



PROGRESS for CHILDREN



Ombudsman for Children's Office Annual Report 2019



ombudsman
do leanaí
for children





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Dr Niall Muldoon

Ombudsman for Children

Message from Niall

Welcome to our 2019 Annual Report, which marks my fifth year as Ombudsman for Children.

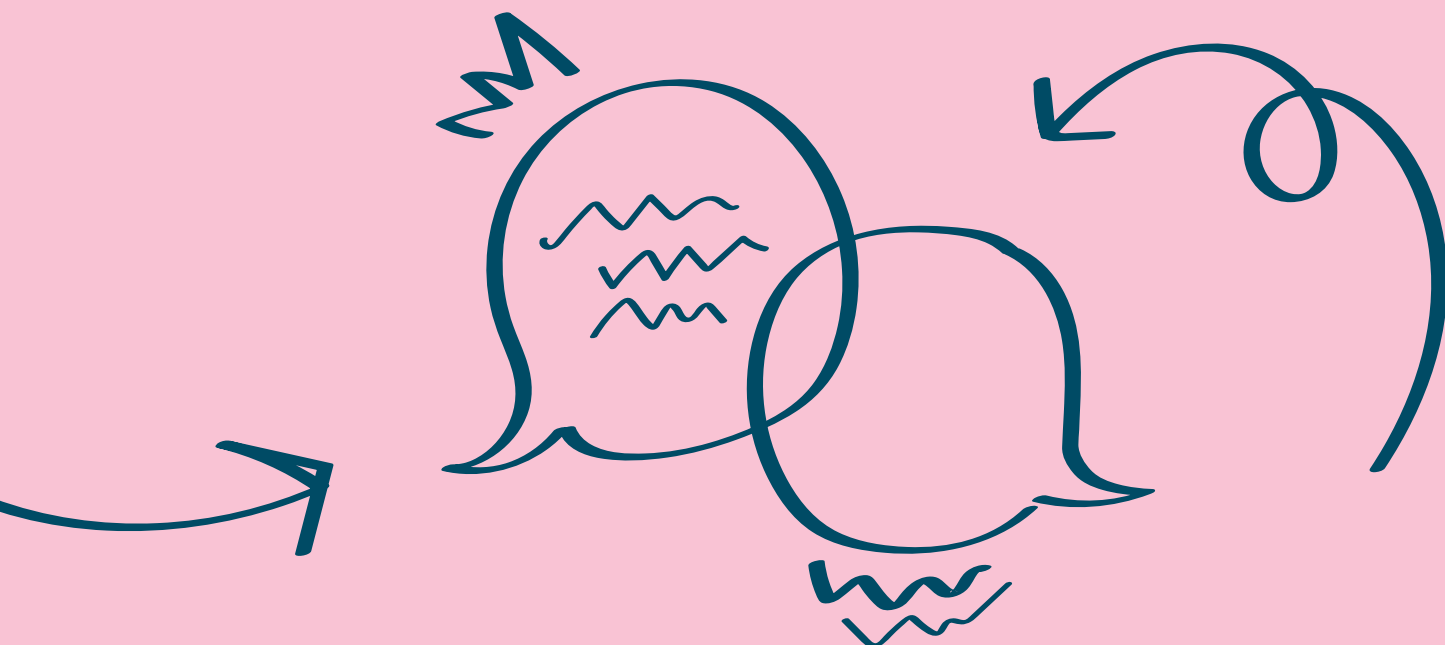
Prior to reviewing 2019, I want to begin by noting a number of important achievements for the OCO during the past five years.

A Look Back

In 2017, the OCO's complaints remit in relation to Direct Provision was finally clarified. Since then, we have developed and implemented an outreach programme involving regular visits to Direct Provision and EROC centres to engage directly with children and their families. We also conduct regular outreach visits to Oberstown Children Detention Campus to engage with young people detained there, who are among several groups of children who we are aware would otherwise find us hard to reach. Through our independent examination and investigation of complaints, we continue to engage constructively with a wide range of public bodies to secure positive outcomes for children. Notable developments in this regard include changes in how child protection in schools is monitored through the Department

of Education and Skills' Inspectorate and improvements in how Tusla and the HSE fulfil their responsibilities towards children with disabilities in care.

In implementing our statutory duty to promote children's rights and welfare, we have continued to monitor and advise on a wide range of developments in legislation and public policy affecting children. Influencing change in this area requires persistence as the pace of progress can be slow - at times, unnecessarily so. However, our engagement has been fruitful, with one significant example being the enactment of the Education (Admission to Schools) Act 2018. While I am disappointed that schools can continue to allocate 25% of places to children of former students, this legislation promises to remove significant barriers that certain children have faced in accessing a school place, including on the grounds of religion. In the area of child protection, I am pleased that 2019 saw the launch of the Barnahus OneHouse pilot project in Galway. An example of vital interagency coordination on cross-sectoral issues affecting children, this centre provides a child-centred, coordinated approach by a range of Departments and State



agencies to supporting children affected by sexual abuse. I hope that therapeutic supports will also be put in place for these children very soon.

We have continued to develop and expand our children's rights awareness and education programme for children and for third level students pursuing areas of study that involve working with children. Our work in this area remains relatively unique in the Irish context and I am proud of what we have achieved. We have also pursued our work to hear and highlight the experiences and perspectives of children and young people, in particular children who are in vulnerable circumstances and whose voices are less likely to be heard. Our activities in this regard have included important consultations with children receiving in-patient care and treatment for their mental health and children experiencing homelessness. We appreciate the confidence that these children, and others, have invested in us. Children and young people's courage in speaking up in difficult circumstances has served to amplify why further measures are needed if their rights and best interests are to be fully upheld. Furthermore, through our

annual Child Talks event, we have initiated a celebration of World Children's Day, which offers children an opportunity to talk about a right that is particularly important to them and share their perspectives through an event equivalent to Ted Talks.

All of this work, and our other work, is pursued in line with our core values as an organisation, which are to be compassionate, innovative, accessible, authoritative, independent and trustworthy. As an independent statutory organisation that must hold those in positions of power and authority to account, we seek to model through everything we do what a child-centred, rights-respecting organisation should look like, and what can be achieved for and with children by working in this way.

2019

During 2019 we continued to place the rights and welfare of children to the fore in all our work. This report highlights some of our main activities during 2019 across a diverse range of areas, including education, health, justice, housing, and family support, care and protection.

Our report includes eleven case studies so that the stories of the children we serve are told and highlight the reality of the issues we address.

Speaking of stories, during 2019 one of the significant pieces of work we undertook was a consultation to hear the views of children living in Direct Provision on the important issue of social inclusion.

Our 2019 annual report includes information about work we are pursuing with regard to an important emerging area for children's rights: the digital environment. Upholding children's right to be protected from all forms of harm and abuse is a key challenge in this context. In addition to pursuing our involvement in the National Advisory Council for Online Safety, we also reviewed and submitted our views on preliminary proposals to legislate for a regulatory framework to deal with harmful online content, which include a focus on children. Children's rights in the digital environment are not limited to considerations about safety and protection, vital though these considerations are. In 2019, we made a submission to the Data Protection Commission's welcome public consultation on children's rights as data subjects, an issue which necessarily engages with a range of rights that children have, including rights to privacy, to information, to be heard, and to have their best interests prioritised. Furthermore, innovative research we commissioned on mobilising digital and social media to advance children's right to be heard was progressed by TU Dublin in 2019 and has included primary research with children and young people.

Looking forward at an unprecedented moment in time

From my perspective as Ombudsman for Children, key issues for children and their rights that I want to see Government and the State pursue during 2020 include:

1. Making tangible progress on putting in place a mental health system for children that is fit for purpose and upholds children's right to the highest attainable standard of mental health
2. Identifying and pursuing the implementation of an appropriate alternative to the Direct Provision system
3. Addressing the homelessness crisis as a matter of absolute urgency and ensuring that meaningful steps are taken on the issue of enumerating the right to housing in our Constitution.

While this report is about the OCO's work in 2019, it would be remiss of me not to acknowledge, as we work to finalise this report, the severe impact that the Covid 19 pandemic is having on children and families. Our collective retreat into lockdown generated very significant challenges for children, including with regard to their development, health and education. Among our concerns in this regard is the level of regression experienced by very many children with special needs who were unable to access schools and essential therapies. Circumstances for children experiencing or at risk of abuse and violence were of grave concern to me. Existing inequalities have been amplified by this crisis and must prompt us to redouble our commitment and efforts to ensure that children who face persistent barriers to enjoying their rights are prioritised. As we all know, these children include children belonging to ethnic minorities, including Traveller and Roma

children; children with disabilities; children experiencing homelessness; and children experiencing poverty.

While the crisis has been very traumatic it was pleasing to see an inspiring degree of solidarity come to the fore alongside a renewed focus on what matters - our families and friendships, our health and wellbeing, our shared need for an adequate standard of living that secures our basic human needs, our freedom of movement and our need for reliable information and transparent communications. As a society, we know that we will feel the effects of the Covid-19 pandemic for a long time to come. My hope is that the compassion, creativity, agility and resilience that have been evident during these past months will drive us towards addressing the impact of this unprecedented crisis, and what we fashion from it, in a manner that gives real meaning to equality and human rights in all our lives and particularly in the lives of all of our children.



Who we are

The Ombudsman for Children's Office (OCO) is a human rights institution that promotes the rights and welfare of children and young people under 18 years of age living in Ireland.

The OCO investigates complaints about services provided to children by public organisations. The service is free and independent.

The Ombudsman for Children Act, which sets out the role and powers of this Office, was agreed by the Dáil and the Seanad in 2002. Dr Niall Muldoon is the current Ombudsman for Children. Niall was appointed by the President and reports directly to the Oireachtas.

OCO Vision

We want to see an Ireland where children's rights are respected, protected and fulfilled, and where all children and young people are actively heard and respected so that they experience safe, fulfilling and happy everyday lives. We will use our independence and powers to the fullest extent to bring this about.

OCO Values

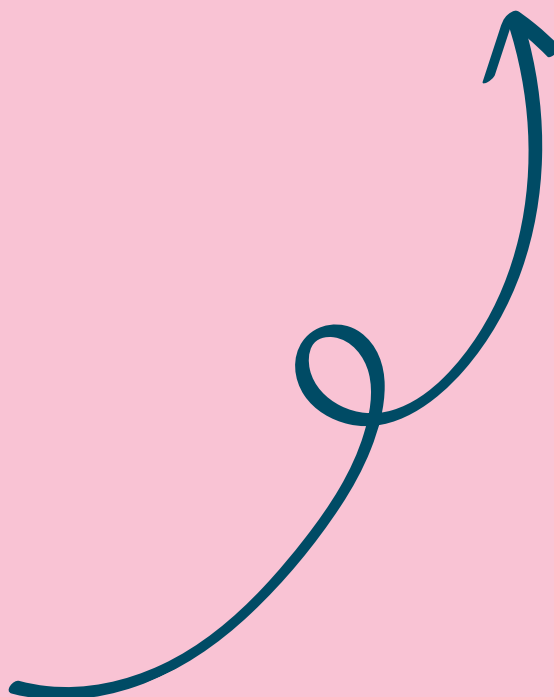
Compassionate, Accessible, Authoritative, Independent, Innovative, Transparent.

About this report

This Annual Report is a summary of the main pieces of work undertaken by the Ombudsman for Children's Office in 2019. It outlines our key statistics, looks at some of the highlights from the Office in 2019, and provides an in depth synopsis of the work of our Complaints and Investigations Team, our Policy Team, and our Participation and Rights Education team in a number of key areas.

We hope that this report clearly outlines the work we are doing together, in many different ways, to improve the lives of children and young people in Ireland.

You can read and download information about our accounts and publications on www.oco.ie.



1



Statistics



1.1 OCO Statistics

In this chapter we summarise the key OCO statistics in relation to complaints we received in 2019. We have also included information on our online activities and the number of children we have met throughout the year.

1.2 Complaints

In 2019, we received 1,503 new complaints which is a drop of 119 from 2018 figures. We had less complaints about Tusla, the Child and Family Agency and about the Health sector.

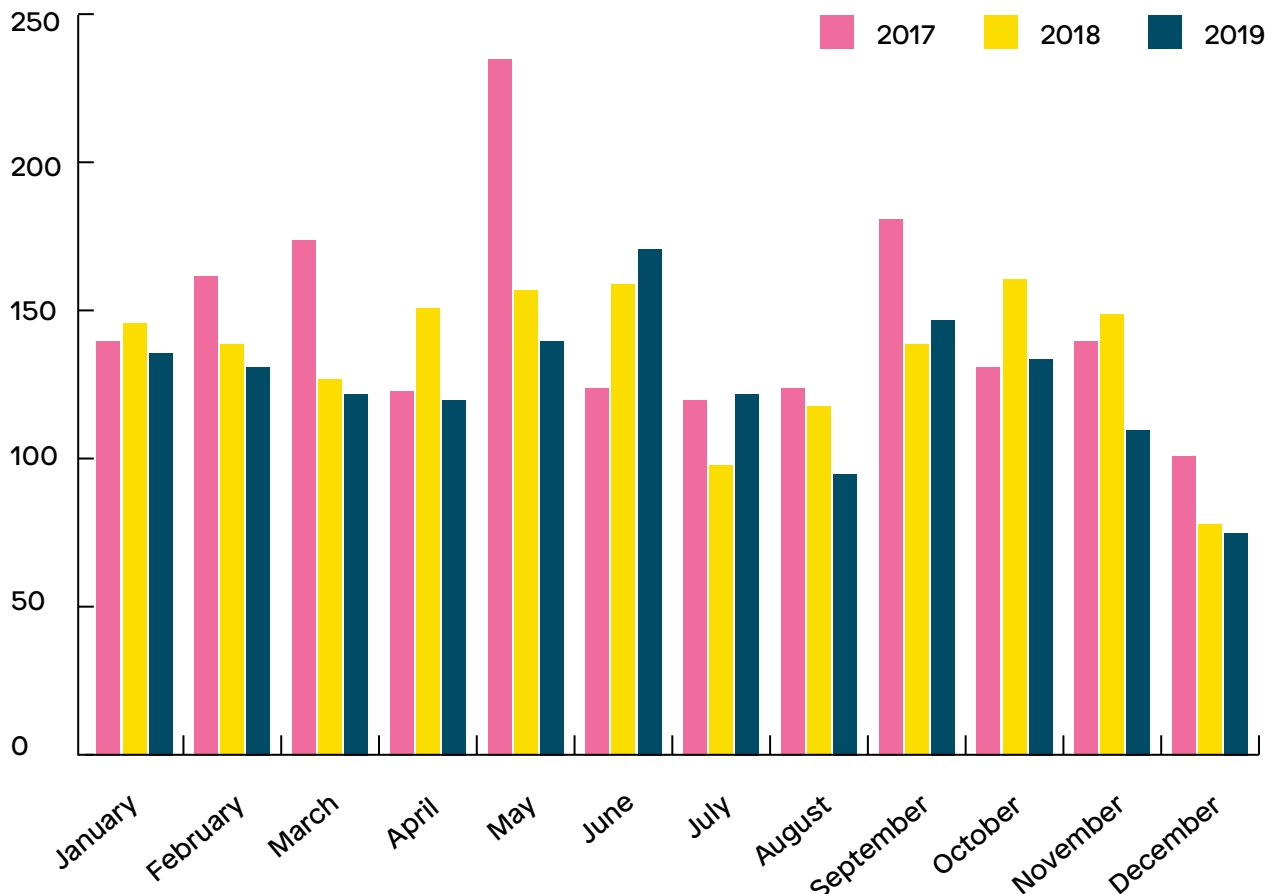
1.3 How we receive complaints

The majority of new complaints we receive are made by phone. However in recent years there has been an increase in the number of people who contact us via email or through our online complaint form. There is also a significant number of people who make complaints in person, highlighting the importance of our outreach work and getting the opportunity to meet people face to face.

