



ombudsman  
do leanaí  
for children



## Resilience Tested

Ombudsman for  
Children's Office  
Annual Report 2021

Ombudsman for Children's Office  
Millenium House  
52-56 Great Strand Street  
Dublin 1  
D01 F5P8

**T:** 01 865 6800  
**F:** 01 874 7333  
**E:** [oco@oco.ie](mailto:oco@oco.ie)  
**www.oco.ie**  
 [@OCO\\_Ireland](https://twitter.com/OCO_Ireland)



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**Dr Niall Muldoon**  
Ombudsman for Children

## Message from the Ombudsman for Children

Resilience is a word we associate with children. Children are to be credited for their ability to learn, to adapt, to endure difficulties, to recover and to accept change. But even the strongest of us have our limits and in 2021 even the most resilient child was tested. When the pandemic began, and during the first wave of lockdowns, everything stopped – childhood paused. 2021 however presented different challenges; children and indeed the public services providing for them, were expected to get on with it. Children were expected to make-do with the stop start nature of school and learning without falling behind, they were expected to make friends and build relationships behind masks and across classrooms, they were expected to accept the cancelled plans, the curtailed experiences. On the other side, there was massive pressure on schools, hospitals, therapeutic services, respite services and all of the other supports that help children across the country every day, as they were expected to provide an almost normal service, despite the fact that nothing was normal.

Throughout the pandemic the Ombudsman for Children's Office has been clear that decisions and actions affecting children should respect, protect and fulfil their rights, including the right to have their best interests treated as a primary consideration. We have also been clear that restrictions that affect children should be in place for the shortest possible time. These priorities came to the fore in 2021 as the pandemic moved into a new phase where we were living with Covid. Public health was obviously the primary concern for Government at the outset of the pandemic, but as it became evident that there was never going

to be a definitive finishing point, the public health implications of the pandemic had to be balanced with the impact on children's mental health, their social development and their education.

The shadow of Covid-19 and its impact on every aspect of children's lives runs through the Ombudsman for Children's Office Annual Report 2021. Children and families were still interacting with services and while Covid-19 did have an effect on delivery, many children were experiencing the same problems and the same delays they were experiencing prior to the pandemic. We succeeded in publishing a number of important pieces of work relating to the rights of children with disabilities and the rights of Traveller children. While we very much missed interacting with children in person through our rights education schools programme, we took every opportunity to engage virtually. For the first time in a number of years we recruited a Youth Advisory Panel and we hosted regular meetings with them where they offered real insight and wisdom on many issues affecting children throughout the year.

In 2021 I was honoured to begin my second term as Ombudsman for Children, and I embarked on my new six year term with my eyes wide open to the needs of children in Ireland and the gaps that still exist in meeting those needs. I have set myself, and the Office, ambitious goals to bring about positive change for all children but to particularly services on influencing change in mental health services for children, in delivering on the rights of children with disabilities and in driving towards the future of education. As an Office we also want to cultivate a respectful and fun workplace for all who work here so that we can promote innovative thinking and embrace diversity. I recognise the weight of responsibility to deliver on behalf of all children living in Ireland and I am committed to exercising the full power of the Office to make their lives better.

In line with that it is important to acknowledge that as 2022 moves into Spring, Ireland will be hosting and supporting thousands of children and families from the Ukraine and our Office will keep a constant dialogue with Government to ensure their rights are fully vindicated throughout their stay in Ireland.



# 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.

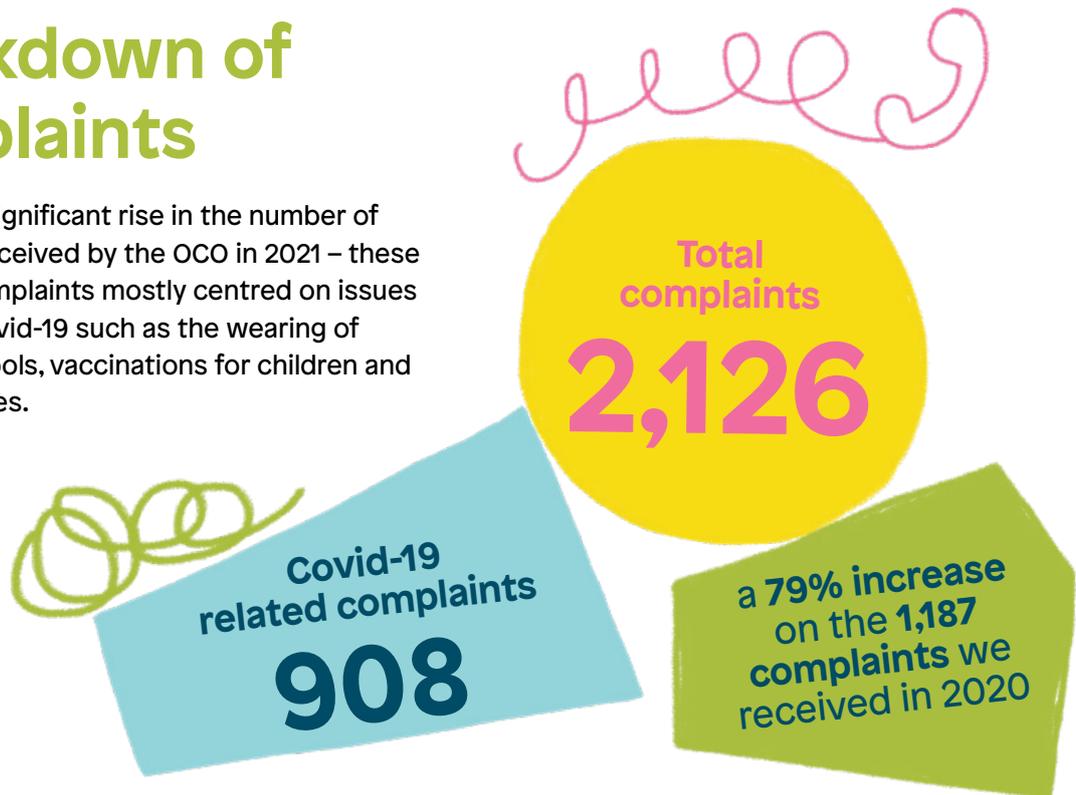
Dr Niall Muldoon was reappointed as the Ombudsman for Children by the President of Ireland in 2021. Niall reports directly to the Oireachtas.

