was aged ten and had been living in accommodation that was unsuitable to her needs.

Furthermore, in a number of the complaints, families reported that the local authorities were reactive to their requests in relation to housing and there was an absence of proactive steps taken by local authorities to address the housing needs.

Additionally delays occurred in relation to the public procurement process involved when adapting Local Authority Housing. While tendering guidelines are essential for accountability in the use of public money the complex and cumbersome nature of these processes can have a major impact on the length of time in which children are living in unsuitable accommodation. Further difficulties arose from local authorities' work commitment and resources.

Example – an application made in 2002 results in a suitable dwelling being provided in 2008

A family applied in 2002 for housing on foot of their daughter's severe physical and intellectual disability. They were awarded medical priority in 2003. Though a number of offers were made, the occupational therapist advised that one was not suitable and the family declined another one for similar reason. Subsequently in 2003, the Local Authority had noted that it was unlikely that suitable accommodation would become available through normal vacancies and that consideration should be given to meeting their needs through the building programme or purchasing of a property.

It was 2008 before a suitable dwelling was provided. The child had at this stage spent half of her life waiting for this accommodation.

Despite the difficulties facing local authorities in relation to provision of suitable housing, this needs to be considered in the context of the child's lifetime. In particular the following cases highlight the significant time periods involved in provision of suitable accommodation and the percentage of the child's life awaiting same.

THREE

THE LACK OF A CHILD-CENTRED APPROACH TO MEETING CHILDREN'S SPECIAL NEEDS ACROSS RELEVANT PUBLIC BODIES

Key finding

- **Children with special needs still do not have access to integrated services which take account of their needs in all areas including housing, health and education**

The Disability Act, 2005 requires agencies to work collaboratively in addressing the needs of children with disabilities. The OCO is aware that protocols and liaison arrangements have been established in relation to the 'assessment of needs' under the Disability Act. However, the progression of the implementation of the Act is still at an early stage and currently is only addressing children under five.

Since its inception, the OCO has received complaints from families of children with special needs who report having serious difficulties accessing the range of services their children require from housing, to health and education. Families have raised concerns about the lack of integration of service provision and are negotiating with multiple professionals across multiple agencies in order to secure the most appropriate service provision for their child. This can be very onerous on already vulnerable families.

Quote from parent at OCO consultation

'..there needs to be some input at planning level, rather than just guidelines as regards to putting in a wheelchair accessible door in a house and a ramp outside your door...there should be proper planning legislation put in place that accommodates all houses for children with special needs, travelling from house to house or whatever, on the basis of looking at it from the outside and the inside.'

Moreover, children without an advocate who has the capacity to pursue these complex administrative processes may be at a disadvantage in accessing suitable service provision including housing.

In other situations whilst the housing needs have been considered, this appears to be in isolation from their education and health needs, with a lack of integrated child centred planning to consider the child's needs holistically. Specifically in a number of cases, families reported being successful in accessing health or

educational services for their child but were not able to secure housing that facilitated easy access to these services.

FOUR

DISAGREEMENT REGARDING WHAT CONSTITUTES A SUITABLE HOUSING STANDARD FOR CHILDREN WITH SPECIAL NEEDS, INCLUDING ISSUES TO DO WITH THE GUIDANCE AVAILABLE TO SUPPORT LOCAL AUTHORITIES IN MEETING CHILDREN'S SPECIAL NEEDS AND THE PERCEIVED POOR CONSULTATION AND/OR COMMUNICATION WITH FAMILIES TO ASSESS THESE NEEDS.

Key findings

- **There are different understandings of the level of living space required by children with special needs and this is leading to disagreement and difficulty**
- **Perceived poor consultation / communication with families to assert what the child needs have also contributed to difficulties**

There are different understandings regarding the level of living space required by children with special needs. Families noted the need for adequate space to improve the child's long term developmental needs, to accommodate any specialised equipment and also for the carrying out of any recommended therapeutic exercises.

Space was an issue of contention in a number of cases. Complainants reported that trying to ensure their children's housing needs were adequately addressed can involve lengthy and protracted negotiations with local authorities.

The review of complaints highlighted the lack of specific regulations in relation to the issue of space. Building regulations (Technical Guidance Document Part M) require that buildings be accessible for people with disabilities. The guidance regarding dwellings aims to ensure that they are visitable by people with disabilities, and includes the approach, access and circulation within dwellings.

However, the OCO considers that inadequate guidance is available regarding the liveability of homes for children with disabilities, in particular the level of living/bathroom/bedroom space required for children in the long-term. As Part M of the building regulations is currently being reviewed, the OCO is of the view that more specific standards about 'liveability' are needed for children with disabilities.