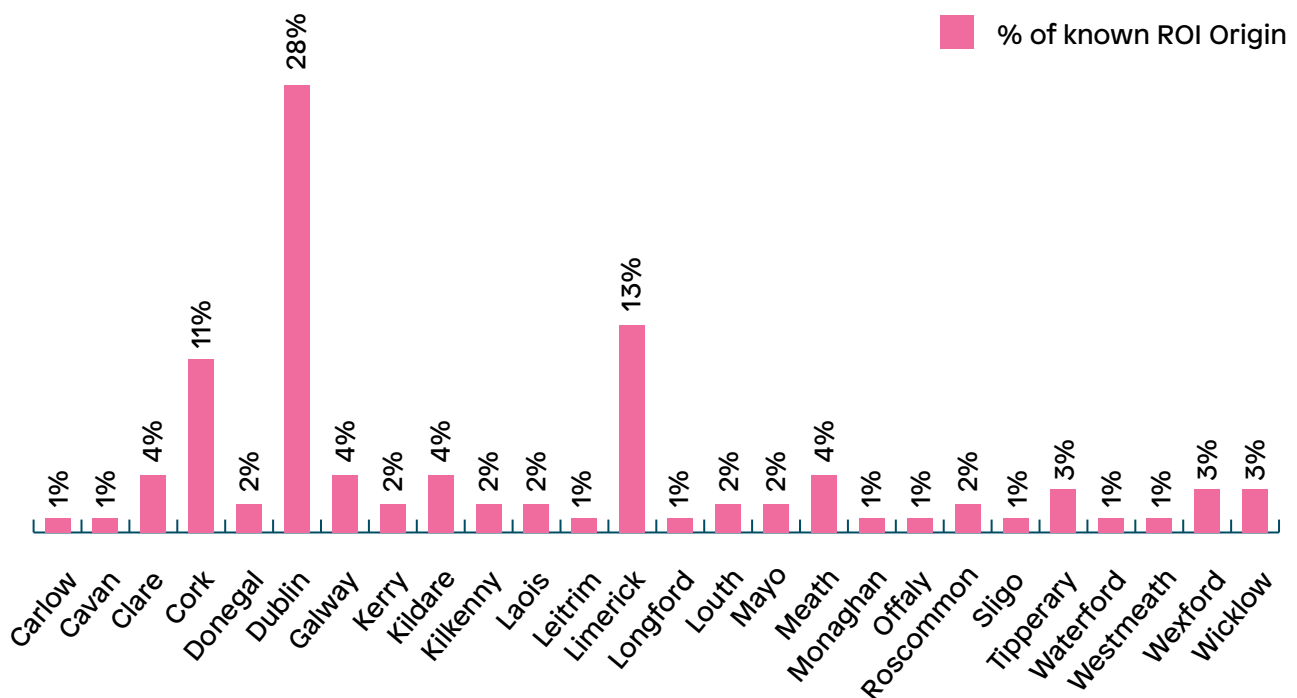
Every complaint we receive does not have a corresponding location. Often this is because somebody may be raising a concern that is not about a specific child in a particular location, but is affecting many children.

Of the 850 new complaints where a location in Ireland was provided, the highest proportion, 28%, came from the Dublin region.

Graph 1: 2017-2019 new complaints



Graph 2: County of Origin



1.4 Who contacts us?

79%	Parents
5%	Extended Family Members
5%	Professionals
4%	Unrelated Adults
3%	Children
4%	Other
100%	Total

The majority of complaints, as in previous years, were made by parents or other family members who play a critical role in raising concerns about how children are treated by public bodies. We are always working to meet directly with as many children as possible and to give them the opportunity to speak to us themselves about their experiences.

1.5 What did we receive complaints about in 2019?

49%	Education
20%	Family Support Care and Protection
14%	Health
6%	Justice
5%	Housing and Planning
6%	Other

A child's life is complex. Complaints received by the OCO often relate to more than one issue and more than one type of service or service provider. For our records we categorise the main issue in a complaint.

In 2019, education was once again the most complained about issue at 49%, up from 42% in 2018. Family support, care and protection services featured in 20% of complaints, down from 24% in 2018. There was also a slight decrease in complaints about the health and justice sectors.

1.6 Engagement with children



8,000

Niall met 8,000 children
at events around
the country

477

children visited the OCO
for rights workshops
with their schools

49

visited from
Youth Groups

71

children took part in
the Beyond Limits
consultation

73

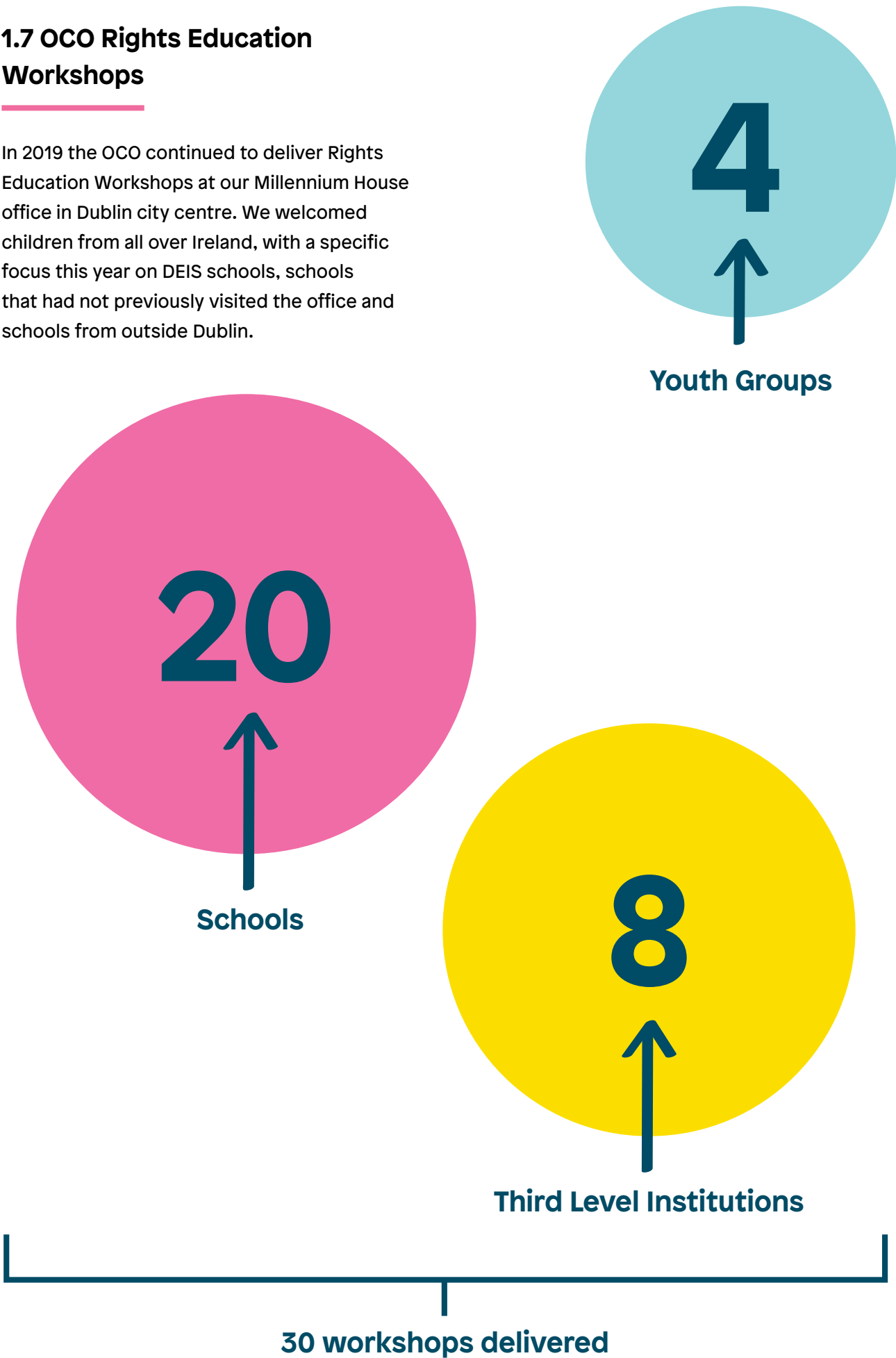
children spoken to
for Direct Provision
consultation

In 2019, the OCO met and engaged directly with over 9,809 children



1.7 OCO Rights Education Workshops

In 2019 the OCO continued to deliver Rights Education Workshops at our Millennium House office in Dublin city centre. We welcomed children from all over Ireland, with a specific focus this year on DEIS schools, schools that had not previously visited the office and schools from outside Dublin.



1.8 OCO Outreach

In 2019, the OCO continued to grow and develop our Outreach Strategy, regularly visiting Oberstown Detention Campus and Direct Provision Centres around the country.

The OCO made ten visits to the Oberstown Campus in 2019 and met with 18 children.

Rights awareness workshops were held in four centres: Hibernian Hotel, Abbeylisle; Temple, Moate; Grand Hotel, Wicklow; and Clonea Strand, Waterford.

1.9 Social Media

Facebook Most Engaged Issues

82,110	Bluestack Choir Foundation and National Youth Orchestra Collaboration
78,000	Beyond Limits live stream
30,000	Child Talks live stream
23,246	Family Hubs No place Like Home report launch
23,237	Beyond Limits official launch Croke Park
13,200	Voices by Natalya O' Flaherty
17,242	It's Your Right website
580,874	Overall Facebook reach in 2019
4,377	New followers

Website Statistics 2019 Highlights

144,874	Website page views
42,630	Website new users

Website Top 5 Most Viewed Pages

36,451	Beyond Limits live stream
29,893	Children's Rights
15,849	It's Your Right
12,446	Library
12,234	Complaints

Top Twitter Campaigns from OCO Publications Based on Impressions

43,938	Family Hubs No Place Like Home report launch
30,328	Molly Case review update

Twitter Top 5 Video Engagements

37,786	A Day in the Life of Enda, a young boy with a disability
29,103	Shell a short film about a suicide bomber
21,568	International Women's Day video promotion
16,597	Dammed Youth a short film about children's rights
16,087	Care Day video promotion

Youtube

Most watched Video (views)

56,000	Beyond Limits advert promotion
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2



2.1 Highlights

This chapter highlights some of the special projects carried out by the OCO in 2019 to meet our strategic targets. These projects are particularly focused on highlighting the rights and welfare of especially vulnerable children and young people in new and innovative ways.



2.2 Beyond Limits

The Ombudsman for Children's Office hosted Beyond Limits: Empowering Young People with Disabilities on 19th October 2019 in Croke Park, Dublin. Over 1,000 children, parents, siblings, carers and those working with people with disabilities attended. This was the first event of its kind in Ireland. Every single element was designed to ensure that as many young people as possible were included and that they could attend.

Highlighting the rights and welfare of children with disabilities was prioritised by the OCO in our Strategic Plan 2016-2019. In order to fulfill this objective, it was decided to host Beyond Limits, a landmark national event specifically designed for children and young people with disabilities, which would focus on the issues important to them, feature the people they wanted to hear from and provide information they asked for.

When it came to organising Beyond Limits it was extremely important to ensure that the views and opinions of young people with disabilities were sought – especially considering that so many of these children are seldom heard in mainstream society.

We also established an advisory committee made up of parents, people with disabilities, event organisers and those working with children with disabilities. This consultation process and committee helped shape and direct this important event.

We worked with RTÉ 2fm as our media partner to spread the word about Beyond Limits and to encourage young people from all over Ireland to get involved.

Beyond Limits initially had the working title of the 'Disability Summit' but after the first contact with children it became clear that this was not a title they liked or identified with. A lot of work went into creating an identity for this event that young people liked and that communicated what the day would be about.

Beyond Limits as an event had a series of elements: a main stage with speakers and performers; an exhibitor's area with information on activities, educational opportunities and technology available for children with disabilities; and a series of breakout sessions focusing on topics and issues relevant to children with disabilities and their families.

Speakers on the main stage at Beyond Limits included Michael McKillop, Mark Pollock, Ellen Keane, Joanne O'Riordan, Adam Harris, Fergus Finlay and Izzy's Wheels. The event was hosted by Julian Benson of Dancing with the Stars. It was also extremely important to us that the speakers included young people themselves, telling their own stories. Grace Murphy from Dublin and Daniel Daly from Offaly, along with a panel of young carers shared their experiences and views.





In order to support the young people who spoke at Beyond Limits, a series of workshops took place over the course of the summer. These workshops were essential in providing the young people with the tools they needed to tell their story.

Including young people with disabilities was very important to us in creating this event and this was reinforced by the young people we consulted with. A collaboration between the Bluestacks Choir, Donegal, St Paul's Special School, Cork and the National Youth Orchestra was created, and in the months running up to the event these groups came together to create an amazing, one-off performance. Natalya O'Flaherty, the spoken word artist, attended our workshops and having spoken to the young people she created a special piece on disability for the day. The Billie Barry Kids also included children with disabilities for their opening performance.

Hosting Beyond Limits was a logistical challenge and one which was made much easier with the assistance of Special Olympics Ireland who provided us with amazing volunteers. It was essential that our event was accessible to all children and their families who wanted to come. Sign language interpreters were available, we created a special Beyond Limits app to help those with visual impairments or people who wanted to be able to plan their day in advance, we ensured walkways were wide and clear, we placed signage at lower levels, we worked with Mobiloo to provide a changing space for children and families, we provided a sensory pod and quiet room, and we offered smoothies and liquid options for children who had difficulty eating. A key goal for the OCO in creating Beyond Limits was to showcase to others how to create an accessible event. While there was definitely learning from the day and areas where further improvements could be made, the feedback from those attending was overwhelmingly positive.

To promote Beyond Limits we created a website where those interested could find out about speakers, exhibitors, the breakout sessions and what the whole day was about. The website included a bespoke ticket portal, which enabled a paperless entry, something that was very important to the children and young people advising us.



Hearing the views of children with disabilities was a key consideration in our preparations for Beyond Limits. Working with DCU and the National Council for Curriculum and Assessment, we established a Children's Research Advisory Group (CRAG) and a Youth Advisory Panel (YAP) to help inform the event and a wider consultation with children. The CRAG was made up of four children between the ages of 9 and 11, and the YAP comprised four young people between the ages of 14 and 17. The children involved had various physical, intellectual and sensory disabilities. Three meetings with the CRAG and two with the YAP took place at their respective schools; a rural based primary school; and an urban based secondary school.

The CRAG and the YAP provided us with essential feedback and a solid foundation to plan a consultation with groups of children with disabilities, as well as ideas for the event itself. The young people suggested that the event should be televised, that children should be given an opportunity to experience or learn

more about career pathways that are inclusive and supportive, that the event should focus on being treated equally, discuss discrimination and include activities and experiences.

The CRAG and YAP also suggested a number of questions for discussion in a wider consultation with children about disability. This wider consultation happened in April and May 2019 and involved 73 children, the majority of whom had a disability. The consultations involved children from one primary and one second level mainstream school, two special schools and one focus group held in the Ombudsman for Children's offices. Children discussed a range of topics including inclusion and exclusion in school and their wider community and society, as well as the name, branding and suggestions for topics and activities for Beyond Limits. The results of this consultation fed into the event planning.





2.3 Office refurbishment

Having opened our doors in 2004, 2019 marked the 15th anniversary of the Ombudsman for Children's Office. We felt that this was an opportune time to undertake the first refurbishment and update of our 'open spaces' that are used by the office for education workshops, seminars, meetings, consultations and training, as well as being available to external organisations. Our aim was to make these spaces as child-friendly and comfortable as possible, while also making them more functional and effective for staff.

Tenders for this work were invited through eTenders and the successful contractor was appointed in August 2019.

In addition to input from staff across all units in the office, we sought the advice of a group of 13 children from two local schools on the contractor's proposed design. This 'Slice and Advice' group visited the office and provided valuable feedback on specific design features, colours, technology and the overall plan for the refurbishment.

Refurbishment and redesign work commenced in September 2019 and will conclude in early 2020. We very much look forward to working in and welcoming children, adults and organisations to the newly refurbished spaces.



Beyond Limits Positive Feedback

Catriona, Molly and Toto – Exhibitors

Molly and I had a fantastic day, wow, we were really blown away. We got lovely photos and met some parents which was lovely to share our journey. Molly was on a high afterwards. What a fantastic organising committee you have, the day was flawless and everybody was so welcoming.