# Statistics and Highlights



## Breakdown of complaints

There was a significant rise in the number of complaints received by the OCO in 2021 – these additional complaints mostly centred on issues relating to Covid-19 such as the wearing of masks in schools, vaccinations for children and school closures.



### Breakdown by category of complaints to the OCO

| Year  | 2020 | 2021 |
|---|------|------|
| Education complaints                              | 46%  | 53%  |
| Health complaints                                 | 14%  | 17%  |
| Local Authority complaints                        | 6%   | 5%   |
| Justice complaints                                | 5%   | 1%   |
| Finance, Social Protection and Welfare complaints | 2%   | 1%   |
| Family Support, Care and Protection complaints    | 20%  | 12%  |
| Other complaints                                  | 7%   | 12%  |



# Identified complaint trends for 2021

## Special Needs Assistant (SNA) allocations

These complaints related to the shared allocation of SNA support and how the decisions on the level of allocation were impacting on children with significant needs.

## Lack of provision for ASD places/units in schools

We received a number of complaints on this issue from the families of children who were transitioning into post primary level but were unable to secure a school with an ASD place due to a lack of availability in their locality.

## Bullying

Education is always our biggest complaint category and bullying makes up an average of **10% of complaints received every year.**

Complaints about bullying relate to schools handling of bullying, handling of complaints about bullying not being identified and acted upon, sanctions and the lack of supports for students (victim and perpetrator) in the aftermath of bullying.

## July Provision

July provision is a summer based programme run for children with special educational needs to provide them with an additional 4 weeks of schooling/home tuition to support them in their education. These complaints related to the allocation of hours for siblings and the lack of schools running the "in-school" programme as opposed to the home based tuition programme.

## Leaving Cert 2021

These complaints related to the possible format of the Leaving Certificate for 2021 and raised concerns that similar issues and delays in decision making would negatively impact the mental health of students.

## Cyber-attack

Complaints about the related delays with Tusla/HSE complaint handling and access to services.

## Mental Health

Complaints about mental health were often related to the knock on effects of the pandemic. These complaints tend to be specifically about waiting lists and resource based issues that we have no remit to examine.

# oco online

## Twitter followers

**11,000**

an increase of  
19% on 2020

## Facebook followers

**9,107**

an increase of  
4.4% on 2020

Overall FB reach  
**389,820**

New FB followers  
**353**

New Instagram followers  
**432**

## Top Instagram posts

#MoreThanSchool  
Campaign  
announcement  
**54,898**

Ava's  
#MoreThanSchool  
Entry  
**45,054**

Child Talks  
Announcement  
**44,529**

Millie's  
#MoreThanSchool  
Entry  
**39,847**

## Top most viewed website pages

|  |                                     |                          |
|--|-------------------------------------|--------------------------|
| Vacancies and tenders<br><b>10,145</b> | Its your right game<br><b>3,909</b> | About us<br><b>3,753</b> |
| Complaints<br><b>3,311</b>             | Children's Rights<br><b>3,280</b>   |                          |

## Website page views

**109,142**

## Website new users

**32,700**

## Top Twitter video impression



No End In Site Video  
**286,000**

#MoreThanSchool Social  
Media Campaign Entry  
**83,179**

Autism Awareness video  
**24,904**

Where is My Mind  
Podcast promotion  
**15,733**

Niall reappointment video  
**12,872**

# Major Events Attended 2021

## February

Niall spoke at the UCD Women in Leadership conference; an annual event which brings women together and showcases their talent to inspire others.

## March

Niall presented a Keynote address at the Children's Rights Alliance – 1 year of Lockdown event.

Attended launch of "BEACONS Portlaoise: Building a Community of Belonging"; a model that supports communities in having guided conversations between teachers, parents and students at the local community level.

## April

Oireachtas Joint Committee on Education in relation to the EPSEN Act 2004 and special needs education.

Niall spoke about the mental health impact of Covid on children, at Irish Medical Organisation AGM.

Niall presented at in the "Home – A Human Right" Conference, hosted in Maynooth University.

## May

Oireachtas Joint Committee on Education on school bullying and the impact on mental health

Oireachtas Joint Committee on Tourism, Culture, Arts, Gaeltacht, Sport and Media in relation to the General Scheme of the Online Safety and Media Regulation Bill.

Niall spoke about the particular impact of Covid-19 on young carers at an International Young Carers Conference (co-hosted by Eurocarers, the Swedish Family Care Competence Centre and Linnaeus University).

Niall presented on children's rights and homelessness at the World Conference of the International Ombudsman Institute.

## June

Oireachtas Joint Committee on Key Issues affecting Travellers on OCO's No End in Site report.

Oireachtas Joint Committee on Public Petitions in relation to Direct Provision.

Launched Women's Aid Annual Report.

Spoke at an event on the UN Convention on the Rights of the Children and Ireland hosted by the Department of the Children, Equality, Disability, Integration and Youth.

## July

Spoke about supporting children with a family member in prison at Irish Penal Reform Trust report launch.

Speech at Rape Crisis Network Ireland report launch on protecting children from sexual violence.

Spoke at Children's Rights Alliance event about the General Scheme of the Online Safety and Media Regulation Bill.

## September

Attendance at the Day of General Discussion held by the UN Committee on the Rights of the Child on children's rights and alternative care.

Contributed to Social and Cultural Diversity and Family Life Conference in Derry.

## October

Niall spoke at in the Universal Periodic Review Pre-session – where all UN Member States review the human rights record of Ireland.

Spoke at Standing Conference on Teacher Education North and South (ScoTENS).

## November

Oireachtas Joint Committee on Education on Leaving Certificate Reform.

Took part in Western Region Drug and Alcohol Task Force to discuss young people impacted by substance abuse in the home.

Spoke at an event on incorporating the UN Convention on the Rights of the Child into Irish law held by the Children's Rights Alliance.

Facilitated a workshop about the rights of children in care at a conference held by the Irish Foster Care Association.

## December

Contributed to Mental Health Commission's review of rules of restrictive practice.

# OCO External Projects

## Oberstown Outreach Clinic

As part of our complaint and investigations work, we visit Oberstown Children Detention Campus to raise awareness of the Office and to give children who may find it more difficult to reach us, an opportunity to highlight any concerns they may have. Due to Covid-19 restrictions, we had been holding our monthly outreach online. In 2021 we were delighted to resume our on-site visits.