Although some more detailed guidance has recently become available, there is no requirement that local authorities adhere to same. Furthermore, an issue that

has been raised by complainants relates to their perception that local authorities rely on minimum standards. This can lead to further difficulties as children grow and develop, as their needs may outgrow the accommodation.

The complaints reviewed have also highlighted a considerable level of variation in the consultation and communication that takes place between families and the local authorities when allocating/adapting houses for children with disabilities.

Lack of clear communication has appeared to lead, in a number of cases, to different understandings between local authorities and families on what can be reasonably expected in terms of accommodation. This can be a source of conflict and can in turn lead to delays in provision of the accommodation.

Example – the lack of clarity regarding the level of housing adaptation agreed for a child with autism

A family applied for the Housing Adaptation Grant (HAG), identifying the level of adaptation requested which was supported by an Occupational Therapist. The Local Authority agreed the grant but did not give details of what adaptations were agreed. Subsequently when the family became aware that all the requested adaptations had not been agreed further negotiation then took place.

These difficulties, in addition to funding difficulties lead to delays of more than two years before the work was initiated. The Local Authority did agree to some of the issues raised by the family though advised that these revisions were greater than those normally provided for under the HAG scheme.

Parents and children consulted by the OCO have stated that the local authorities do not always ask families about their needs and felt that difficulties could be prevented if consultation was improved.

Moreover, variation in consultation with families at the early planning stage can also lead to delays in provision of suitable housing or children not being in accommodation that matches their specific needs. It should be acknowledged that families are often experts on their children's needs and consultation can assist in matching the accommodation to children's specific needs.

FIVE

INSUFFICIENT OR INADEQUATE HOUSING STOCK TO CATER FOR THE NEEDS OF CHILDREN WITH DISABILITIES IN THE SHORT AND LONG TERM DESPITE A NATIONAL COMMITMENT TO 'LIFETIME ADAPTABLE HOUSING'

Key findings

- **Families have reported insufficient or inadequate housing stock which is suitable for children with special needs**
- **The lack of long term planning for the housing needs of the child were also raised by a number of children and their parents**

A number of complaints raised the issue of insufficient or inadequate housing stock being available to meet the needs of children with special needs.

This has led to considerable delay in suitable housing being provided. In particular, families reported being offered housing that was not suitable. A number of complainants raised concerns that if the housing offer was not accepted then there could be a considerable wait for an alternative. Other families accepted housing on the basis that the local authority would adapt the property to meet the child's needs.

Example - complaint regarding a house in need of repairs offered to a lone parent with two children with special needs

A Local Authority offered a house in need of repairs to a lone parent with two children with special needs because it was the only bungalow available at the time and the Local Authority considered that it would meet most of the child's needs.

The parent took the offer on the basis that repairs would need to be made, as she was concerned about the implication on their housing status if she refused this offer. Subsequently, she was unable to carry out the repairs and was advised that it would be some time before the Local Authority could undertake the work. As a result, she felt she had no alternative but to leave the accommodation, leaving herself and her two children in a vulnerable position.

Following the OCO's examination, the Local Authority agreed to reintegrate the family into the housing list without penalty as the offer made did not fully lay out the extent of the repairs and the mother's undertaking in relation to this, it could not be considered 'reasonable'.

An additional issue for local authorities related to the high cost of repairs when suitable accommodation was identified. For example, a Local Authority provided housing in need of adaptation. However, when the family moved into the accommodation the estimated cost of the adaptation was such that the Local Authority advised that a further move would be more cost efficient.

Additionally families reported that offers of housing were often based on the location of a suitable property and did not take into account the child's needs in relation to other service provisions such as schooling and therapeutic services.

This is critical for children with special needs who often have to access multiple services. Suitably located housing is therefore vital to the child's continuity of care.

A number of the complaints highlighted difficulties in relation to planning for the long term housing needs of the child. This resulted in families moving to accommodation that could facilitate their child's needs in the short term but not in the longer term and would require further change of accommodation. Whilst there is a current emphasis on life time adaptable housing, which aims to ensure that housing when provided can be adapted to meet the changing needs of a tenant, it is essential that children's developmental needs are considered in this context.

It appears that the lack of suitable housing stock can raise difficulties for local authorities in providing life time adaptable housing for children.

Six

DIFFICULTIES WITH THE HOUSING ADAPTATION GRANT (HAG) FOR PEOPLE WITH DISABILITIES

Key findings

- **The grant is often insufficient to cover the costs of housing adaptation to meet the needs of the child**
- **There is a geographical disparity regarding the availability of the HAG**

The previous sections of this report refer to the provision of housing by local authorities for children with special needs. However, there are a large number of families for whom this does not apply. One of the only supports available to families in privately owned housing, in terms of addressing the housing needs of their child, is through the HAG.