Nora – Volunteer

Congratulations to the OCO team for an excellent event on Saturday - it ran very smoothly and I was delighted to be involved as a volunteer. OCO have a great team and the event was impressive - well done!

Tanya - Attendee

I just want to say thank you so much for your invitation for the wonderful event. It was very well done and I really enjoyed it. The speakers were absolutely amazing.

Tanya – Attendee

I just wanted to say a huge thank you to all who were involved on Saturday! It was a very inspiring day and my son left there feeling like he could achieve anything. You're an absolutely heroic bunch of people, thank you.

Orla – Exhibitor

I would like to express our heartfelt thank you to everyone who made Beyond Limits such a success. I really can't begin to imagine the organisation that went into such a wonderful and inspiring day. I am a teacher in an Autism Centre in CBS Roscommon and we were in a very privileged position to showcase our school as an exhibitor at Beyond limits. The teachers, SNAs and most of all the students had an absolutely fantastic day.

Ciara – Attendee

We all had a fantastic day. My husband and I got as much out of the summit as our 13 year old son. We laughed and I cried at times. We left feeling empowered. It really was the most amazing day. I heard the commercial on 2fm driving to work one morning and just knew it was something we should be part of. It is not easy facing the daily challenges that autism presents for our 13 year old and our 5 year old. Your summit showed us autism is just part of their story and we left feeling positive for the first time in a long time.

Georgina – Attendee

Can I pass on my thanks and congratulations to all of the team at the OCO for organising an absolutely outstanding conference. I attended with four of the students studying on our Social Care programme at TU Dublin, Blanchardstown Campus and we were all impressed by the speakers, the exhibitors, the breakout sessions and the musical performance at the end was phenomenal.

Rachel and Sarah – Attendees

We had a really special day on Saturday- one that we will remember for a long time. Thank you to all the organisers and staff and especially to the inspirational speakers. We hope that a similar event will be run again in the future.

Fiona – Attendee

I would like to congratulate everyone on a very informative enjoyable and inspiring day. My daughter really enjoyed her day and it was great to hear such inspiring speakers. As a parent I got a lot of information and hopefully we will be able to follow one of those paths. Hopefully it is just the first of many to come. Take a bow on a great job.



Jamie – App developer

Congratulations on such a fantastic event! It was honestly one of the best events that I have attended! We absolutely loved Session 1 on the main stage! I can't stop re-watching the live stream! In total we recorded 725 app installs and 1,942 app opens, which represents the number of times attendees opened the app during the event.

2.4 Our Future: Voices from Transition Year

2019 marked the 30th anniversary of the UNCRC, the 15th anniversary of the Ombudsman for Children's Office and the 10th anniversary of the UNESCO Centre for Child and Family Research in NUIG. To mark these anniversaries, the Ombudsman for Children's Office and the UNESCO Centre organised a joint event for Transition Year students that would bring together their rights under the UNCRC and their concerns for the future. This youth-led event aimed to provide children with an opportunity to share their priority issues for their future in Ireland, what more we need to know about these issues, who should be involved in bringing about desired changes and how the UNESCO Centre and the Ombudsman for Children's Office can bring their influence to bear on these issues into the future.

The event was supported by Youth Researchers from the UNESCO Centre who are current students in NUIG. These Youth Researchers helped to plan the event, train other facilitators from NUIG and they also moderated the event. Transition Year classes attending the event

were asked to identify the key priority issues for them prior to the event. The following five themes emerged as priorities for the day: Climate Change and the Environment; Discrimination; School Life and Education; Homelessness; Youth Mental Health.

The event, Our Future: Voices from Transition Year, was held in the Institute for Lifecourse and Society, NUI Galway on 29th November 2019. Using a youth café methodology, over 100 Transition Year students from Galway City and county met to discuss the priority themes. In all of these five areas the children identified key roles for schools and teachers including raising awareness of issues, being better informed, providing support, providing greater opportunities for pupils to express themselves, and combatting discrimination and stigma. Key roles for the Government were identified in relation to improving the situation of people experiencing homelessness and ending the homeless and housing crisis, enforcing and improving anti-discrimination legislation, as well as in addressing climate change. The media too was seen to have the capacity for positive change, including sensitivity in the way they portray mental health issues and raising awareness of homelessness.





2.5 Child Talks 2019

Child Talks 2019 took place on 20th November to mark World Children's Day and to coincide with the 30th anniversary of the UNCRC. Child Talks, which is a series of inspiring speeches by young people about their lives, took place at the Print Works in Dublin Castle. This was the second year of this event with attendance growing from 150 to over 400. In 2019 there was also an exhibitor area where organisations who work with children could share information with the young people attending.

Child Talks explored topics including mental health, disability, education, period poverty, climate change, voting age and community participation. The young people who took part came from all over Ireland and there was also a young person who travelled from Tanzania to share her views and experiences. The event was opened by the Minister for Children and Youth Affairs, Katherine Zappone and the Kabin Crew, a collective of young singers and rappers, supported by Music Generation, performed a piece especially composed for this event. Child Talks 2019 was streamed live on Facebook and RTÉ News Now.

2.6 Collaborations and Partnerships

We are always trying to think of new and innovative ways to raise awareness of children's rights and to connect with children who may find our office difficult to reach. In 2019 we partnered with the Dublin Fringe Festival on Rainbow in a Box, a sensory installation created for children as part of the festival. We worked with Baboró International Arts Festival for Children, helping to remove geographic, economic, physical, intellectual or cultural barriers to help 2,997 school children attend the festival. We also worked alongside the ARK to facilitate children's rights awareness workshops which formed the basis of the annual children's rights parade, Right Here, Right Now.

2.7 Strategic Plan 2019-2021

The Ombudsman for Children's Office Strategic Plan 2019-2021 was published in 2019, building on the very positive work that has taken place over the past three years.

It sets out our plan to continue to work to raise awareness of the rights of children and young people. We will support public organisations in taking a more child centred approach and we will use our powers to hold organisations to account. We are keen to work with others to ensure that all children and young people in Ireland can enjoy their rights and fulfil their individual potential.

We will monitor our progress as we proceed and ensure that the experiences and perspectives of children and young people inform our work. The OCO Strategic Plan is available in full on our website.

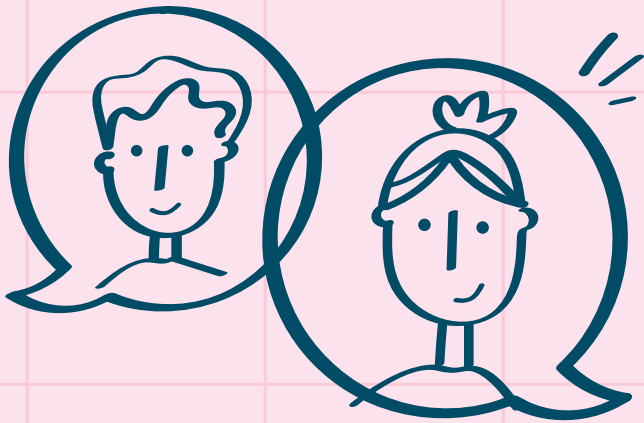
2.8 OCO Meet and Greet

The second OCO Meet and Greet event took place in Galway City in March 2019. We invited 60 organisations who work directly with children and who are based in the west of Ireland to come and learn more about our office. This event is part of the OCO's strategy to travel around the country and to inform those working with children about the role of the office and the supports we provide.

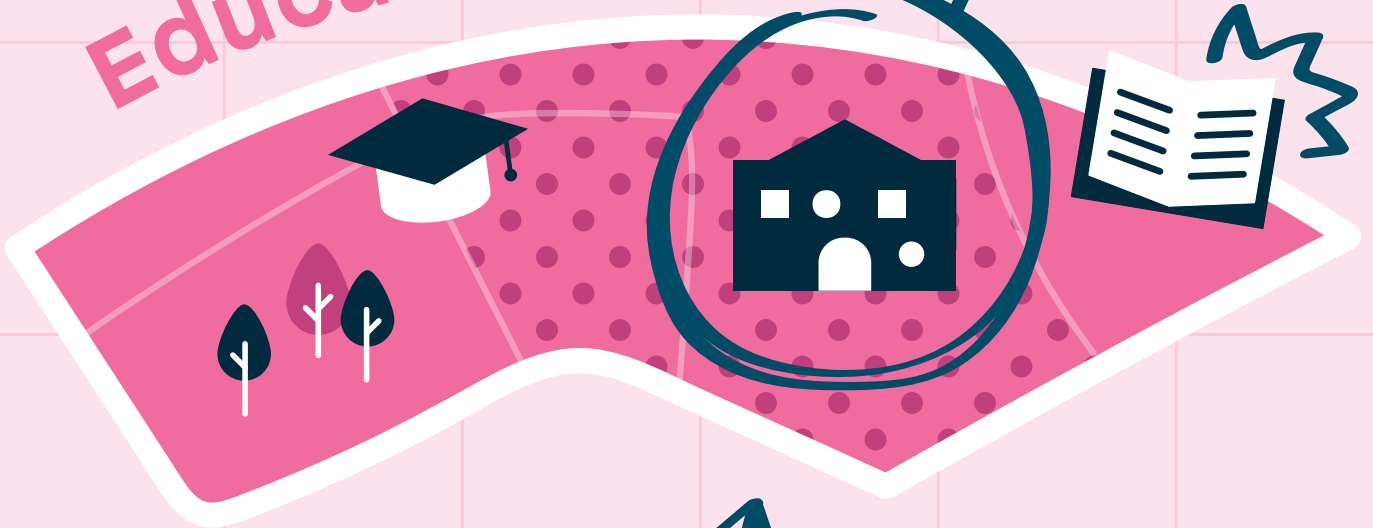




3



Education



3.1 Education

In this section we examine the work that the Ombudsman for Children's Office has done in the area of Education across all functions of the Office; Complaints and Investigations, Policy, and Rights Education and Participation.

Top three categories of complaints in education



Schools (including primary, post-primary, special and other)

75%



Department of Education and Skills

17%



Other Educational Agencies including the National Council for Special Education (NCSE) and the State Examinations Commission (SEC)

4%

Education is a key concern for most parents and this is reflected in the fact that education is the most complained about issue year after year. In 2019, 49% of the complaints received by the OCO related to education. This figure is up from 2018 when 42% of our complaints related to education. This shows that while significant work and development has taken place in this area there are still many children and families who are unhappy with the education supports they are receiving.

In 2019 we received more complaints about schools, and the Department of Education and Skills. 25% of education complaints we received related to Special Needs resources. This is an increase of 11% from 2018. Complaints relating to decisions of expulsion, suspension and enrolment have also increased 3% on the previous year. Bullying complaints however are down 3.5%, yet still represent 13% of all education complaints we receive.

Case Study 1 – Joe's story

Joe's mother contacted us in late October 2019. She told us that Joe, aged 13 years, had been enrolled in a post primary school, but did not attend as they subsequently had to move homes. However, when Joe left the school, his parent asked that the school refund the fee they had charged that was attached to the application form to have Joe enrolled.

Joe's mother had tried to engage with the school but they had refused to refund the money on the basis that it was non-refundable upon being offered a place in the school.

What we did

We wrote to the school to find out why they had refused to refund Joe's mother the fee and why they had charged it in the first place, as it is against the Education (Admission to School) Act 2018, to charge fees that are a condition of an application for admission or continued enrolment of a student in a school. The school then contacted the Ombudsman for Children's Office and stated that they would return the money to Joe's mother immediately.

Outcome

The school returned the money to Joe's mother just before Christmas.

Case Study 2 – Eoghan's story

Eoghan has special needs. He had previously attended mainstream primary schools, but when he was in 5th class he joined a special school because of his challenging behaviour. His mother contacted us at the end of that school year because she was concerned about the school's use of seclusion to manage Eoghan's challenging behaviour.

Eoghan's mother was concerned about the amount of time her son had spent in seclusion. She was concerned that seclusion was not always being used appropriately, or as a measure of last resort. She told us that Eoghan had spent a lot of time excluded from the classroom, with little opportunity to engage in physical activity, or to interact with his classmates during the school day.

What we did

The Ombudsman for Children's Office has varied and flexible mechanisms for dealing with complaints about public services. Early resolution is an alternative process to a formal investigation. Shortly before the new school year was about to commence, the office wrote to the school to encourage them to engage with Eoghan's mother for the purpose of discussing strategies for managing Eoghan's behaviour moving forward.

Outcome

The school met with Eoghan's mother, and provided our office with information about the plans for managing Eoghan's behaviour. Eoghan's mother subsequently contacted us to say that Eoghan was working well with his new teacher, doing well with his school work, and enjoying being back in class with his friends. She said that Eoghan was coming home from school full of talk about his day, and that he had told her "I love school".



Case Study 3 – Safe at school

OCO impact on reform of child protection procedures in schools

When we receive a complaint the first thing we try to do is to resolve the issue for the child affected, if we can. However, sometimes a complaint affecting one child can unearth issues that are affecting many. Where child protection is concerned this can be very serious.

Over the years, having examined and investigated cases where a school's response to child protection concerns was queried, we became very concerned that the State was not exercising sufficient oversight of the actions of schools on such matters. One particular case which we investigated, but which was never published, due to its very serious nature and the need to protect the identity of the children involved, highlighted clearly to us that the oversight of child protection procedures in schools was not sufficiently robust.

What we did

We were concerned that a situation may arise where a child protection concern could be made to a school and based on the personal views of the principal, the specific policies in place in a school or the involvement of the patron or board of management, these issues may not be brought to the attention of the Education Inspectorate or the Schools Governance Division of the Department of Education and Skills. Therefore, we decided to initiate an investigation to assess how mechanisms that deal with complaints or concerns of a child protection nature in schools are actively monitored by the various educational stakeholders.

We recognised that Tusla, the Child and Family Agency and An Garda Síochána have the statutory responsibility to investigate child protection concerns. However we wanted to investigate how the state was assured that schools were fully implementing their duties towards children as per the DES Child Protection Procedures for Primary and Post Primary Schools (2011).

We had a particular interest in what we believed was the crucial role of the Education Inspectorate in informing the Department of Education and Skills (DES) as to the safety of children in schools. We were also interested in the effectiveness of the monitoring mechanisms within the DES in identifying schools that were not fully compliant with child protection policies and procedures, and how the DES responded to noncompliance.

We asked the DES and the Education Inspectorate to provide us with more information on:

- the monitoring of internal school procedures for child protection complaint and concerns
- how the Inspectorate addressed concerns or non-compliance, and how they then interacted with the Department
- the range of actions and remedies available to the DES to proactively address and respond to non-compliance and concerns identified through the Inspectorate or brought to its attention

- the interaction and effectiveness of the child protection and welfare framework within schools, specifically:
 - DES Circular 0065/2011- Child Protection Procedures for Primary and Post Primary Schools (2011).
 - Whole School Evaluation inspections into a school's general compliance with the requirements of those procedures
 - DES- Children First Implementation Plan 2015.
 - Inspectorate bi-annual reports to the Minister and the Management Advisory Committee in the DES.

Having met with all of the relevant people and having received the information we requested, we were not satisfied that the procedures in place ensured that every school is a safe space for children. We determined that there was scope for greater intervention, monitoring and robust oversight by the Department into how schools comply with child protection and welfare procedures.

Outcome

In responding to our investigation, the DES committed to ensuring that effective child protection procedures were in place in schools. They outlined that work was ongoing with the education partners on revision of the 2011 Guidelines in preparation for the commencement of mandatory reporting and requirement for schools to have safeguarding statements with the commencement of Children First 2015.

They accepted our position that improvements were necessary to ensure compliance by schools and guidelines and inspection practice needed to be revised to bring about the necessary changes in oversight at both school and DES level.