## Children's Rights Alliance Research

The OCO is a member of the steering committee for an EU funded research project commissioned by the Children's Rights Alliance working with a youth advisory panel made up of children aged 12 to 17 years. It is concerned with three primary questions: what do children know about their rights; what are the gaps in their knowledge of their rights and their skills to engage those rights; and what do children recommend to address those gaps in children's rights education through policy and practice changes. Our role on this steering group is to provide advice and feedback on the conduct of the research and contents of the final report.

This research is due to be completed and published in 2022.

## Cavan Meet and Greet

Over the past two years the OCO has hosted Meet and Greet events at regional locations around Ireland to raise awareness of the office and to engage with those working directly with children. In February 2021 this event took place remotely with over 100 people located in Cavan, Monaghan, Louth and Meath logging on.

## Supporting Children's Rights Education and Participation - CoVision

CoVision is an international research project being led by a team of researchers in UCD and funded by the Health Research Board and the Irish Research Council. The OCO is one of a number of partners in this project from across the world including India, Australia, Canada and the US. Working closely with children, the project will explore the creative and innovative ways children have been responding to the changes they are experiencing during and after the pandemic. We are providing advice and support in relation to methodology, research tools and resources.

## Wellbeing for All

The Ombudsman for Children has been involved in the Wellbeing for All group since 2015 alongside the IPPN, NAPD, NPC Primary and The Teaching Council. It is a unique gathering of actors in the education space with the goal of building a positive culture of wellbeing across all schools in Ireland and which covers all members of the school and community (teachers, learners, parents and other school staff).

## Lust for Life

The Ombudsman for Children is on the steering committee for A Lust For Life Schools Programme which aims to build resilience, increase wellbeing and enhance the emotional literacy of 3rd to 6th class school children.

# Covid-19 and the Work of the OCO



## Covid-19 Complaints

In 2021 the OCO received over 900 complaints on Covid-19 related issues. We examined all of the complaints we received and signposted to relevant services where the complaint was not within our remit.

People who contacted us expressed concern about how Government policies considered and impacted children, in particular children in primary schools and children with special educational needs.

The OCO does not have a role in public health advice regarding Covid-19 however, we do have a role in monitoring how the public health guidelines are being implemented and communicated. The best interests of children should be considered in decisions affecting them and we have been clear throughout the pandemic that restrictions affecting children should be in place for the shortest possible time. We have highlighted the need for flexibility for children and the difficulties they faced as a result of the drastic changes they have experienced in the past 2 years.

Throughout the pandemic, the Ombudsman for Children has been consistently in contact with the Taoiseach, Government Ministers, the Chief Medical Officer and Senior Department Officials to advocate on behalf of children.

Outlined below are some of the most common issues raised by parents and others who contacted the OCO on behalf of children.

### — Covid-19 restrictions in schools

The OCO was contacted in relation to cold classrooms. In line with public health advice, the Department of Education had issued guidance regarding the deployment of good ventilation practices in schools to all schools nationally. These measures are in place in schools to prevent the introduction and spread of Covid-19.

Those who contacted the OCO felt these measures were disproportionate and unfair on children, as they remained in place after the pubs opened and adults could mix and socialise with very little restriction in place.

### — Leaving Certificate

The OCO received a number of contacts from students, parents and teachers regarding the Leaving Certificate examinations for 2021. Those who contacted us early in the year sought clarity on the format for the Leaving Certificate. There was also concern about the impact that the previous 12 months had on children's ability to reach their potential.

— **Face masks for children aged 9 years and up in schools**

The OCO received a high volume of contacts from parents and care givers regarding the wearing of face masks on children in schools. There was a particular spike after the initial announcement when children were told they could be refused entry to school if they did not have a medical exemption. This was not fair considering children would be very heavily influenced by their carers around whether or not to wear a mask.

— **Separated parents**

The OCO received contacts from separated parents who encountered difficulties maintaining visits and access with their children who didn't live with them. Government imposed travel and distance restrictions as well as guidance on the non "mixing of households".

— **Forgotten Families**

The Forgotten families refers to circumstances where healthy children live with very high risk medically vulnerable parents, caregivers or family members. During the Covid-19 crisis these families felt left behind when restrictions began to ease because their children still couldn't return to the classroom, for fear of infection, but they were also not supported to attend classes online.

Many of these high risk medically vulnerable parents and caregivers wanted their children to be educated remotely to minimise contracting Covid-19 and passing it to vulnerable family members. Given that a child who was medically vulnerable was supported to attend remotely, this cohort of children and families felt their position was overlooked by Government and their circumstances not considered.



## — Children with Disabilities

Children with disabilities and complex needs, some of whom require 24/7 care, had their respite services reduced or stopped during the pandemic. They also felt that their medical needs were put on hold due to the Covid-19 crisis.

Children with disabilities were greatly impacted by school closures due to the difficulty, and at times, inability to access appropriate remote learning.

## — Maternity Hospitals

The OCO received contacts regarding the reduced visiting hours in the neo-natal unit of a maternity hospital during the Covid-19 crisis. The matter of equity of access for parents to babies who are in the care of the neo-natal unit was of particular concern. Restrictions in place facilitated a parent being allowed to visit the Neonatal Unit for one hour each day. However, there was no added time allowed for parents of more than one baby (twins, triplets, etc.).

# Child Rights Impact Assessment

## The impact of school closures on children's rights

During 2021 ENOC and UNICEF invited Ombudspersons and Commissioners for Children across Europe and Central Asia to conduct a pilot child rights impact assessment (CRIA) about the impact of Covid-19 measures on children's rights. The OCO was one of 13 organisations that participated in this project.

A CRIA examines the potential impacts that laws, policies, budget decisions, programmes and services may have on children, as they are being developed, and prior to a decision being made or an action being taken. CRIA can identify ways to avoid the negative impacts of a particular decision or action on children,

before it is implemented. The UN Committee on the Rights of the Child has identified CRIA as a key measure that States should implement to progress the realisation of children's rights under the UN Convention on the Rights of the Child (UNCRC).

Our CRIA focused on the impact of school closures on children's rights. We carried out this CRIA between April and October 2021 and it involved a review of relevant documentation and interviews with several key stakeholder organisations. Although the closure of schools in 2020 and 2021 impacted on all children, our CRIA examined the impact that school closures had on five groups of children that have been a focus of the OCO's work under our Strategic Plan 2019-2021: children experiencing mental health difficulties, homeless children, children living in Direct Provision, children with disabilities, and Traveller and Roma children.