Quote from a young person with special needs participating in OCO's consultation

"They are lovely little houses but they planned it very badly. They did not think about the people going into it. They didn't bring the people in and ask them what they needed."

The HAG is a means tested grant with a maximum payable amount of €30,000. Some families reported that this grant is often insufficient to cover the cost of adaptation needed for their child. Furthermore, families meeting the means-test criteria may not be able to afford the cost of the adaptation.

It has also come to the attention of the OCO that some local authorities no longer offer this grant whereas others continue to do so. This creates geographical disparities.

5. GOOD PRACTICES BY LOCAL AUTHORITIES

Notwithstanding the difficulties outlined in this special report, it should also be noted that there were a number of administrative strengths noted.

In particular, a number of local authorities had regular consultation and assistance from occupational therapists to assist them in planning to meet children's needs. In this matter, however, some difficulties did arise where the occupational therapist was not familiar with the child or where there were varying professional opinions about suitability.

Furthermore a number of local authorities showed flexibility in relation to the application of the penalty clauses for refusal of reasonable housing offers. The local authorities concerned showed particular emphasis on considering the child's particular need for suitable housing.

Additionally some local authorities showed flexibility in consulting with families and were amenable to considering and incorporating the changes proposed by families in order to address the children's specific needs.

These instances of flexibility and consultation were welcome, and should become the norm across all local authorities.

6. OUTCOMES

The OCO operates its complaint function in line with the Paris Principles which means that it aims to give as much possible support to the complainant to achieve early local resolution of their grievance before escalating their complaint through the complaint process. This was achieved in 52 cases out of the 81 received in the time period considered.

The OCO examined 29 of the complaints received. In one third of the cases it found in favour of the public body as the correct procedures were followed or the adverse effect was not directly linked to the actions of the local authorities. Nonetheless, encouragements were made in terms of best practices.

In two thirds of the cases, the OCO found that the administrative practises could be improved and/or the actions of the local authorities had an adverse effect on the child or children concerned.

In these cases, this Office made recommendations to the local authorities concerned in terms of reviewing or improving their administrative practises, for example, by:

- addressing the child's housing situation
- developing a child-centred and integrated approach to housing allocation
- reviewing medical priority system
- improving their record keeping and communication processes
- improving their project management process for adaptation

These recommendations were implemented and only four cases went to full investigations as resolution was not secured at examination stage.

7. RECOMMENDATIONS

This report has highlighted a number of particular difficulties for children with special needs and their families in securing suitable accommodation to meet their needs.

Article three of the UN Convention on the Rights of the Child provides that 'the best interests should be a primary consideration'. A great range of the difficulties outlined in this report stem from the absence of any positive obligation on administrative authorities to consider the child's best interest. In particular the review of complaints has highlighted that children's voices and needs are often silent and not adequately recognised in housing policy and practice.

Following the examination of the recurring concerns regarding local authorities' housing services for children with special needs **the six key recommendations arising from this special report are:**

1. The Department of the Environment, Heritage and Local Government should consider the particular housing requirements of children with special needs when developing and/or reviewing national housing policy.
2. All local authorities should recognise the particular housing requirements of children with special needs, and their families, and should reflect these requirements when devising and implementing their schemes of letting priorities.
3. The specific requirements of children with special needs should be recognised in the sectoral plan, currently being prepared, regarding the Housing Strategy for People with Disabilities.
4. Central and local Government authorities should recognise that children with special needs in need of housing must be central to the process of allocating housing to their family.

5. Local authorities should improve consultation and engagement with children with special needs and their families, and adopt a more integrated and long-term approach to meeting the needs of these children.
6. **Most importantly:** Childhood is short – delays in meeting the particular housing requirements of a child with special needs can have a serious and negative effect on the child, impacting on their childhood experiences and resulting in difficulties that may extend over a significant period of their childhood. The pressing need to resolve – in a timely manner – the housing difficulties of children with special needs should be recognised.

The OCO is submitting these recommendations to the Minister of the Department of the Environment, Heritage and Local Government to advocate change in housing services for children with special needs.

APPENDICES

Background to the Ombudsman for Children's Office (OCO)

The Ombudsman for Children's Office is an independent statutory body established in 2004 under the Ombudsman for Children Act, 2002. The principal aim of the OCO is to promote the rights and welfare of children in Ireland and it has three main functions:

- To receive, examine and investigate complaints made by or on behalf of children and young people;
- To provide independent advice on legislative and public policy developments affecting children and young people and undertake research regarding children's rights and welfare; and
- To promote children's rights and welfare by providing an independent voice on behalf of all children and young people in Ireland and affording children and young people opportunities to be heard in relation to issues that affect and concern them

All the work carried out by the Ombudsman for Children's Office is underpinned by a rights-based approach and an awareness of the need to ensure that the State complies with its international human rights obligations, most particularly the UN Convention on the Rights of the Child.