In December 2017, the final version of the Child Protection and Welfare Procedures for Primary and Post Primary Schools was published reflecting the new oversight arrangements. This was communicated to schools in 2018 and was fully in place during 2019. The Child Protection and Welfare Procedures for Primary and Post Primary Schools December 2017 set out the DES's commitment to:

- enhanced reporting and oversight by principals, boards of management and patrons on schools compliance with child protection procedures
- formal liaison between the DES Schools Division and Tusla at a national level
- enhance the role of the Education Inspectorate in monitoring the implementation of Child Protection and Welfare Procedures in schools including a new Child Protection and Safeguarding Inspection model
- develop a new Child Protection Oversight Group (CPOG) to receive regular reports from the Department's Schools Division and Inspectorate about the compliance of schools with the procedures and the volume and nature of child protection concerns or complaints received by the Department. This group will also engage with schools that are not in compliance with these procedures until such time as they become compliant

- enhanced oversight role with the Management Board of the DES regarding the implementation of these procedures in schools and regularly review the Department's approach to child protection

We believe that the changes put in place by the DES and subsequently published in their revised Child Protection and Welfare Procedures for Primary and Post Primary Schools December 2017 will improve:

- the transparency and accountability of the administration of child protection and welfare actions and decisions at school and Board of Management level,
- the monitoring and oversight which occurs through the Inspectorate,
- the monitoring and oversight by the DES; and
- the engagement between all relevant parties with Tusla.

Under Section 10 of the 2002 Act, the Ombudsman has discretion and can make a decision to discontinue an investigation if practicable redress measures are taken. Therefore, we decided to discontinue our investigation to allow these changes to procedures to take effect.

We also recognised that the success of the changes relates to the coordinated and combined actions of all the relevant stakeholders, which is very much to be commended.

Children and young people spend a huge amount of time in school. It is essential that they feel safe and secure while they are there, and that if the school becomes aware of child protection issues of any kind, these are raised and dealt with swiftly and effectively. The vast majority of our schools rightly prioritise the safety and wellbeing of children and are meticulous in ensuring procedures are followed when there are child protection concerns. However, before initiating this investigation, we could not be confident that this was always the case, in all schools.

We anticipate these changes, once fully implemented, will greatly improve accountability and oversight of child protection at both individual schools and DES level. We will monitor this closely to ensure it achieves its desired outcomes for children in our schools.

Case Study 4 – Education for refugee children living in State provided accommodation

The majority of families living in Emergency Reception and Orientation Centres (EROCs) are Syrian refugees who came to Ireland under the Irish Refugee Protection Programme. Most arrived in Ireland from refugee camps in Greece and Lebanon. The expectation was that they would stay in an EROC for a maximum of 16 weeks and then move to their new home in a host community. Primary school-aged children are taught on-site during their stay. According to Government data, approximately 100 children, on any given day, have been receiving an education in this way.



During our visits, we discovered that schools in EROCs are not recognised by the Department of Education and Skills. This means that it can be much more difficult for the centres to access the additional supports needed to maximise educational outcomes for these children. Parents also expressed concerns about the education being provided to their children. Those who had been in EROCs for more than six months were anxious to get their children into mainstream schools. They were concerned that their children were not getting access to other services such as nurses or dentists as they were not in school, and in some centres they were concerned that children were not receiving appropriate instruction for their age.

What we did

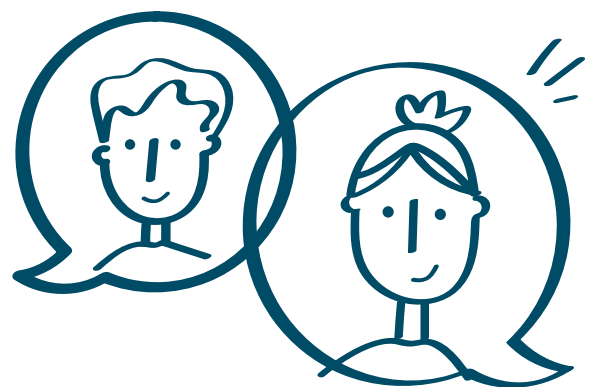
The Ombudsman for Children wrote to the Department of Education and Skills (DES) and the Department of Justice and Equality (DOJE) expressing his concern that refugee children living in EROCs were not being educated in recognised schools in the State. He stated that the consistency and quality of on-site teaching could not be objectively verified, and that the exclusion of refugee children from mainstream education delayed their integration into their host community.

Outcome

The DES and DOJE agreed to address this issue via a joint assessment and protocol for education provision within EROCs. It was decided that these children should move to mainstream schools, as soon as they were considered 'school ready' and, in any event, no later than three-months after their arrival in the State.

They also advised that each EROC would be provided with an additional teaching post to support children with their transition into mainstream schools and to work in these schools on an outreach basis.

While welcoming this development, the Ombudsman for Children wrote to the DES and DOJE once again expressing his concern that they had failed to address the issue of non-recognition in their review. In their response, the DES confirmed that it is committed to ensuring that the standard of education provision for children residing in EROCs is evaluated in line with recognised school settings. In November 2019, the DES and DOJE signed a Memorandum of Understanding that would allow inspections of EROC schools to take place in line with recognised schools.



Issue of concern

An area of concern that was highlighted to us through our complaints function pertained to the rights of children to be exempt from religious classes and services while attending a denominational school. Primary and secondary schools that have a particular denominational ethos may discriminate on the grounds of religion in relation to admission policy only, and only in a manner which is permitted under the Equal Status Acts 2000-2008. However, under Section 30(2)(e) of the Education Act 1998 once a student is admitted they cannot be required to attend instruction in any subject that is contrary to the conscience of the parent of the student or, in the case of a student that has reached 18 years of age, the student. This view concurs with the Joint Managerial Bodies (JMB) Guidelines on opting out of religious classes and services in a denominational school. However, we found that this was not fully understood by some denominational schools. We wrote to the the Department of Education and Skills (DES) and they confirmed that the content of an admission policy does not set aside the Constitution or the Education Act 1998. The DES stated that those provisions exist to provide for situations where an individual child does not wish to participate in instruction, worship or any element of the curriculum.

We believe there is an apparent divergence in views with respect to the meaning and effectiveness of Article 44.2.4 of the Irish Constitution, section 30(2)(e) of the 1998 Act, the 'Equal Status Acts 2000-2018', and the JMB Guidelines, as they relate to the opting out of religious classes and services in some denominational schools.

We wrote to the DES setting out the issues. We highlighted the need to address this matter with any relevant school managerial bodies to ensure their compliance with relevant

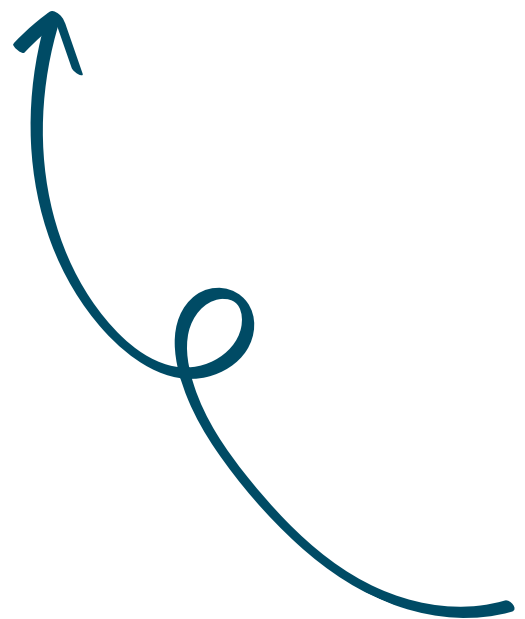
legislation and ensure that parents and students are aware of their rights in this regard.

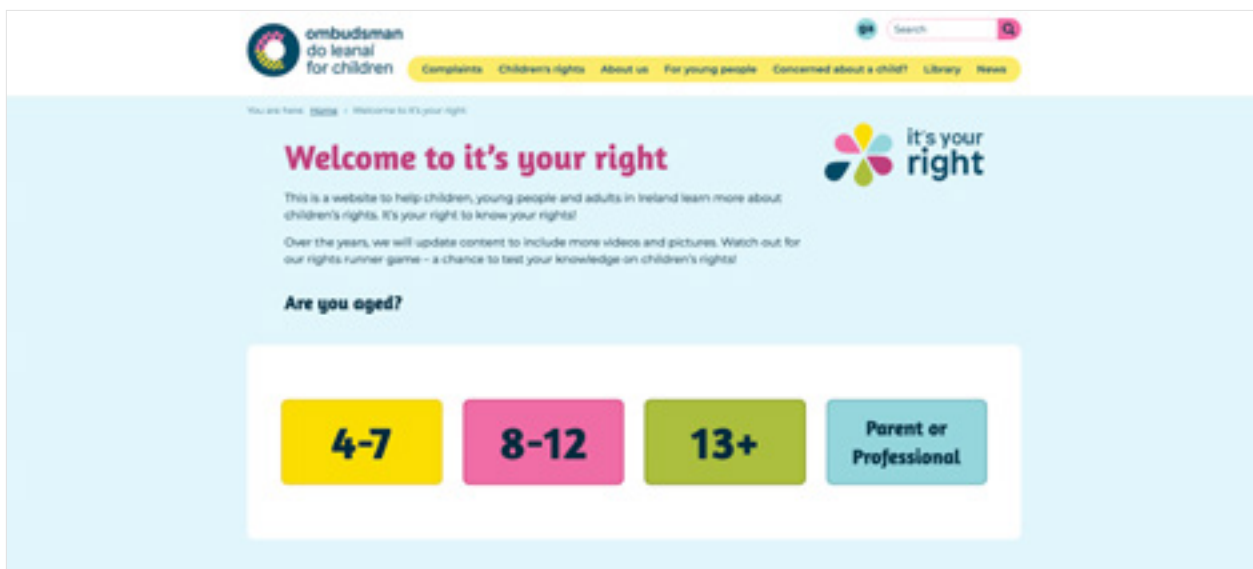
3.2 Itsyourright.ie

Itsyourright.ie is the OCO's online platform where children and young people can learn about children's rights. In 2018 we started the process of developing itsyourright.ie to make it more user friendly, accessible to younger children and interactive.

Taking on board the views of a number of children we consulted with, and working with web and game designers, itsyourright.ie has been restructured and expanded. Information is provided in an age appropriate way for three age groups: 4 to 7 years; 8 to 12 years and 13+ years. The site also now has an interactive educational game called Rights Runner, aimed at children aged 8 to 12 years.

The new look itsyourright.ie was launched in September 2019. We will continue to add new material to the website in 2020.





3.3 Rights education workshops for children and young people

The delivery of education workshops to children and young people continues to be a core part of our work. These workshops provide children with an introduction to their rights under the UNCRC and helps them to explore how and if these rights are realised in their daily lives. The number of children and workshops was curtailed during 2019 as we undertook a refurbishment of the office space used for this purpose. This required that the spaces were closed and workshops suspended for the latter half of the year.

During the first half of 2019, 477 children from 14 primary schools and 6 second-level schools attended these workshops in our office. To promote these workshops among schools and children who had not visited us previously and who may find our workshops more difficult to access, in early 2019 we contacted all DEIS (Delivering Equality of Opportunity In Schools) to raise awareness around the country. As a result, 14 of the 18 school who visited us for workshops were DEIS schools. This year we continued to engage with Henrietta Street School, a community-based high-support school for children considered 'at risk'. Additionally,

we welcomed Mater School, which is a Special Co-Ed Primary School for children with severe emotional and behavioural difficulties.

In addition, 49 children attended with their youth groups, including groups from the Traveller and Roma communities and unaccompanied minors. Children have an opportunity during these workshops to tell us about the issues that are of importance to them therefore providing us with an insight into their concerns. Children raised a very wide range of issues relating to their rights including bullying, housing and homelessness, mental health and wellbeing. During 2019 we also delivered a small number of workshops in schools and other locations where children would find it difficult to access our office for a variety of reasons. These included a workshop for children who were receiving in-patient mental health services.

3.4 3rd level programme

Engaging with third level students who are planning to work with children in their careers is an ongoing part of our education work. These students come from a range of courses including social work, early years care and

education, social care and teaching. In the first half of 2019 we delivered eight seminars and workshops to 340 third level students. In these seminars and workshops we inform students about the UNCRC, discuss how children's rights are relevant to their chosen profession and encourage them to think critically about how they can protect and promote the rights of the children they plan to go on to work with.

3.5 Education (Student and Parent Charter) Bill 2019

The Education (Student and Parent Charter) Bill 2019 was published in September 2019. According to the Department of Education and Skills (DES), the main aim of this proposed legislation is to provide a statutory framework for improvements in how schools engage with students and parents¹.

Having actively engaged with this proposed legislation since 2016, we welcomed publication of the Bill in 2019. It is very positive to see legislation to promote a culture of inclusion, transparency, dialogue and participation in all schools.

We know from our engagement over many years that there are schools across the country which already have this type of culture. However, it is significant that steps are being taken at national level to mainstream a culture in schools that is aligned with key human rights principles and values.

In light of our statutory function to promote children's rights and welfare, we particularly welcome those aspects of the Bill which provide for children's active participation in school decision-making processes and which recognise that children and young people

under 18 must be facilitated to raise concerns and make complaints should they need or wish to do so. Although the provisions made in the Bill in this regard are moderate, they are a notable advance on what is currently set out in the Education Act 1998 (1998 Act), which is outdated.

On the issue of complaints, section 28 of the Education Act 1998 never came into operation. As a result, complaint-handling structures in the education system have remained incomplete and this has been a matter of longstanding concern. If the Bill and the corresponding statutory guidelines provided for are progressed, this deficit will finally be addressed.

The Bill puts complaints in context which is welcomed. It recognises that formal complaints will occur from time to time and that such complaints need to be dealt with appropriately. However, the Bill also seeks to promote a culture that mitigates against concerns arising and allows schools to address issues that come up appropriately, at an early stage, without a school's complaints procedures having to be availed of. We anticipate that a consistent approach to complaints handling, aligned with good practice, will strengthen the capacity of all schools to deal appropriately with complaints.

One issue of concern to us in relation to this proposed legislation is a section of the Bill which affects our own Act (the Ombudsman for Children Act 2002) and would effectively preclude the Ombudsman for Children from investigating a complaint relating to a school until the school's own complaints procedures have been resorted to and exhausted. This would cause significant difficulties for children and families trying to raise concerns.

1 <https://www.education.ie/en/Parents/Information/student-and-parent-charter/student-and-parent-charter.html>

Based on the provisions of the Ombudsman for Children Act 2002 and our extensive experience of dealing with school-related complaints, we have been calling since 2016 for the deletion of this statutory bar. However, while the General Scheme of the Education (Parent and Student Charter) Bill 2016 included a proposal to delete section 9(2) of the 2002 Act, this did not carry over into the Bill. This is of significant concern to us.

We have been actively engaging with the DES and have clarified in detail why we are of the view that this statutory bar is anomalous, unnecessary and inappropriate and, as such, must be removed. We will continue to pursue this matter during 2020 with a view to ensuring that it is resolved in the interests of children.

3.6 Reduced Timetables

In April 2019, the Oireachtas Joint Committee on Education and Skills invited the OCO to make a submission to inform its examination of the use of reduced timetables in schools. Our submission considered concerns and complaints that have been brought to us about the use of reduced timetables. It also took into account relevant existing national guidelines, in particular the National Education Welfare Board's 2008 guidelines for schools on Developing a Code of Behaviour and Tusla's 2015 guidelines for schools on Developing the Statement of Strategy for School Attendance. In our submission, we proposed that national guidelines need to be developed which clearly set out:

- what a reduced timetable is
- the exceptional circumstances in which it is permissible for schools to use reduced timetables
- the circumstances in which it is not permissible for a school to use reduced timetables

- what information schools must provide to parents/guardians and children about reduced timetables
- the procedures that schools must follow when seeking to place a child on a reduced timetable, including the process for engaging with the child's parent(s)/guardian(s) and the child themselves
- time limits for the use of a reduced timetable and the process for monitoring and reviewing a reduced timetable while it is in use
- the procedures that schools must follow to facilitate parents/guardians and children to raise concerns or make complaints when a reduced timetable is in use
- the appeals process that parents/guardians and children can avail of if they have concerns about the operation or duration of a reduced timetable by a school.

We also highlighted that attention needs to be given to monitoring schools' use of reduced timetables nationally, noting the current absence of even basic data to clarify:

- the extent to which the practice of placing children on a reduced timetable is being used by schools
- the number of children who are being placed on reduced timetables
- which groups of children are more likely to be placed on reduced timetables and why this is the case.