## Our findings suggest that

- the negative impacts of school closures were particularly felt by certain groups of children, including the five groups that we focused on
- the State needs to consider children's rights more fully when making decisions that affect children and to give more attention to special measures needed to mitigate the disproportionate impact that decisions can have on particular groups of children, including in emergency situations.

## We found that

- School closures have had a predominantly negative impact on children's right to education. Those already experiencing educational disadvantage were disproportionately affected.
- School closures had primarily negative impacts on children's right to the highest attainable standard of health, including mental health.

- School closures had a negative impact on children’s right to adequate nutrition as closures meant that food provided under the School Meals Programme did not reach all children who might otherwise have received it.
- School closures, together with other lockdown measures, increased children’s exposure to harm and abuse, including domestic violence. Closures also reduced opportunities for school-based professionals to identify, monitor and report on child protection and welfare concerns.
- Decisions relating to the closure and reopening of schools did not sufficiently consider and address the needs of specific groups of children. School closures had a disproportionately negative impact on certain groups of children.
  - > There are different perspectives on whether, and to what extent, children’s best interests were considered by the Government when deciding to close schools. There are concerns about the impact of school closures not only on children’s learning, but also on their social and emotional development.
- None of the information reviewed for this CRIA clarifies whether or how children’s views were sought and given due weight in relation to decisions about school closures.

## Recommendations

- The introduction of CRIA should be seriously considered by Government with a view to ensuring that children’s rights are appropriately considered, including in emergency situations.
- Existing coordination structures on matters affecting children should be strengthened further and mobilised effectively in emergency situations.

- A comprehensive assessment should be undertaken to understand the human, technical and financial resources allocated to date to mitigate the negative impacts of school closures on children and the additional resources needed to support children’s recovery from these negative impacts.
- Work should be undertaken to identify specific associated shortfalls in data so that relevant gaps and deficits can be addressed.
- Those making decisions affecting children should be upskilled so that children’s rights are integrated effectively into decision-making processes affecting children in emergency situations.

## A Better Normal

Throughout the pandemic, the OCO has been advocating on behalf of children and raising awareness of the impact of restrictions on children’s rights. However, we wanted to take a broader look at how Covid-19 has impacted children in the long-term and how we can use our influence, as an office, to make positive change. We wanted to capture the agility displayed by Government during the pandemic, and to highlight that it is possible to make significant change quickly.

We decided to focus on child poverty and child homelessness; two issues that have long lasting implications for children, their development and their ability to reach their potential. These issues were also selected due to Ireland’s commitments as part of the EU Child Guarantee, in relation to housing as part of the Lisbon Declaration and with the drafting of the new *Better Outcomes Brighter Futures*. There is a real opportunity here to bring together the work that is happening in various departments with a focus on children and a commitment to change.

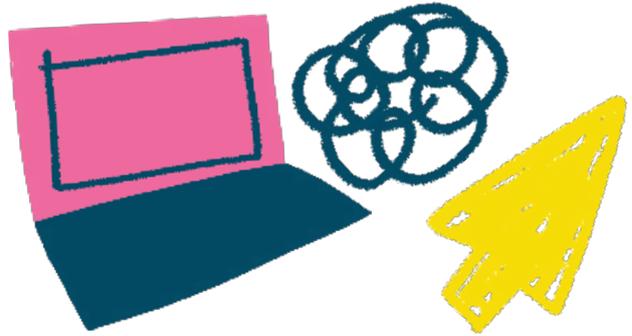
Meetings took place with the Central Statistics Office (CSO), St Vincent de Paul, the Children's Rights Alliance, Barnardos and Social Justice Ireland to discuss the supports and measures needed to tackle these two major issues. *A Better Normal*; an initiative to eliminate child poverty and eradicate child homelessness came out of this process, and we sought a cross party, time limited Joint Oireachtas Committee to examine these issues further with children's rights as a primary concern. We wrote to party leaders and a number of meetings took place including meetings with the Taoiseach, the Tánaiste, the Minister for Children, Equality, Disability, Integration and Youth, other party leaders and children's spokespeople. We also met with the Ceann Comhairle and wrote to the Joint Oireachtas Business Committee to

suggest debating *A Better Normal* in the Dáil. The Dáil debate on *A Better Normal* took place on 23rd September. Further engagement has taken place with the Joint Oireachtas Committee on Children, Disability, Equality, Integration and Youth; the Committee on Social Protection, Community, Rural Development and the Islands; and the Committee on Housing, Local Government and Heritage. The OCO continues to work on *A Better Normal* and to call for the elimination of child homelessness and the eradication of child poverty.



# 3

## Education



### **Ella - Access to a laptop to help with schoolwork**

\*Ella is a 12 year old girl with Dyslexia. A teacher in her primary school applied to the local Special Education Needs Organiser (SENO) when she was 10 for a laptop to help with school work. The application was refused with no explanation or information on how to appeal the decision. The refusal had been communicated to Ella's parents through a short, hand written note. Ella's diagnosis and the needs outlined in the application should have been enough for her to qualify for this assistive technology. Ella moved to a new school and a second application on behalf of Ella, made by a teacher two years later was successful. However her teacher and parents were disappointed and frustrated that the previous application had not been progressed properly and felt this had negatively impacted Ella for the period she did not have access to the laptop. The principal told us that it had been more difficult for Ella to reach her academic potential with no laptop, especially when schools were closed. Ella's new principal made a complaint to us on behalf of Ella, with permission from her parents.

### **What we did**

We wrote to the National Council for Special Education (NCSE) and asked them for all of the material relating to Ella's first application for the laptop and their view on what had happened. We asked them to tell us how applications like this are processed and how decisions are communicated to parents and teachers. The NCSE told us that on reviewing their records, the first application made with respect to Ella, had not been progressed or recorded correctly. The SENO who received the application had not followed the correct procedures and this was not in line with the standards set out in the NCSE Customer Charter.

### **Outcome**

The NCSE committed to providing refresher training to the staff member involved and other staff who process applications for assistive technology. We asked the NCSE to ensure that no other children were impacted by similar administrative errors to Ella's case, and we were assured that no evidence was found that other children were adversely affected. The NCSE wrote directly to Ella's parents, highlighting the error and offering an apology to Ella and her parents.