Complaints function

Sections 8 and 9 of the Ombudsman for Children Act, 2002 provide that the Ombudsman for Children may investigate any action taken by or on behalf of a public body, school or voluntary hospital where, following a preliminary examination, it appears that the act has or may have adversely affected a child and was the result of maladministration¹.

The OCO is independent and impartial in its handling of complaints. It aims to support parties to the complaint to arrive at a mutual understanding of the complaint in order that it can be resolved informally and is neither an advocate for the child nor an adversary to the public body in the process.

When the OCO receives a complaint, it initially carries out a preliminary examination which provides a neutral space for the complainant to present his or her concerns and for the public body in question to respond. Many cases are resolved at this stage. However, when a resolution to the problem which prompted the complaint has not been achieved and when it is appropriate to do so, the Ombudsman for Children may proceed to an investigation of the matter.

¹ This includes actions which have 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.

If the Ombudsman for Children ultimately concludes that a child has been adversely affected by the action of a relevant body and that the action was the result of maladministration, the Ombudsman for Children may recommend that specified measures be taken to remedy or mitigate the effect on the child in question or that the matter in relation to which the action was taken be further considered. The OCO may also publish a statement on an investigation when it believes that there is learning which may impact on bodies other than the one investigated.

The Ombudsman for Children is obliged to have regard to the best interests of children at all times in the performance of her functions under sections 8 and 9 of the Ombudsman for Children Act.

Special reports

The Ombudsman for Children is directly accountable to the Oireachtas and may, under section 13(7) of the 2002 Act, submit reports with respect to the performance of her functions to the Houses of the Oireachtas as she sees fit.

When it becomes clear from an examination of the complaints received by the OCO that certain issues of concern are arising consistently, the Ombudsman for Children may prepare a report under section 13(7) on those issues for the Oireachtas' consideration. Two such reports have been submitted to date on concerns relating to child protection and to school transport respectively.

This report on complaints regarding the provision of accommodation to children with special needs has been prepared against the background of an increasing number of such complaints. In addition, there is a considerable level of commonality between complaints on the substance of the issues raised.

The aim of this report is to bring these concerns to the attention of the Oireachtas and the wider public and to address systemic issues in a more panoramic way.

Relevant human rights standards

Ireland is party to a number of international instruments relevant to the provision of adequate housing to children with disabilities, including the UN Convention on the Rights of the Child, the International Covenant on Economic, Social and Cultural Rights and the Revised European Social Charter. The State has also signed but not yet ratified the UN Convention on the Rights of Persons with Disabilities.

Article 23 of the UN Convention on the Rights of the Child recognises that children with disabilities should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community. The UN Committee on the Rights of the Child – the panel of experts charged with monitoring the implementation of the UN Convention - has commented that housing is one of the areas in which disability-based

discrimination has been particularly severe (General Comment No 9) and that States Parties to the Convention should always be mindful of the need to avoid such discrimination and for all administrative authorities to make the best interests of children a primary consideration in all actions concerning them.

The International Covenant on Economic, Social and Cultural Rights also obliges States to recognise the right of everyone to adequate housing and the continuous improvement of living conditions. In its general comment on the right to adequate housing, the UN Committee on Economic, Social and Cultural Rights explained that the right to housing should not be interpreted in a narrow or restrictive sense which equates housing with shelter. The right to adequate housing rather suggests the right to live somewhere in security, peace and dignity (para 7). The Committee went on to clarify that, although adequacy of housing is determined by many different factors, one of those factors is accessibility and people with disabilities should be entitled to full and sustainable access to housing resources (para 8).

Although some of the rights guaranteed by the Covenant on Economic, Social and Cultural Rights are progressively realised in a manner that is dependent on available resources, the UN Committee has stated clearly that effective monitoring of the right to housing is an obligation of immediate effect. This is reflected in the reporting guidelines under the Convention which require States to provide detailed information about those groups within society that are vulnerable and disadvantaged with regard to housing (para 13).

The UN Convention on the Rights of Persons with Disabilities reiterates these requirements in Article 28, in addition to requiring that States Parties ensure access for persons with disabilities to public housing programmes.

At a regional level, Ireland is also obliged under Article 15(3) of the Revised European Social Charter to promote the full social integration of people with disabilities and enable their access to a range of services, including housing.

Finally, local authorities have signed up to the Barcelona Declaration 1995 committing to create a more inclusive society for people with disabilities through a wide range of measures.