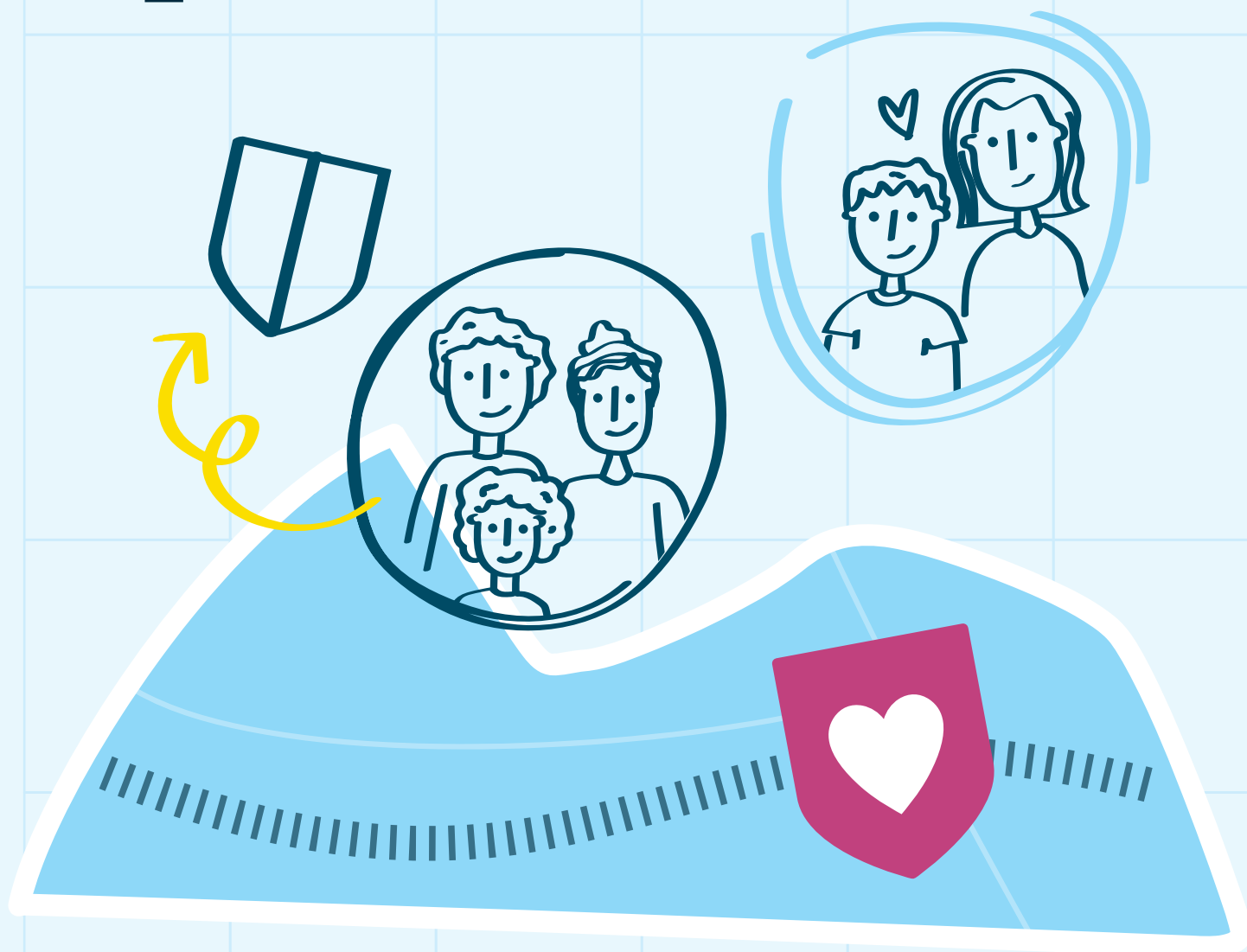
In addition, we proposed that where schools are using reduced timetables inappropriately as a behaviour management intervention, attention needs to be given to strengthening the supports available to schools through the Educational Welfare Services (EWS), the National Educational Psychological Service (NEPS) and the National Behaviour Support Service (NBSS).

Following this submission, the Ombudsman for Children appeared before the Committee in June 2019 to discuss our views on actions that might usefully be taken to address our concerns.

In line with our suggestions, the DES prepared draft guidelines on the use of reduced timetables in schools and, in September 2019, invited observations from interested stakeholders on them. The OCO welcomed the opportunity to submit our observations. We highlighted ways in which the draft guidelines should be strengthened to serve the rights and best interests of children, and to offer much needed clarity and direction.



4



**Family Support,
Care and Protection**

4.1 Family Support, Care and Protection

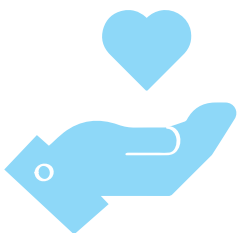
In this section we examine the work that the Ombudsman for Children's Office has done in the area of Family Support, Care and Protection across all functions of the Office; Complaints and Investigations, Policy, and Rights Education and Participation.

The top three sectors we received complaints about



Child Protection Concerns, Handling, and Services

48%



Alternative Care

24%



Family Support

5%

20% of the complaints received in 2019 related to family support, care and protection. This was a reduction from 24% in 2018. The majority of complaints were about child protection services and children in the care of the state but we also received complaints about how public bodies reported child protection concerns. Complaints about alternative care dropped 5%, however complaints about child protection concerns, handling and services rose 5%. Family support complaints are down 11% on last year.

Case Study 5 – Maria's story

Maria contacted us to complain about her experiences while placed in an emergency hostel for a number of weeks by Tusla, the Child and Family Agency. Maria had been in care for a number of years and during that time had 18 separate care placements. She told us that she did not have a proper home or residential unit. She told us that while she was living in the emergency placement she was out walking the streets all day and then went out at night as there was nothing else to do. She also told us that this caused her difficulties in accessing education and curtailed her relationship with her sibling.



What we did

We met with Maria and asked Tusla for their views of the complaint. We were deeply concerned that Maria, a child in state care, would end up homeless. We were also concerned about the model of care whereby highly vulnerable children were without adult supervision for any period of time. Furthermore it emerged in the course of this investigation that during her time in that placement, Maria was exposed to drink and drug misuse, other criminal activities and that she was sexually exploited.

We recognise that Tusla has a difficult task in fulfilling their statutory role with young people with complex needs in state care and whose placements have broken down. This can be compounded by the limited availability of a range of specific resources or facilities, as well as experienced staff to meet Maria's needs and those of other young people. However, due to the very nature of their circumstances these young people require greater specialised care and support packages.

We found that in many ways the social work team had done their very best for Maria. Maria had complex needs and difficult early life experiences. As a result she struggled to cooperate with services and many of her placements broke down.

We determined that the type of emergency accommodation provided at this hostel is not suitable for children who require a safe secure environment. This is due to the lack of 24 hour access to adults charged with their care. We recommended Tusla ensures that any emergency residential accommodation for children provides 24 hour care with adult supervision.

A similar view has previously been articulated in this Office's 2012 report; Statement on the examination and proposed investigation of HSE homeless Service provision to children who are homeless and accommodated under Section 5 of the Child Care Act (1991).

We also recommended that Tusla take strategic action to ensure that there is a sufficient range of appropriate placements to meet the needs of young people whose placements may be at risk of breakdown, for whatever reasons.

Outcome

After a period of engagement with Tusla we received confirmation that the service in question would change to 24/7 service, a step we very much welcomed.

Tusla told us they had developed a number of residential respite centres to support children living at home or in foster care that require additional supports to maintain their placement and also to support people with the transition from special care.

They also told us that they are engaged in an interdepartmental group to devise a strategy to address the additional challenges posed by the significant mental health issues displayed by some young people in their services, the high level of criminality that some young people are engaged in, and the associated risks that this places them at.



Case Study 6 – Jay and Jim’s story

Jay and Jim, two unrelated separated children seeking international protection and who were in the care of Tusla contacted us. Their complaints concerned the aftercare planning and, in particular, Tusla’s stated intention to move both children from residential care to direct provision accommodation as soon as they turned 18 years old. They were deeply concerned about sharing a bedroom with unknown men, they were concerned about the impact on their education and also about living on €38.80 per week as they were not entitled to any aftercare allowance as they were asylum seekers.

What we did

Both of the children were moved into direct provision, which is the current accepted policy in Ireland for children that have turned 18 years and do not yet have a decision on their asylum application.

We wrote to Tusla outlining our concerns regarding the exercise of their discretion to extend a care placement for a separated child beyond 18 years of age where such a person is determined to be ‘exceptionally vulnerable’. We outlined our position stating that:

- separated children leaving care should receive equity of care, and aftercare services on par with, other children leaving care

- separated children should have an initial vulnerability assessment within 30 days of their arrival in the State, and a mechanism for identifying their vulnerabilities should remain in place throughout the international protection process, not just until they turn 18 years old
- aged-out minors should be treated as a particularly vulnerable group and should be given the option, if they choose, to transition to some form of independent living or aftercare supported living, if their foster care arrangement cannot continue
- all aged-out minors should also receive an aftercare service based on their individually assessed needs
- the State’s use of Reception and Integration accommodation centres or the International Accommodation Service and its ‘policy of dispersal’ with respect to aged-out minors should end.

Outcome

The Child and Family Agency informed us that the matters raised in our correspondence would be considered in the context of the development of new national policies, procedures, protocols and guidelines in this area, and would be discussed at their National Policy Oversight Committee. This committee approves policies that inform the work of Tusla. We will continue to pursue this matter with them.



4.2 Child Care (Amendment) Bill 2019

A guardian ad litem supports children to have their voice heard in certain types of legal proceedings, and makes an independent assessment of the child's best interests. The Department of Children and Youth Affairs (DCYA) has been working on proposals to amend and extend existing provisions under the Child Care Act 1991 (1991 Act) relating to guardians ad litem (GAL) since 2015.

The Child Care (Amendment) Bill 2019 was published in August 2019 and we submitted our written observations to the Minister for Children and Youth Affairs in October 2019.

This Bill is a very important piece of proposed legislation. It is concerned with intensely serious and sensitive court proceedings that can have profound and long-term implications for children. The children affected by these care proceedings can be very vulnerable and have complex needs.

While we welcome the considerable work undertaken by the DCYA to develop this legislation and acknowledge several positive decisions made to reform existing GAL arrangements in proceedings under the 1991 Act, we have significant concerns about certain aspects of the Bill.

Our overarching concern is that the Bill does not provide for a sufficiently equitable approach and risks not serving certain children well, in particular those children who may have less capacity due to their age and/or particular needs.

From our perspective, the Bill needs to be child-centred and to put children first. It presents a vital opportunity to demonstrate to all children affected by care proceedings that we recognise them as rights holders and participants in these proceedings and that

we are committed to vindicating their rights in the context of these proceedings. As such, the Bill needs to clearly uphold the child's constitutional rights to fair procedures (Article 40.3.1), to have their best interests treated as the paramount consideration in the context of care proceedings affecting them (Article 42A.4.1), and to have their views ascertained and given due weight in these proceedings (Article 42A.4.2).

There are three specific areas that we believe need to be addressed:

1. **Appointment of a GAL in care proceedings in the District Court**
- Under section 35B of the Bill, the appointment of GALs in care proceedings in the District Court does not amount to a presumption in favour of appointment. Also when the Court is deciding whether or not to make an order for the appointment of a GAL, the Bill directs that there are some things to be considered which may inadvertently mitigate against the appointment of a GAL for children with less capacity; the very children who are least likely to be made a party to proceedings under section 25(1) of the 1991 Act. The Bill is also silent on how to challenge a decision not to direct the appointment of a GAL without a child having to rely on a parent or on Tusla to do so.
2. **Legal advice and representation for a GAL** – Under section 35D of the Bill, if a request for legal advice and/or representation by the child's GAL in the District Court was to be refused, and this refusal diminished the GAL's capacity to perform their duty, there is a risk that vindication of a child's rights could be inhibited. We are concerned that aspects of section 35D do not reflect what the DCYA has told us it envisages will happen in practice.

3. **Functions of the GAL** – A primary concern for us is that under this Bill the role of the GAL is diminished, reducing the status of and protections for children in care proceedings as compared with the current position. In this regard, we are particularly concerned that provisions made under sections 35E(6) and 35E(9) will adversely affect the rights of the child, in particular the child's right to fair procedures.

We welcome the Minister's and the DCYA's openness to reviewing certain provisions of the Bill in light of the concerns we have raised. We expect the Minister and the DCYA to ensure that this proposed legislation unequivocally upholds and safeguards the constitutionally protected rights of every child affected by care proceedings in an equitable manner.

4.3 Review about open and semi-open adoption

During 2019, the DCYA undertook a review of the potential introduction of open or semi-open adoption in Ireland for adopted children under 18 years of age.

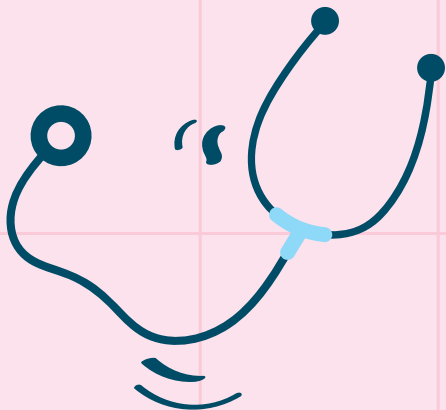
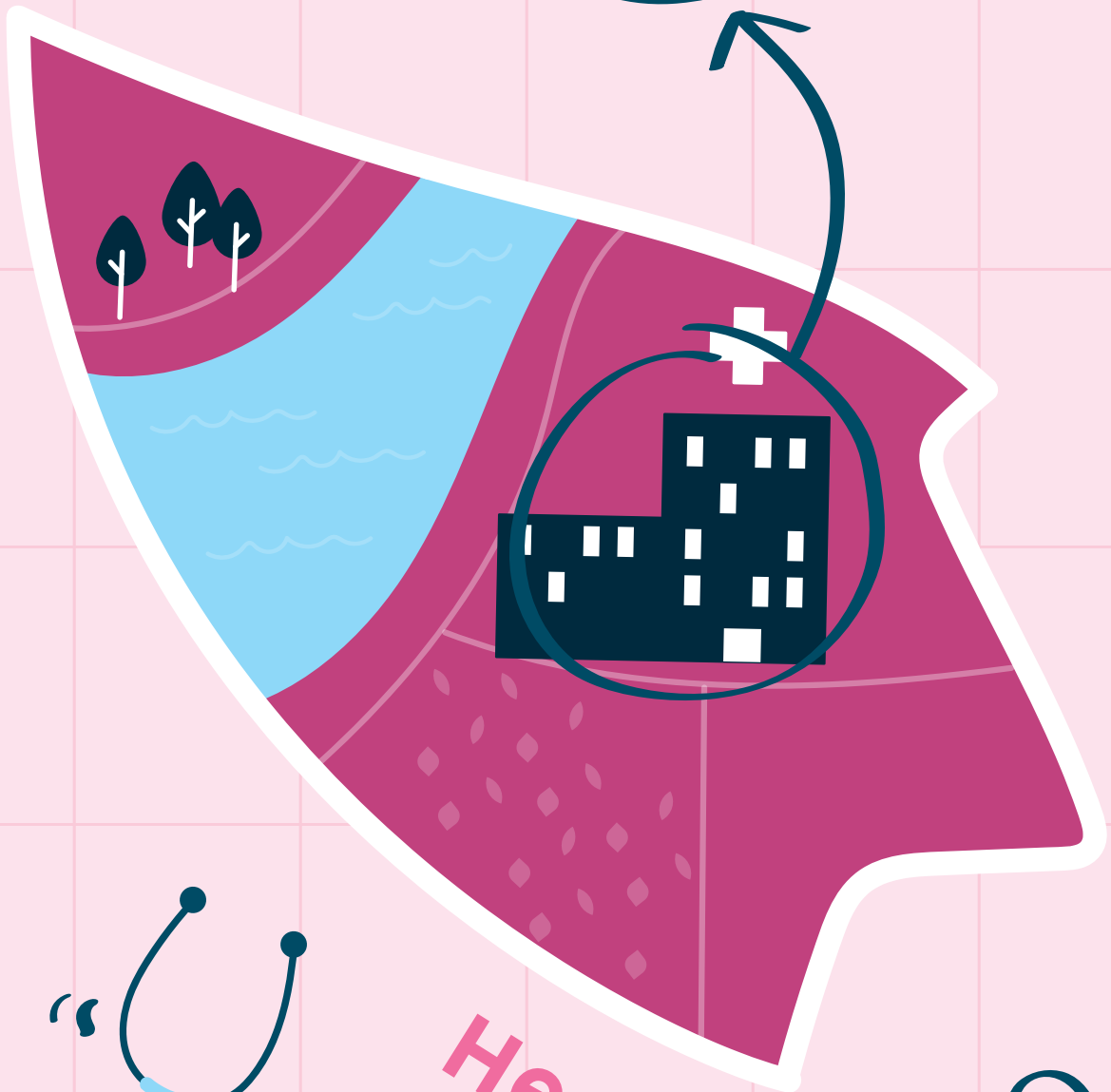
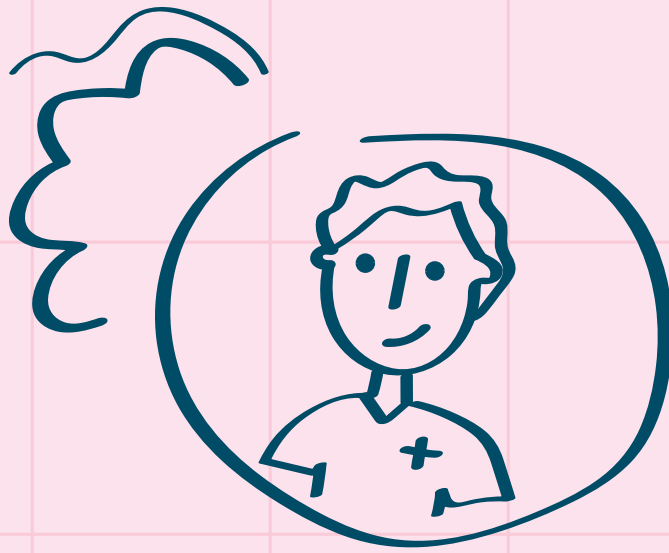
The OCO has been clear that provision should be made for more open forms of adoption in Ireland. We welcomed this review as an opportunity to examine how more open forms of adoption can be provided, serving the rights and best interests of children. This review also offered the chance to consider how formalising open and semi-open adoption could align law and public policy in Ireland, with elements of current practice and emerging realities.