\*All names have been changed to protect their identity

## **Laura – No Irish exemption and falling further behind due to Covid**

\*Laura, who is 11, and her family had been living abroad before moving home to Ireland in 2019. Laura enrolled in school for the first time in November 2019 and her parents applied for an Irish exemption in December 2020. This was subsequently denied by the school. An appeal was then sent to the Department of Education's Irish Exemption Appeal Committee as Laura's parents felt she could not learn or catch up on a new subject during protracted lockdowns and outside the traditional school setting. The Appeal Committee rejected the appeal as the application did not meet the four criteria set out and they were unable to exercise discretion on compassionate grounds under exceptional circumstances.

Laura's parents contacted our Office to outline the difficulty Laura was experiencing in school and how she was struggling to learn a new language after two years of ad-hoc teaching practises during lockdown. Laura felt under pressure to learn Irish and to be at the same level as her 4th class peers, having had no previous knowledge or experience of the language. This was beginning to have an impact on Laura's wellbeing and affecting her attitude towards homework and school in general, such was the level of anxiety she was experiencing.

### **What we did**

We wrote to the Department of Education outlining the exceptional circumstances of this case. We outlined how children like Laura have been significantly impacted in their ability to learn a new language through national lockdowns, where traditional teaching methods and practises could not be applied.

The Department explained that Laura would not be expected to be at the level typical for a 4th class pupil who has been learning Irish since Junior Infants. The Department outlined that Laura should be supported and provided with a differentiated learning experience

appropriate to her needs, and that the principal could also consider a consultation with a psychologist from the National Educational Psychological Service (NEPS).

The Department said it had received requests for pupils who first enrolled into 4th class during 2019/20 or 2020/21 but a decision was made not to include these pupils in the Notice of Exemption, which indicates if they will have to study Irish at post primary level and sit the entrance exam. They said that the children affected would have a full academic year in primary school without school closures, and prior to enrolling in post-primary, which is a sufficient basis for the commencement of the learning of Irish at an appropriate level.

### **The Outcome**

While the Department have determined that an exemption in this instance is not due, the OCO has highlighted the significant negative impact on this group of children. The challenge of studying a new subject in unprecedented circumstances such as lockdowns has adversely affected their ability to thoroughly engage in traditional educational settings and has left these children disadvantaged. The expectation that it is a requirement for children under these particular circumstances, to continue with Irish education into post-primary school, places undue stress. It does not appear to take into consideration the on-going effect of teacher and student absenteeism among other factors experienced throughout the current 21/22 school year. Laura's case will help form an analysis and review of the overall Irish exemption scheme which the OCO will be submitting to the Department for review in 2022.



## Rights education workshops

Visits by schools and youth groups to the office remained out of bounds for 2021 due to ongoing public health restrictions. This was disappointing for us as our recently refurbished education and participation space remained largely unused and our direct, in-person engagement with children, which is a core part of our work, was limited.

Building on our remote rights awareness work in 2020, we continued to make education resources available on line. These were promoted through ScoilNet (the Department of Education and Skills' official portal for Irish education) and via the Politics and Society Teachers' Association of Ireland (PASTAI). Based on our pilot in 2020, we also delivered 18 children's rights workshops remotely through Zoom. Ten of these were to primary schools and 241 children took part in these. Eight remote workshops and one in-school workshop was delivered to second level schools and involved 164 students. The remote workshops took the form of three sessions: the first with OCO staff where the children learned about their rights under the UNCRC and the work of

the office; a follow on class where students worked with their teacher to produce a poster on children's rights or on a specific right they choose (primary schools) or a billboard or advertisement to encourage Government action on children's rights (secondary schools); a final session with OCO staff where children discussed their project work and any questions or issues arising from it.

## Transition Year work placements

Hosting a number of TY students on work placement has been part of the OCO's work for many years. Until 2020, these students attended our office for one week, spent time with each section of the office learning about our work, attended children's rights workshops and undertook a project on a right of particular interest to them.

As with our workshops, we had not been in a position to offer in-person placements to TY students since early 2020. However, we were keen to continue to offer placements, particularly to students in DEIS schools. Having piloted remote placements in late 2020 and given the generally positive feedback from the participants, we continued to develop and offer these remote placements in 2021.

While we look forward to 2022 and the possibility of hosting TY students in the office, remote placements have opened these opportunities to students who previously may not have been able to take advantage of them, particularly those who live at significant distances from Dublin. Looking ahead, we will consider how to best blend an in-person, on-site placements with a remote offering.

Six TY students, four of whom were attending DEIS schools, took up remote work placements with us during the year, meeting and working with the Participation and Rights Education Team, other staff across the office and each other by Zoom every day. Each student produced a blog at the end of their placement on a rights issues of interest or concern to them. These blogs are posted on our It's Your Rights webpages. The students who took part in our TY placements enjoyed the experience with the OCO. One student told us:



**“Overall, I loved this experience. It was nice to learn about the OCO and I will think about this in the future. It was lovely to meet new people even during this pandemic as it is hard to talk to new people and do other activities.”**



## Politics and Society Students

Completing a Citizenship Project report based on research, analysis and reflection is a key component of the Politics and Society curriculum. In the school year 2020/2021, one Citizenship Project option for students was to investigate whether imposing an age restriction on smart phone ownership would be a protection or a denial of children's rights and to make recommendations to the Minister for Children and to a relevant children's organisation. In 2021, 20 groups of students chose to submit their presentations on children's rights to own and use smart phones. In the majority of cases, students requested a written response to their submission. In this regard, we wrote to each group of students, thanking them for their work and responding to the specific issues raised as appropriate. Two student groups requested meetings with us. These two meetings were held on Zoom and provided an opportunity for the students to put their research findings and recommendations to us and to further discuss the topics raised.

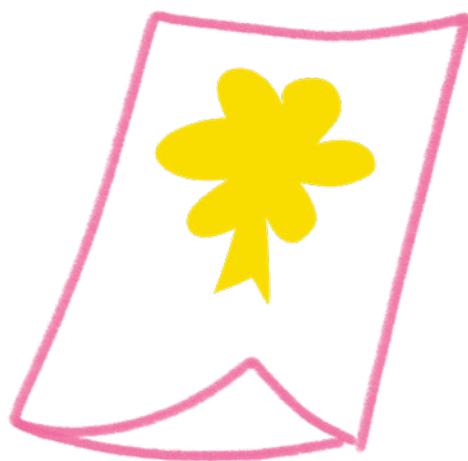
## 3rd level programme

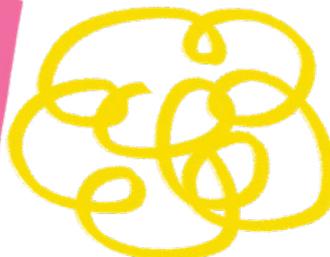
It is important that professionals who work with children – including teachers, early years professionals, social workers, and social care workers – have a knowledge and awareness of children's rights and how they, as professionals, can play an active part in protecting and promoting children's rights in their work. For us, it is also important that they are aware of the Office and its work. Contributing to this knowledge and awareness is an ongoing part of our work and is achieved through the delivery of third level seminars and lectures.