Our submission to the DCYA focused on establishing a statutory basis for more open forms of adoption; defining open and semi-open adoption; taking a child rights-based, case-by-case approach; and providing adequate resources and supports. Taking into account that adoption is first and foremost about children, their rights and needs, we recommended that:

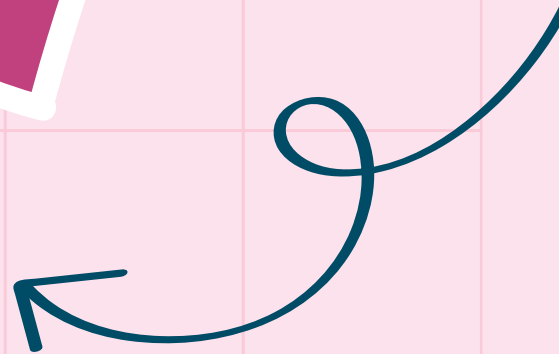
- provision for more open forms of adoption in Ireland should be placed on a statutory footing
- the potential introduction of more open forms of adoption needs to be underpinned by clear definitions of open and semi-open adoption
- full consideration needs to be given to the rights of children and how core children's rights principles can be mobilised to inform a child-centred approach to providing for and implementing more open forms of adoption
- formal provision for more open forms of adoption should support a case-by-case approach to post-adoption contact planning and review. It needs to be accompanied by the allocation of adequate resources so that an appropriate range of supports is available to meet the specific needs that adopted children, adoptive families and birth families may have.

The Minister for Children and Youth Affairs submitted a report arising from the DCYA's review to the Oireachtas in November 2019. Having reviewed the report, the OCO welcomes its focus on the rights and welfare of children and the inclusion of recommendations aligned with those made in our submission. It is our hope that implementation of the recommendations will be progressed without delay.

5



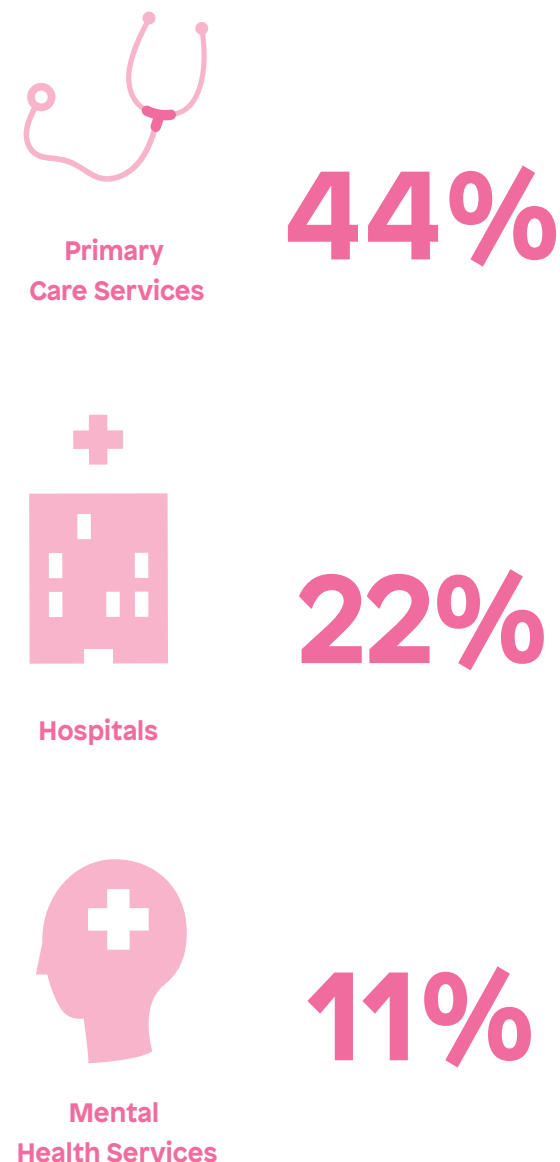
Health



5.1 Health

In this section we examine the work that the Ombudsman for Children's Office has done in the area of Health across all functions of the Office; Complaints and Investigations, Policy, and Rights Education and Participation.

Breakdown of Health complaints



The proportion of complaints received by the OCO that relate to health services has decreased from 16% in 2018 to 14% in 2019. We continue to receive complaints about children waiting for scoliosis treatment and for assessment of need.

The top three services complained about were primary care services, hospitals and mental health services.

Case Study 7 - Molly one year on

Molly was born with Down Syndrome and severe autism. She was abandoned at birth by her biological parents and has grown up with her foster family after being placed there when she was four months old. Molly is dependent on her foster carers in all areas of her care, including feeding, toileting, bathing, and dressing.

Molly's foster carer made a complaint to us about the level of supports and services being provided by Tusla and the HSE to meet Molly's needs and support her placement.

What we did

In 2018 the Ombudsman for Children's Office published Molly's case, a report detailing a complaint we received about a child with a disability who is in foster care. Twelve months later we returned to this case to track the progress made by the HSE and Tusla on the commitments they made.

We found that there was a lack of co-ordination between Tusla and the HSE, which meant that services and supports provided by both organisations were insufficient. Neither agency viewed Molly holistically as a child who was both disabled and in care. Instead Tusla recognised her protection and welfare needs, but made no distinction with regard to her disability requirements.

The HSE recognised her disability needs but made no distinction with regard to her protection and welfare vulnerabilities as a child in care. We also found that this is a problem facing many children with disabilities in care. We were told by Tusla that in 2015 there were 472 children with a diagnosed moderate to severe disability in foster care placements in Ireland.

Outcome

While it is important to acknowledge the progress that has been made especially for Molly herself, we felt that not enough has changed since the publication of Molly's case in 2018. As a result we committed to monitor these issues in 2019, engaging with both the HSE and Tusla. A further update was published in 2020.

5.2 Assessment of Need

Under the Disability Act 2005, children who have, or who are believed to have, a disability are entitled to an assessment of need by the Health Service Executive (HSE). An assessment of need determines whether a child has a disability and what services they may require (for example, speech and language therapy, physiotherapy, etc).

We are very concerned about the potentially serious negative impact that the current assessment of need system is having on children's health and wellbeing, as well as their future development. Therefore, we decided to undertake a dedicated piece of work to examine assessment of need from a children's rights perspective. This work started in 2019 and we expect to publish our report on assessment of need during 2020.

5.3 Mental Health

In March 2019, the Oireachtas Joint Committee on Health invited the OCO to make a written submission on the Mental Health (Amendment) Bill 2016. This Private Members' Bill has its genesis in concerns about the admission of children and young people under 18 to adult inpatient mental health units, a practice that the Mental Health Commission (MHC) has characterised as undesirable and inappropriate.

The OCO has expressed serious concerns about this practice on several occasions, including in a report to the UN Committee on the Rights of the Child in 2015, in a submission to the Seanad Public Consultation Committee on Children's Mental Health Services in Ireland in 2017, and in our Take My Hand report, which we published in 2018.

We are firmly of the view that the admission of children and young people to adult inpatient mental health units must end. Given the vulnerability of children and young people with complex mental health needs, it is unacceptable that the necessary measures have not yet been implemented to end this practice. As we highlighted in our submission to the Joint Committee, the 2016 Bill exists because the State has failed to put in place sufficient appropriate child and adolescent mental health services and supports.

Further investment in preventative measures, primary care, and specialist community Child and Adolescent Mental Health Services (CAMHS) is needed to end the admission of children and young people to adult inpatient mental health units. For many children and young people appropriate supports and services at an early stage can prevent the escalation of mental health difficulties and the need for inpatient care and treatment. Ending the practice also requires sufficient out-of-hours facilities and specialist inpatient units for children and young people with complex mental health needs.

While the OCO is aware of the challenges that currently exist in providing these supports and services, we are disappointed that more progress has not been made.

Overall, we are very concerned about the slow pace of change to improve law, policy and provision in the area of children and young people's mental health. At a meeting with the Minister of State with responsibility for Mental Health and Older People in December 2019, the Ombudsman for Children emphasised the need for swift progress in a number of areas, including:

- completion and publication of the Government's Mental Health (Amendment) Bill
- publication of the refreshed Vision for Change
- establishment of the Youth Mental Health Pathfinder project.

Case Study 8 - Conor's story

Conor is a teenager with a diagnosis of autism, depression and anxiety. At the time the complaint was made to the OCO, Conor had been staying in a paediatric ward at a hospital for almost five months supported by two staff members at all times. The HSE Disability Services had not identified a place for him to stay as he could not return to his family home. His parent contacted us as they were so concerned about the inappropriate nature of the hospital care placement, the delay by the HSE in securing an appropriate placement for him and the absence of appropriate supports to help him.

It was made known that his weight increased significantly during this time, he had little exercise, no treatment other than medication, no therapeutic support, no access to education whatsoever and his social stimulus was limited to staff and parental visits.

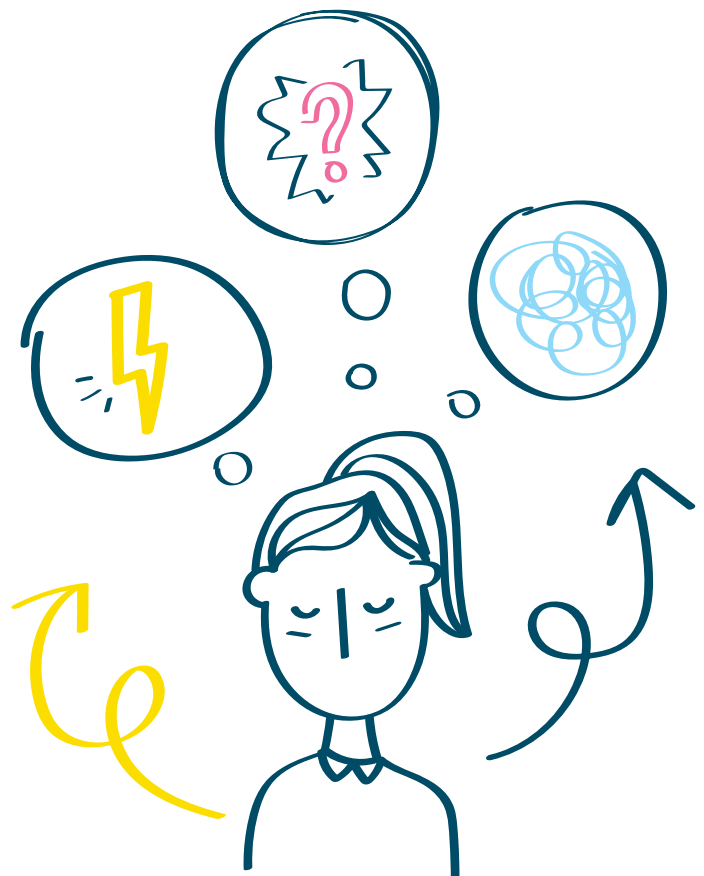
What we did

We wrote to the HSE Disability Services and HSE CAMHS services asking about their planning for Conor and why he had remained in the hospital for so long when there was no medical need.

We also met with Conor in the hospital and he told us how much he felt he was missing out on.

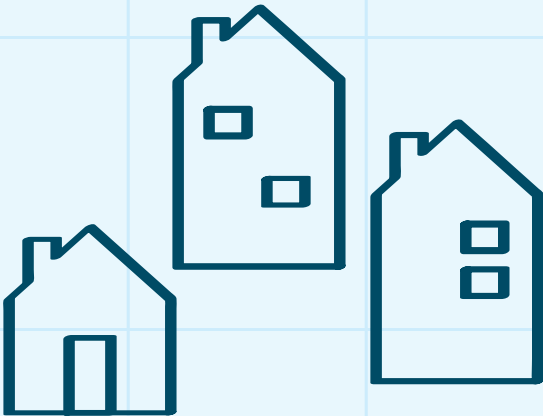
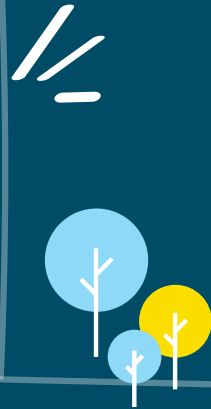
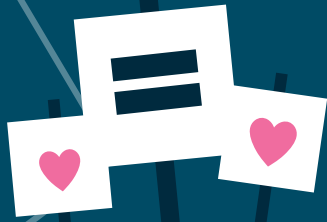
Outcome

After we got involved, the relevant services started to plan more proactively for his care. Nine months after his admission the HSE secured an individual placement for him that was supported by a private care services provider.



6

Direct Provision



6.1 Direct Provision

In 2017, the Ombudsman for Children's Office began accepting complaints from children living in Direct Provision, and from adults contacting us on a child's behalf. Since that time we have visited all the Direct Provision centres around the country, we have carried out children's rights workshops and we have investigated complaints. It is clear that there are a number of areas of concern and in 2019, we prioritised the rights and welfare of children in Direct Provision in our Strategic Plan.

6.2 Consultation with children living in Direct Provision accommodation

Since 2017, when our remit in taking complaints relating to Direct Provision was clarified, the Participation and Rights Education Unit has been holding rights awareness workshops with children living in Direct Provision accommodation. Speaking to children in these workshops raised a number of concerns about their experience of living in Irish society. Reflecting this concern, our Strategic Plan 2019-2021 made a commitment to undertake a consultation with children living in Direct Provision accommodation.

Our consultation took children's rights as its starting point and focussed on the themes of inclusion and exclusion in school, the

community and wider society. Between July and October 2019 we met with 73 children aged 12 to 17 years living in nine accommodation centres across Ireland. All of these children took part in consultative focus groups in their accommodation centres and a small number also undertook individual interviews. Each centre was visited on three occasions. Firstly, we visited each centre to meet with children and their parents, explain the consultation process and get consent and assent for those who wished to take part. The second visit was comprised of focus group discussions on children's rights, inclusion, exclusion and changes the children wanted to see. Individual interviews with children were also offered at this second visit. Following initial analysis of the data gathered, we returned to the centres for a third visit to get the participants' feedback on our early analysis and the key themes emerging.

In November 2019 we held two full day, creative sessions with the participants. These were held in Dublin and Limerick to allow children from all of the participating centres to attend. During these days, 43 of the young participants engaged in various art activities and gave anonymised interviews to camera to make a video.



This consultation has generated an enormous amount of rich data. We will be further analysing this data and creative outputs in order to highlight the children's experiences, concerns, hopes and suggestions for change. A report of this consultation will be published in 2020.

Case Study 9 – The right to play and rest for children seeking international protection

Play facilities are really important for children living in direct provision and there is a requirement that appropriate play, recreation and study facilities be provided in centres that host families.

As part of the Ombudsman for Children's Office outreach programme we visited Emergency Reception Orientation Centres (EROCs) and Direct Provision accommodation around the country. At one centre, where a number of children were living, the indoor play area was found to be almost devoid of toys except for a small pile of soft toys and table football. Parents told us that when it was too wet or cold to play outside the children generally just went to their rooms.

At the outdoor play area we noticed that the equipment was in a very poor state of repair, the surrounding grass was littered with discarded items and a rat poison container was exposed and accessible to any children using the area. Due to the lack of a gate, the service deliveries area was also accessible to any children using the area. One parent told us that she did not allow her children to use the playground as she felt it was unsafe.

What we did

We shared our observations and concerns with the manager onsite that day who agreed that improvements needed to be made, especially in the outside area.

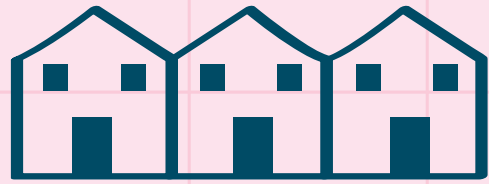
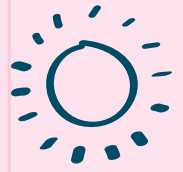
Outcome

A commitment was made by the Management Company to improve the play areas for children. A return visit to the centre later revealed a well-stocked indoor play area and new equipment in the garden area. The outdoor area had been tidied and the gate replaced. They also recruited a children's co-coordinator to give children a structured environment for play and to help them with their homework in the evenings. Additional daily activities are being provided such as homework club, drama club, arts and crafts, book club, nature conservation, community project, games tournaments, video club etc.

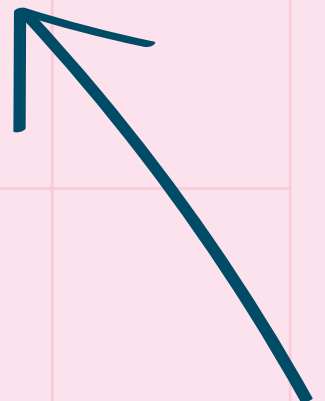




7



Housing



7.1 Housing

In this section we examine the work that the Ombudsman for Children's Office has done in the area of Housing across all functions of the Office; Complaints and Investigations, Policy, and Rights Education and Participation.

Top 3 complaints



Access to
suitable housing

75%



Traveller
accommodation

5%



Neighbourhood
suitability/handling
of anti-social concerns

9%

In 2019, 5% of the complaints we received were about housing, representing no change on the previous year. Access to suitable housing was the main issue raised, which includes local authority housing allocation, suitable housing for children with disabilities, emergency homeless accommodation, medical priority allocation and general transfer issues.

Case Study 10 – Andrew's Story

Andrew's mother contacted us in February 2019. She told us that her son has severe disabilities since birth and requires 24 hour care. As Andrew has no functional use of his body his housing needs were complex. His mother explained that Andrew requires accommodation that facilitated sufficient space for a wheelchair, a hoist and medical equipment.

At the time of initial contact with the OCO Andrew was sharing a bedroom with his parents and younger sibling. Andrew's mother was frustrated by an ongoing lack of communication from her local authority in relation to the commencement of adaptive works on the family home. She told us that she had experienced ongoing difficulties accessing suitable housing for Andrew since his infancy.



What we did

We contacted the local authority who told us there had been delays in commencing the project at Andrew's home due to the complexity of the works planned. We asked them to keep Andrew's mum informed as to the likely commencement date of the project. We also asked the local authority to ensure that the contractors responsible for the project liaise regularly with Andrew's mother throughout the works in order to minimise disruption to Andrew's daily routine. We followed this up by contacting Andrew's mother for her feedback as to whether communication had improved. She told us that further and better communication had occurred.

Outcome

Local resolution was achieved and the local authority ensured that Andrew's mum was kept informed as to the status of the building works to their home. The project commenced during summer 2019 and was successfully completed.

of a co-living space for homeless families in Drumcondra in late 2016, Family Hubs have emerged as one measure aimed at reducing the reliance on hotels and B&Bs to accommodate homeless families. Family Hubs are designed to provide facilities not available to families in hotels and B&Bs, including shared cooking and laundry facilities and outdoor space.

In 2018 we undertook a consultation in eight Family Hubs. These Hubs were located both in Dublin and outside the city. They were operated by a range of private and NGO providers. We met with 37 children aged between 5 and 17 years to hear their views on living in a Family Hub. We also met with 33 parents of 43 children under the age of 5 years to get their views on how living in a Family Hub was for their young children.

In April 2019 we published our report on this consultation - No Place Like Home: children's views and experiences of living in Family Hubs.³ In addition to highlighting the views and experiences of children and parents who engaged with us, this report offered a children's rights perspective on relevant developments in legislation and public policy concerning family homelessness, and identified corresponding priorities for action.

Our report highlights what children liked about living in the Family Hub, what they disliked and the changes they wanted to see. Among the positives they identified were increased safety and stability in comparison to their previous living circumstances, having friends in the Hubs, nice staff and good food. However, many could not identify any positives of living there other than it was better than their previously more precarious situations.

7.2 No Place Like Home: Children's views and experiences of living in Family Hubs

Homelessness among children remained a key concern for the office in 2019. As of the week of 23rd to 29th December 2019, 3,422 children were experiencing homelessness with their families.²

In our 2018 Annual Report we reported on our consultation with children living in Family Hubs. Following Respond's establishment

² https://www.housing.gov.ie/sites/default/files/publications/files/homeless_report_-_december_2019_2.pdf

³ <https://www.oco.ie/library/no-place-like-home-childrens-views-and-experiences-of-living-in-family-hubs>

The things the children found difficult about living in the Family Hubs and that they would like to see changed were more numerous and easier for them to identify. Many of these were shared by both the parents of younger children and the children we met. These included lack of privacy, lack of space, excessive noise and constant supervision. Parents and children struggled with being unable to have friends and family visit them at all due to the rules of the Hub, or to have any privacy when visitors are allowed, thereby isolating them from vital sources of support. Children also felt ashamed of their homelessness and living in a Family Hub and many did not tell their friends where they lived. Many children expressed feeling of depression, anxiety and, for a few, suicidal ideas.

Taking into account the views and experiences shared by children and parents and our analysis of developments in law and policy, our report identified a range of measures that need to be implemented:

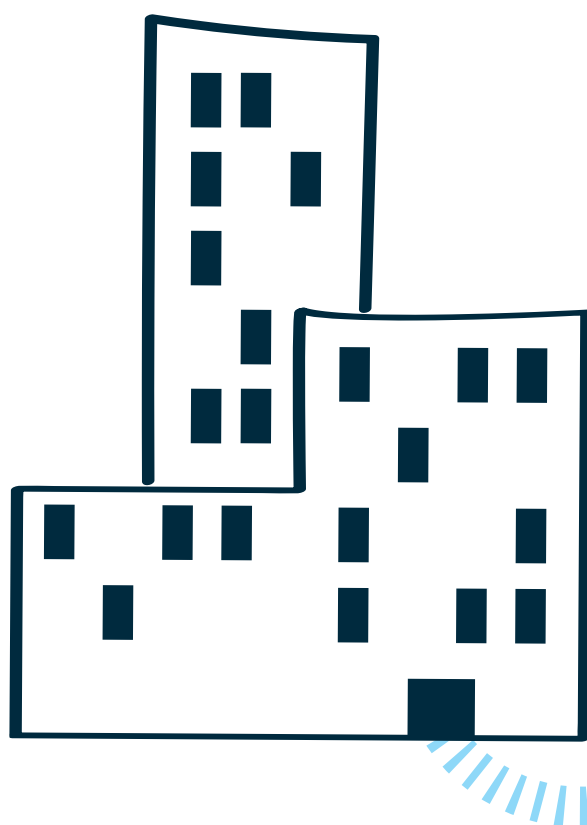
- **Constitutional reform** – The issue of enumerating the right to housing in the Constitution needs to be progressed as a matter of priority.
- **Legislation** – Existing primary legislation (Housing Act 1988) needs to be amended so that children are visible in it and needs to be strengthened so that housing authorities are required to provide appropriate accommodation and supports to homeless families with children. Legislation should also be amended to place a limit on the amount of time that families may spend in emergency accommodation.
- **Policy** – Timelines need to be put in place for bringing an end to the practices of self-accommodation and providing emergency accommodation to families in hotels and B&Bs. An independent evaluation of the suitability of Family Hubs should be undertaken to establish what improvements need to be made, whether this approach

should be pursued, and whether it should be complemented or superseded by alternative approaches to providing emergency accommodation to homeless families.

- **Data** – Improvements need to be made in the collection and disaggregation of data relating to homelessness among families with children. Access to and the transparency of data needs to be improved to support a shared understanding of the data. Measures to improve data should include a stronger focus on the collection, analysis and publication of qualitative data so that developments in public policy and provision are informed by the experiences of people directly affected by homelessness, including homeless families with children.
- **Standards and inspection** – Nationwide implementation of the National Quality Standards Framework for Homeless Services in Ireland (NQSFI) needs to be progressed. A mechanism needs to be put in place for independent, statutory inspection of homelessness services.
- **Complaints handling** – All providers of homelessness accommodation need to be supported to take a consistent approach to complaints handling. Complaints made by or on behalf of children need to be handled in a child-centred manner that is in line with good practice.
- **Supporting dignity** – Further attention needs to be given to implementing additional practical measures to support the dignity, resilience and wellbeing of children and parents experiencing homelessness. An increase in child support workers and therapeutic supports are among the measures that should be considered.

No Place Like Home was launched on 18 April 2019. We wanted this launch to further highlight the children's experiences of living in a Family Hub. In order to do this, the launch venue was set up to provide examples of what living in a Family Hub was like for them. Using actors and arranging furniture to represent the spaces in which the children lived with their families, we recreated the experience of queuing for food, sharing bunk beds with a parent, having no private space and having no place to do homework or study. Art work created by the children during the consultation was on display and their stories, voiced by actors, were available to listen to.

Following the publication of No Place Like Home, we met with the Minister for Housing, Planning and Local Government and we wrote to the Minister for Children and Youth Affairs. In June 2019, we met with the Oireachtas Joint Committee on Children and Youth Affairs, as it examined the impact of homelessness on children. We also appeared before the Oireachtas Joint Committee on Housing, Planning and Local Government during its examination of family and child homelessness. The reports published by these Joint Committees in November 2019 drew from No Place Like Home and many of the recommendations aligned with those made in our report. We will build on our work in relation to child and family homelessness during 2020.





8



8.1 Justice

In this section we examine the work that the Ombudsman for Children's Office has done in the area of Justice across all functions of the Office; Complaints and Investigations, Policy, and Rights Education and Participation.



of our complaints
came from the
justice sector

6%

8.2 OCO outreach at Oberstown Detention Campus

In 2016, we launched our programme and put the building blocks in place for an outreach programme in Oberstown Children's Detention Campus. Our simple aim was to make our independent complaints and investigation function available and as visible as possible to this vulnerable group of children.

That outreach programme is now firmly established and is an integral part of the work of our Complaints and Investigation team. We visit the campus at least once a month to speak to young people directly and in private to hear their concerns. Our intention is to use our influence to resolve any issues raised by young people in a timely manner.

Case Study 11 – Jamie's story

Jamie is a 16 year old young person who attended our outreach clinic at Oberstown Children's Detention Campus. Jamie who was under the care of Tusla, informed us that he was due for release in a couple of months. He had been living in a residential care centre prior to his sentence and told us he had been happy living there. Jamie was concerned that there was uncertainty about whether he would be going back to the centre or whether he would be placed elsewhere as a care plan had not been agreed for him. Jamie told us he was worried he would end up homeless.

What we did

We made contact with the social work team responsible for Jamie's care. The Principal Social Worker advised us that there had been uncertainty about whether the placement could meet Jamie's needs. Tusla had requested a detailed plan from the residential centre about how they planned to engage with Jamie during his time in Oberstown to prepare him for returning to their care. This plan had now been received and the social work team had decided to support this plan and would be recommending that the plan be endorsed by senior management.

The outcome

Tusla wrote to us setting out that it had been agreed that Jamie would return to his residential centre on his release from Oberstown. We spoke with Jamie and he told us that he was delighted that this decision had been made and that he was feeling optimistic for his future.

9



9.1 New challenges for children's rights

In this section we highlight the work of the OCO in the digital environment and other areas where new developments are taking place for children's rights. It is essential that we constantly examine and consider new challenges facing children and young people, and how these changes impact them as rights holders.

9.2 Safety in the digital environment

In March 2019, the Minister for Communications, Climate Action and Environment initiated a public consultation on the regulation of harmful content on online platforms and the implementation of the revised Audiovisual Media Services Directive (AVMSD).

We welcomed this consultation, especially its focus on strengthening the protection of children online by seeking to set up an Online Safety Commissioner. The establishment of an Online Safety Commissioner is an idea that has been discussed for several years and while we support the initiative, we are also aware that putting in place an appropriate, viable and effective non-judicial regulatory mechanism is a complex undertaking.

In light of the OCO's statutory remit to promote children's rights and welfare, we focused our submission on proposals for new online safety laws, including the potential establishment of an Online Safety Commissioner. As these proposals were at an early stage of development and the associated consultation materials published by the Department of Communications, Climate Action and Environment (DCCAE) made no reference to children's rights, the main purpose of our submission was to highlight the State's obligations to children, in particular under the UN Convention on the Rights of the Child (UNCRC) and with regard to the related areas of children's rights online and children's rights and business.

In recommending that future work to develop proposals for an Online Safety Act and an Online Safety Commissioner needs to include a focus on giving effect to children's rights, we suggested that that the DCCAE should:

- employ a rights framework and make appropriate provision for children's rights within this framework, including the general principles of the UNCRC as set out under Articles 2, 3, 6 and 12
- provide children and young people under 18 with a meaningful, timely, age-appropriate and child-friendly opportunity to express their views in relation to those aspects of the current proposals which affect them
- give careful attention to international and European guidance and recommendations concerning the interrelated areas of children's rights online and children's rights and business, including guidance and recommendations relating to legislative, regulatory and remedial measures.



We suggested that to ensure statutory provisions made for an Online Safety Commissioner are both viable and rights compatible, the DCCAE should:

- identify and define harmful online content in a manner that is objective, evidence-based, clear and unambiguous
- provide for the statutory independence of an Online Safety Commissioner, howsoever called and structured
- assign statutory functions to an Online Safety Commissioner that are necessary, legitimate, appropriate and mutually compatible, and that complement functions currently performed by other bodies.

9.3 Research on progressing children's right to be heard through social and digital media

During 2019 a research team from the Centre for Social and Educational Research at TU Dublin progressed research for the OCO about how social and digital media might be mobilised to progress children's right to be heard in public decision-making processes affecting them.

The first phase of the research, which involved undertaking a desk-based review of relevant literature, was completed in 2018. In 2019, the research team worked to develop and implement follow-up primary research focused on hearing the views of children and young people as well as the perspectives of a range of stakeholders working in relevant areas of the public sector, private sector, civil society and research.

We expect a final research report detailing the findings of this project to be completed in 2020.