Over the past two years, the delivery of third level workshops and lectures has been affected by ongoing public health restrictions and in 2021 we offered these both remotely and in-person when university campuses opened up in September. We delivered two

seminars remotely and three in-person. In total, 104 third level students took part in these workshops and lectures across four third level institutions. Reflecting the impact of Covid-19, this is substantially less than usual and we look forward to getting back on campuses and to delivering more remote seminars and lectures in 2022.

In 2021 we were invited to deliver our first third level workshop to post-graduate clinical psychology students in UCD. Based on this, we decided to offer these workshops to the schools of psychology and schools of nursing in the universities around the country. The response to this was overwhelmingly positive and most have scheduled seminars for 2022. This is exciting for the Office as psychologists and nurses are two important professions that we did not have previous contact with on rights education and awareness raising. We look forward not only to delivering these lectures and seminars, but also to learning from these new cohorts of students about the opportunities and challenges they face in adopting a child rights based approach in their professions.





## **Fiadh – Complaint handling in Health Services**

\*Fiadh was 10 months old when her mother contacted us. She had been in hospital since birth due to a neuro-genetic disease. Fiadh's mother, Marie, made a formal complaint to the HSE in August 2021 regarding her daughter's hospital transfer which was denied by her primary care facility in a local hospital, due to lack of staff. Fiadh, at that time, was in another hospital without either of her parents as it was at the other side of the country. Marie informed us that Fiadh returned to her local hospital at the beginning of September 2021 and then, in October 2021, she was discharged from that hospital without discharge papers or a care plan.

Marie submitted a formal complaint to the HSE complaint process 'Your Service Your Say' in August 2021 which was acknowledged within a few days. Marie was informed that she would receive a response to her complaint in early October 2021. She was contacted by letter on 7 October 2021 to inform her that more time was needed to investigate her complaint and that a response would be sent by early November 2021. On the 24 November 2021, the OCO contacted HSE Consumer Affairs inquiring about the outstanding response and was informed that Marie would receive a reply by early

December 2021. On 8 December 2021, Marie received another letter from the hospital apologising for the delay stating that more time was still needed to investigate the complaint and that a response would be issued by 7 January 2022. This did not occur.

### **What we did**

The OCO wrote to Patient Advocacy in the local hospital to request information about Fiadh's discharge care plan, how her complaint was being dealt with and copies of their policies on complaint handling. We also asked for their times lines for responses and we encouraged them to engage with Fiadh's mum on the complaint. The hospital responded explaining that many of the delays in this instance were as a result of staffing issues due to both Covid-19 related absences as well as vacant nursing posts. They provided information on the steps taken to improve communication with the family as well as details on Fiadh's supports and follow-ups.

### **Outcome**

The hospital has provided a list of steps it is taking to address the issues raised by Fiadh's family and is actively working on these at present. A further response is due to issue from the hospital to the OCO with additional details on how they are addressing the complaint.

# General Scheme of the Mental Health (Amendment) Bill 2021

The OCO has previously expressed serious concerns about the statutory framework provided for under the Mental Health Act 2001 (2001 Act) in respect of children. We are also concerned about delays in progressing corresponding legislative reforms in this area. Accordingly, we welcome that the Department of Health has progressed work to draft Heads of a Mental Health (Amendment) Bill.

We appreciated the Department's request to the OCO to review and advise on draft Heads of Part 8 of the Bill in 2020 and again in 2021, in advance of the General Scheme of the Mental Health (Amendment) Bill 2021 (General Scheme) being published in July 2021. In December 2021, we published our observations on Part 8 of the General Scheme, which concerns the admission of children to, and the treatment of children in, approved inpatient facilities.

The General Scheme presents a significant opportunity to legislate for a child rights-based approach to decision-making in respect of children who may require inpatient care and treatment for their mental health. As we outlined in our observations, it is crucial that the provisions made are fit for purpose and we support the proposal to include a dedicated part (Part 8) focused on provisions affecting children under 18 years of age.

However, a number of the current proposals under Part 8 do not have sufficient regard to children's rights and evolving capacities. They do not provide adequately for a child-centred, rights-based approach regarding children's admission to, and treatment in, approved inpatient facilities. We highlighted a number of issues in the General Scheme that we believe require further consideration including with regard to:

- guiding principles that it is proposed will apply in relation to decisions concerning the admission and treatment of children
- the proposed approach to consent for children aged under 16 years
- the proposed approach to applying the categories of 'intermediate person' and 'voluntary person' to children
- the proposal to place admission of children to adult facilities on a statutory footing
- the availability of advocacy for children
- the appointment of guardians ad litem for children.

The Oireachtas Sub-Committee on Mental Health started its pre-legislative scrutiny of the General Scheme in November 2021. In January 2022, the OCO appeared before the Sub-Committee to discuss our views on proposed provisions affecting children under Part 8. We will continue to engage with developments relating to this important legislation during 2022.



# Housing

# 5



## **The Donnellys – Three years in Emergency Accommodation**

\*James and Patricia have two children, six year old James Jnr and three year old Rosie. In March 2021 a law mediation service, acting as advocates for the family, made a complaint against a local authority as the family had been living in emergency accommodation since 2018.

Rosie was born into emergency accommodation and due to a health issue at birth doctors wrote to the local authority expressing their concerns about the suitability of the accommodation provided.

Unaddressed maintenance and repair issues at the emergency accommodation, including a hole in the ceiling which let rain in were other issues included in the complaint. The way in which the local authority handled a complaint made by advocates in January 2021 was also raised.

### **What we did**

We spoke with the advocates, the family and the local authority throughout March 2021 to try to achieve an early resolution; to address the immediate repairs needed and the

outstanding complaint. We asked the local authority how the family's accommodation needs were being managed and reasons for the inordinate delay. In this type of complaint we were conscious that there is limited housing stock available to local authorities and much demand.

Unfortunately, the questions we raised remained unanswered and the issues persisted. We escalated our engagement with the local authority to the Director of Operations level and we wrote formally setting out our authority under the Ombudsman for Children Act 2002. We sought all records relating to the local authority's engagement with the family as well as the policies and procedures informing their responsibilities in this instance.

In the meantime we met with James and Patricia and their children so that we might be better informed about their circumstances and hear how the issues involved were impacting them.

### **Outcome**

In November 2021, we received positive news. The local authority had identified a three bedroomed house for the family and they moved in on the 1st December 2021.

The local authority also said that they were going to engage with the advocates to improve communication with them, and that the repairs issue had been raised with the agency maintaining the emergency accommodation.

## Update

When we last spoke to the family in January 2022 they were delighted with their home and how having their own place had improved their lives. James spoke of improvements to his overall mental health and Patricia talked about less of a strain on the couple's own relationship.

Both went on to say that James Jnr and Rosie were "like different children" and that they loved having their own room. They also said they had joined different activities in their area making friends in that context.

## Alex and Chris – Children in care at risk of homelessness

We were contacted by the foster parents of \*Alex and Chris, two vulnerable young siblings under the age of 5 years. The professionals involved in the children's care, described the foster parents, who were relatives of the children, as 'providing a loving and stable home', and being 'deeply committed to the care of the children'.

The family contacted us because they were at risk of becoming homeless as their privately rented home had been repossessed. While they had not yet received notice to vacate the property, they were very concerned about how their precarious housing situation, might negatively impact on Alex and Chris. The family were on the local authority housing list, but they were unclear about what was happening with their case.

Alex and Chris had significant medical and therapeutic needs, including needs arising from diagnosed and suspected disabilities. They were engaging in therapeutic and medical services, and the foster parents were concerned about what would happen if the family had to move away from the local area. The foster parents also expressed concern that the children may need to leave the family, if the family had to move into emergency accommodation. The family were particularly

concerned that, if the children had to leave their care at short notice, the siblings might be separated from each other.

## What We Did

The family, who are from the traveller community, had been dealing with the Traveller Accommodation Unit (TAU) in the housing department of their local council. In line with ombudsman principles, we encouraged the family to engage in the council's complaints process. We also wrote to the council to promote early resolution, by encouraging the council to engage with the family in the best interests of all the children involved. In response, the TAU contacted our Office to discuss the family's case. They subsequently wrote to the family, to provide them with a clear and concise explanation of their housing case, together with information about their housing options.

## Outcome

The family appreciated the clarity the response provided. The information they received from the local authority, helped them to make a timely decision, limiting the potential adverse effect on Alex and Chris. They returned the children to Tusla, as a temporary measure, until the housing situation was resolved. The foster father recently contacted us again to say they had accepted an offer of a property from the local authority, and they were waiting to move in, and to welcome Alex and Chris home.

## Investigation – No End in Site

In 2021, the OCO published *No End in Site – An investigation into the living conditions of children on a local authority site*. Below is a summary of the investigation and the outcome.

A Traveller Advocacy Group (TAG) contacted the OCO in 2018 about conditions at a local authority run halting site where 66 children and their families were living. Eleven families then came forward and made complaints about a persistent problem with rodent infestation; inadequate sanitation; extreme overcrowding; safety concerns about access to the site; illegal dumping nearby; inconsistent and inadequate waste disposal; inadequate heating systems; unsafe electrical works; a high rate of childhood illness caused by living conditions; a lack of safe play areas for children and housing applications not being progressed.

## What We Did

We investigated the complaint. The OCO met with families and visited the site on three occasions, observing the very basic conditions which have been in place since the site was established in 1989. In total, there are approximately 140 people using toilets and washing facilities designed for 40 people and the residents told us this led to stress, tension and, at times, conflict.

During our investigation the HSE Director of Public Health Nursing told us that the children living on this halting site suffer skin conditions and respiratory problems at a much higher rate than the general population. The Chief Fire Officer told us that there are frequent calls to the site. We met with 17 children who told us that they feel different to their peers due to standard of the conditions on the site:

Girl 12

“walking up to school  
you see all the rats...  
they would be running  
up and down the walls  
of the trailer”

Girl 14

“when you put your  
hands out of the bed  
in the mornings, the  
blankets are all wet”

“people ask why I’m  
dirty, but I’d be ashamed  
to say. I don’t want to  
say it was from walking  
out of the site”

Girl 14

## Outcome

The OCO investigation found the local authority failed to consider the best interests of children.

They also failed to maintain the site; this includes upkeep of the toilet and showering facilities known as 'welfare units', ensuring consistent waste management and pest control, and providing a clear and safe passage to school, as well as areas for children to play.

Record keeping was not transparent or accountable. Housing applications were incomplete or not processed, meaning families may have missed out on getting a home or did not move up the list. Overcrowding on the site was another result of poor administration.

We also found that the local authority failed to account for the disadvantages experienced by Travellers in effectively securing accommodation and they did not meet their obligations in relation to the Traveller Accommodation Programme (TAP).

We recommended that considering the seriousness of this investigation to ensure accountability the commitments made by the local authority should be overseen at CEO level.

## Recommendations

- That the housing applications and complaints made by the 11 families involved in this case are reviewed without delay.

The health and safety risks identified must be addressed in cooperation with residents. Connecting all mobile units to plumbing and sewerage, refurbishing welfare huts, removing fire hazards, clearing the children's passage to school, waste management, pest control and electrical works are all required.

- The local authority should set out how they will address the accommodation needs of the site residents in the coming years.

- An independent audit of all social housing applications from the families on this site should be undertaken.
- A specific policy is needed to assist Travellers to navigate the housing Choice Based Letting system and the Housing Assistance Programme.
- A review of the Traveller Accommodation Unit should take place to ensure works are addressed and families are supported.
- The local authority should establish a specific complaint handling mechanism or amend the current complaint process to ensure it is easily accessible and effective in managing complaints.

The OCO also recommended that the local authority engages the HSE social inclusion unit, Tusla, youth services and local schools to improve the lives of the children living on the site.

The local authority responsible for maintaining this site and dealing with housing applications from the residents has cooperated with this long investigation, and it has agreed a number of specific actions in response to our recommendations.