9.4 ENOC statement on children's rights in the digital environment

The OCO is a member of the European Network of Ombudspersons for Children (ENOC), which includes Ombudspersons and Commissioners for Children from over 40 countries across Europe.

ENOC's work in 2019 included a specific focus on children's rights in the digital environment. The OCO actively contributed to ENOC's activities by participating in a thematic seminar for ENOC members held in May 2019 and by sharing information on relevant developments in Ireland. We also contributed to the preparation of a statement by ENOC on children's rights in the digital environment, which was adopted at ENOC's 23rd General Assembly in September 2019. This statement sets out a range of measures that ENOC recommends need to be progressed by the Council of Europe, the European Commission, States and other duty bearers in the interests of ensuring that children's rights in the digital environment are respected, protected and fulfilled.


9.5 Children's rights as data subjects

In March 2019, the OCO made a submission to the Data Protection Commission's (DPC) consultation on the processing of children's personal data and the rights of children as data subjects under the General Data Protection Regulation (GDPR). The purpose of this consultation is to inform the DPC's work to produce guidance materials for children and for organisations that process children's personal data.

Our submission encouraged the DPC to develop guidance that supports all organisations involved in processing children's personal data to:

- recognise children's status as subjects of rights
- respect, protect and uphold children's rights




- 
- take a child-centred, rights-based approach to the treatment of children as data subjects and of their personal data

We believe that a demonstrable commitment by all organisations to acting in the best interests of children should be a consistent thread running through the collection and processing of all children's personal data.

Our submission to the DPC focused on how certain provisions of the GDPR might be implemented in a manner that is consistent with children's rights and made corresponding recommendations in relation to:

- transparency and the right to be informed about the use of personal data (Articles 12-14 GDPR)
- the right of access (Article 15 GDPR)
- the right to erasure (Article 17 GDPR)
- age verification (Article 8 GDPR)
- direct marketing
- profiling for marketing purposes.

We understand that the DPC's guidance is due to be published in 2020. We hope this guidance will prove to be an informative and empowering resource for children and young people. We also hope that it will strengthen the capacity of organisations, including the OCO, to process children's personal data in a manner that is aligned with children's best interests and upholds their rights as data subjects.



9.6 National Advisory Council for Online Safety

As we reported in our 2018 Annual Report, in September 2018 the OCO was invited by the then Minister of State for Natural Resources, Community Affairs and Digital Development to become a member of the National Advisory Council for Online Safety (NACOS).

We accepted this invitation on the basis that we would withdraw from the NACOS if necessary should a conflict of interest arise between our membership of the Council and the OCO's statutory independence and functions.

During 2019, the OCO continued to participate in the NACOS, attending meetings of the Council held in January, May and October.

9.7 Feasibility Study for Child Guarantee (FSCG)

Child Guarantee is a proposed scheme to be provided by the European Commission through the European Social Fund. Four meetings took place in 2019 examining how Europe's most disadvantaged children would benefit from a Child Guarantee. The meetings focused on children with disabilities, children living in precarious situations, children living in institutions and children with a migrant background. This feasibility study is looking at how a Child Guarantee could help to ensure free healthcare, free education, free early childhood education and care (ECEC), decent housing and adequate nutrition for all of these children. The OCO contributed to these meetings and highlighted the situation for children in Ireland. These meetings will feed into the FSCG intermediate report, the final conference and to the design of EU funds 2021–2027.

10

Looking Ahead to 2020



10.1 Priorities for Children 2020

As a new Government is established and plans for the future are put in place, the OCO will work to promote the rights of children among decision makers.

We will prioritise key issues affecting children in Ireland, urging immediate action from the incoming Government in the areas of child and family homelessness; mental health services for children; and the challenges facing children living in Direct Provision accommodation.

Housing

- It is time that housing became a constitutional right for children and families in Ireland. Ensuring the right to an adequate standard of housing for children may give policy makers the power and motivation needed to tackle the ongoing crisis, and to put measures in place that can ensure that no such crisis occurs again.
- No child should feel ashamed because they are homeless. No parent should feel they have failed because they and their children are homeless. An increase in therapeutic supports, child support workers and other measures are needed to support homeless children's resilience, dignity and self-worth.
- Children must be recognised in housing legislation. Existing primary legislation is inadequate as children are invisible.
- Legislation is needed to restrict the amount of time that children spend in emergency accommodation.
- Standards need to be implemented in all Family Hubs to ensure that requirements are met and that there is consistency of provision.

Mental Health

- The Youth Mental Health Pathfinder Project, a recommendation of the Taskforce on Youth Mental Health, must be progressed to bring together key departments to improve youth mental health services. The alarming lack of action from the three departments responsible to get this project up and running needs to be addressed.
- A child specific vision for mental healthcare for children must be developed.
- The Mental Health Act 2001, once amended, should include a dedicated part focused on children. It should consider children's right to the highest attainable standard of mental health, their right to have their best interests considered, their right to be heard in all decisions concerning their mental health and their consent.
- Universal, accessible, evidence-based prevention and early intervention mental health services at community level need to be prioritised.
- The amount of money being spent on mental health supports and services specifically for children should be published regularly.
- A wider range of experienced professionals should be allowed undertake the responsibilities of clinical leads to ensure that children are not left waiting if a consultant post is unfilled.
- A National Youth Mental Health Advocacy and Information Service should be established.

Direct Provision

- After more than 20 years it is time to consider real alternatives to Direct Provision. Institutional living is not good for children or for family life.
- Action must be taken to reduce asylum seeking application times to the original 12 month target. It is not good enough that children and families are waiting years to find out what their future holds.

10.2 Monitoring of Ireland by UN Human Rights Treaty Bodies

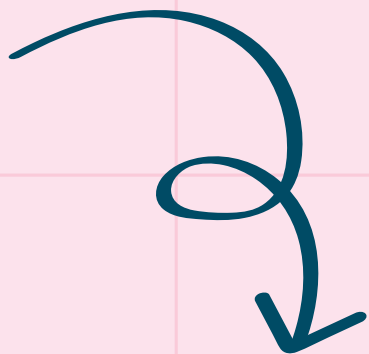
During 2020, Ireland's progress in fulfilling its human rights obligations, including its obligations to children, will be a focus of attention for several of the United Nations' Human Rights Treaty Bodies.

Among developments relevant to children in this regard will be the State's submission of its first report following Ireland's ratification of the UN Convention on the Rights of Persons with Disabilities (UNCRPD) in 2018 and the State's submission of a periodic report on its implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR).

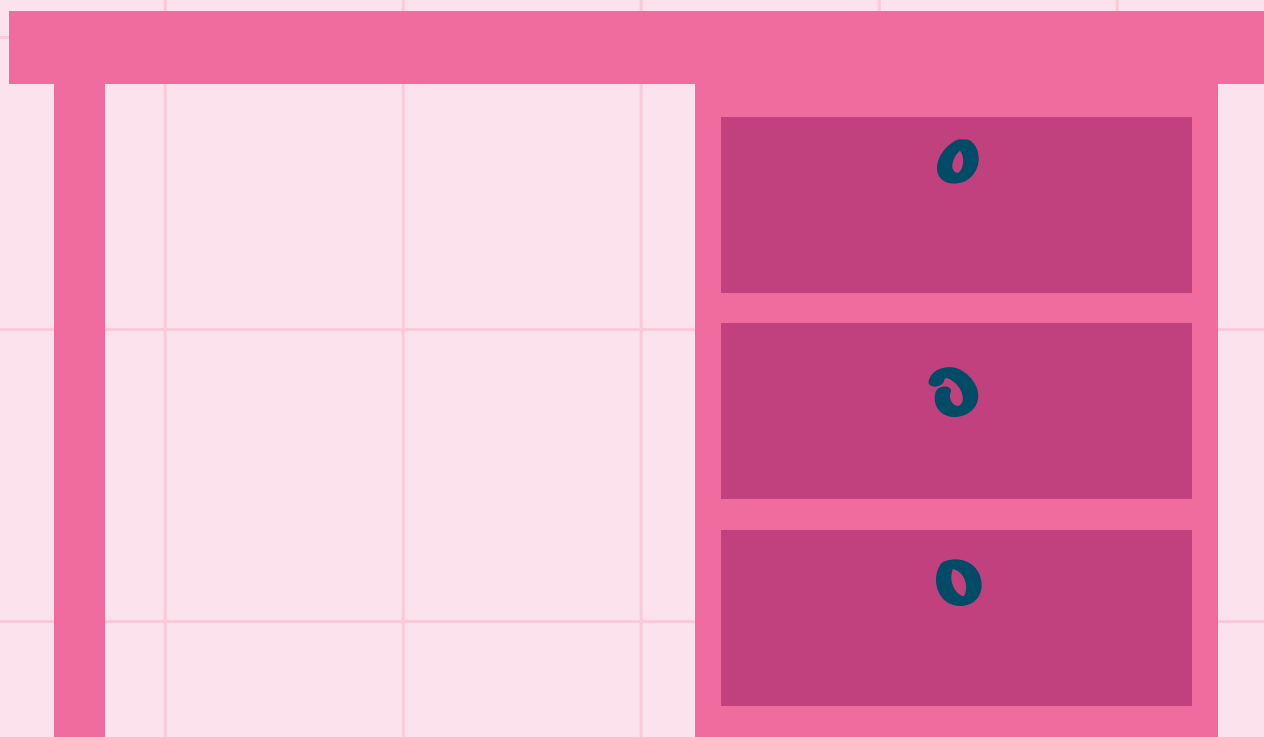
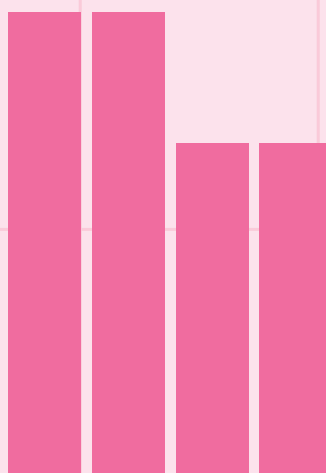
In October 2019, the State formally accepted an invitation to opt in to a simplified procedure relating to its reporting obligations under the UN Convention on the Rights of the Child (UNCRC). As a result, in 2020 the UN Committee on the Rights of the Child will begin the process of its periodic monitoring of the progress Ireland is making to implement its obligations to children under the UNCRC. The OCO will be engaging with this process, in the first instance by submitting an initial report to the UN Committee on the Rights of the Child to inform this Committee's work in 2020 to prepare a list of issues that it wishes the Irish State to report on in 2021.



11



**Running
the Office**





11.1 Budget

The budget of the OCO is allocated through the Department of Children and Youth Affairs, and drawn down on a regular basis throughout the year. In 2019, our budget was €2.747m, an increase of €15,000 on 2018.

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, for ensuring the regularity of the Office's transactions, and ensuring compliance with the Code of Practice for Governance of State Bodies.

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. These are achieved through close collaboration between the Ombudsman for Children, the Office Manager, and the Office's accountants, Crowley's DFK.

The Financial Statements are subject to audit by the Comptroller and Auditor General. The audit of the 2019 accounts will take place in early Quarter 3 of 2020, and will be conducted by DHKN Financial Services on behalf of the Comptroller and Auditor General. Financial Statements for a given year are generally not audited at the time of the relevant annual report's publication. Once approved by the Comptroller and Auditor General, the annual accounts for 2019 will be published on the OCO's website, as has been done in previous years.

ASM Chartered Accountants provided our internal audit function, and undertook a review of internal controls in 2019. They also conducted a Value for Money audit. 2019 was the last year of their contract, and we went to tender for internal audit services in December 2019.

11.2 Recruitment

At the start of 2019, the OCO had 21 permanent staff members. By the end of 2019, we had 23. The increase is due to filling a number of pre-existing vacancies.

A lot of workforce planning for 2020 and 2021 took place during 2019 with a detailed Business Case submitted to the Department of Children and Youth Affairs. Plans are in place to significantly grow the OCO team in 2020.

In December 2019, we went to tender for recruitment services. This contract will be awarded in early 2020.

There were no changes to the management team in 2019.

11.3 OCO Office Space

Along with running children's rights education workshops, the OCO continues to make the facilities of our office in Millennium House available as a venue for appropriate events focused on the rights and welfare of children and young people. These facilities include an open space for larger groups, meeting room, and a cinema.

In 2019, we commenced a refurbishment of these spaces to create a child-friendly, colourful and vibrant space. In early 2020, we will be opening the space again for workshops and bookings, and we hope everyone loves it as much as we do.

11.4 Energy

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 2019, the OCO used 80,181kWh of electricity, an 8.5% decrease on 2018. Energy usage is monitored on an ongoing basis. The OCO continues to operate a comprehensive internal recycling system. We have been engaged with the OPW's Optimising Power @ Work campaign, and we are actively seeking ways to bring power usage down. This is something that came up during the refurbishment, and we made every effort to make sure that we were being as environmentally conscious as possible. We have also undertaken not to purchase any single use plastics, as per Government Decision S180/20/10/0434C of 3rd January 2019.

11.5 Freedom of Information

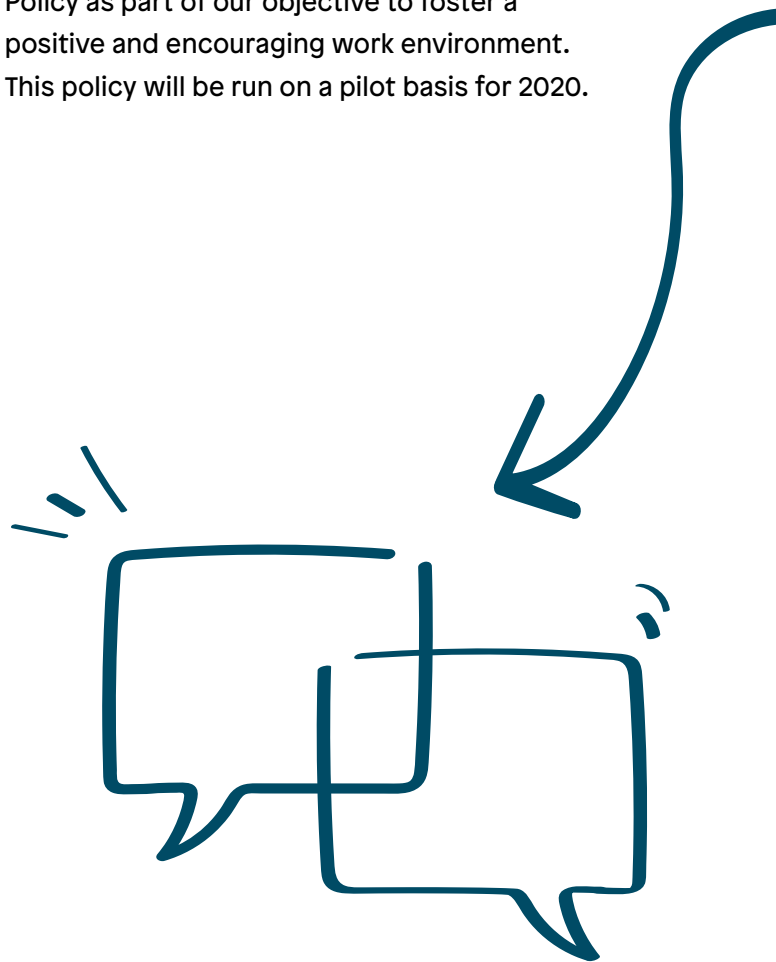
Under section 8 of the Freedom of Information Act 2014 (FOI Act), the OCO is obliged to prepare and publish a publication scheme. The purpose of this scheme is to allow the provision of information to the greatest extent possible, except for information exempted under or outside the FOI Act. During 2019, we reviewed and updated our publication scheme. As regards FOI requests, we received and processed three FOI requests during 2019.

11.6 Data Protection

During 2019, we built on our work in 2018 to review and update our data protection policies and procedures to ensure our compliance with the GDPR. We are committed to making sure that our processing of personal data is consistent with best practice and we will continue to develop and implement measures in this regard in 2020.

11.7 OCO Work From Home Policy

In 2019 the OCO developed a Work From Home Policy as part of our objective to foster a positive and encouraging work environment. This policy will be run on a pilot basis for 2020.







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