Since publication the OCO has written to the leaders of all political parties appealing to them to instruct their representatives to support proposals that provide Traveller accommodation. The OCO will remain involved to review the progress of the local authority in implementing the recommendations to ensure an improvement in the standard of living for the children living on the site.

# Child Protection

# 6

## Child Protection and Welfare

In the course of our work, we are made aware of children who may not be receiving adequate care and protection. Identifying children and families, intervening and supporting as necessary is an incredibly challenging area of work. Tusla, the Child and Family Agency has the statutory responsibility for this work supported by An Garda Síochána who may have a role in investigating child protection reports. In 2020, child protection and welfare concerns brought to the attention of the Office (mostly received through complaints) had dropped significantly compared to that of previous years. In 2021, these contacts reverted to the levels we would have received on average, in the years preceding the pandemic.

To fulfil our own responsibilities for the protection and welfare of children we have policies and procedures to guide us. We have appointed Designated Liaison Officers (DLPs) to ensure any such concerns are dealt with appropriately and that they are reported on to Tusla and/or the Gardaí as necessary. In 2021 we initiated the second review of our internal child protection and welfare policy, procedures, risk assessment and safeguarding statement. Revised versions of these will be available in 2022.

## Breakdown of child protection and welfare reports to the OCO

In 2021 our Office received 42 reports where there were child protection and welfare concerns. The majority of these reports came through complaints. The breakdown of those reports by primary category of abuse was as follows;

- 18 reports of alleged child sexual abuse
- 13 reports of alleged physical abuse
- 7 reports of alleged neglect
- 4 reports of alleged emotional abuse.

Decisions are made on a case by case basis as to whether those concerns need to be notified to Tusla or whether we are satisfied that Tusla is already aware of the information. In 2021 we formally notified Tusla of 14 of the reports we received.

In all instances where child protection and welfare concerns are raised with us we redirect those raising the concerns to the appropriate services.



# Direct Provision

## Direct Division: The views and experiences of children living in Direct Provision accommodation

### Film launch

Our report, *Direct Division: The views and experiences of children living in Direct Provision accommodation* was launched in 2020 and contained an analysis of relevant legislation and policy, reported on an in-depth consultation with children living in Direct Provision accommodation and presented our priorities for action by Government and State agencies.

The online launch of this report included a short film comprising segments of interviews that the children gave during our consultation. It was always intended that a longer film to highlight the experiences and views shared with us during our consultation would be produced, but this was delayed many times due to Covid restrictions. This longer 25 minute film was completed in 2021 and launched at the Smashing Times Film Festival in October. Plans to screen the film in a number of locations

across the country by universities and local authorities are in train for 2022. In addition, plans to create a travelling exhibition of the children's artwork also progressed in 2021, with the first two exhibits planned for early 2022.

## Undocumented Migrants

### Scheme to regularise undocumented migrants

In April 2021, the Department of Justice published proposals for a regularisation scheme for undocumented migrants and invited stakeholders to submit their observations on the proposals. The OCO submitted its observations to the Department in May 2021. Among the recommendations that we made in our submission were:

- Undocumented children should be permitted to apply for the scheme in their own right.
- Undocumented children in care should be facilitated to apply for the scheme.
- A family's period of legal residence in the State should be counted towards the required residence period, in addition to undocumented residence.

- Families who are awaiting a decision on an application for leave to remain or who are subject to a deportation order should be eligible to apply for the scheme.
- Any application fee attached to the scheme should be affordable to ensure that families are not deterred or precluded from making an application solely on the basis of cost.
- The best interests of children should be included as a primary consideration in the assessment of applications.
- Where an application is granted, children should be issued with a Stamp 4 residence permission.

Following approval of the scheme by Government in December 2021, we wrote to the Minister for Justice to welcome the scheme and to reiterate our recommendations concerning applications by children in care, application fees, and the status of children included in family applications.

Opened in January 2022, the regularisation scheme presents a significant opportunity for undocumented families to regularise their status.



# 8

# Disability

## Unmet Needs

In October 2020, the OCO published Unmet Needs, a report that highlights our concerns about the serious negative impact that delays in completing assessments of needs (AON) and providing corresponding services are having on children's health and future development.

In March 2021, the OCO met with the Minister for Disability, as well as officials from the Department of Health and the HSE, to discuss developments in the relation to AON. In a subsequent letter to the Minister for Disability in April, the Ombudsman for Children raised concerns about the terms of reference for a review of the Standard Operating Procedure (SOP) that was introduced in 2020 with a view to streamlining and improving the AON process.

We continued to monitor developments in relation to AON during 2021. In November 2021, the Minister for Disability indicated during a debate in the Seanad that almost 4,000 children were waiting for an assessment of their needs. That the number of children waiting should be so high was very concerning, in particular given the introduction of a number of measures that were expected to deal with the waiting lists – the allocation of additional financial resources, the establishment of new therapy posts, the implementation of a revised SOP, and the reconfiguration of Children's Disability Network Teams. Accordingly, in December 2021 we wrote to the Minister for Disability and the CEO of the HSE to highlight our concerns. We also called for the HSE to appear before the Joint Committee on Children, Equality, Disability, Integration and Youth to account fully and publicly for ongoing problems with AON and to outline clearly how these problems will be addressed.

## Forward planning of school places for children with special educational needs (SEN)

Concerns have been raised with the OCO about the difficulties some parents can experience in securing an appropriate school place in their local area for their child with special educational needs (SEN). Particular concerns have been brought to our attention about shortfalls in the availability of sufficient appropriate school places for children in certain parts of the country.

Further to these concerns, we initiated a dedicated piece of work during 2021 to examine this matter in accordance with our statutory role to promote children's rights and welfare. In this regard, we are seeking to achieve an in-depth understanding of the forward planning process concerning the provision of appropriate school places in primary and post-primary education for children with SEN. We want to understand the reasons why parents in certain parts of the country are experiencing difficulties in securing a school place in their local area for their children and what measures may be needed to address these difficulties and mitigate against their potential reoccurrence. The aim is, that all children with SEN are able to enjoy their right to education without discrimination and on an equal basis with other children.

During 2021, we carried out a desk-based review of relevant documentation as well as interviews with key stakeholder organisations and families affected by the issue. We expect to finalise and publish our report in relation to this matter in 2022.

# Family and Care



## **Conor – More than two years with no Social Worker**

\*Conor is a 9 year old boy who has been in foster care since shortly after his birth. Conor is in care under a voluntary care order. Conor's independent advocate contacted us in September 2021 and complained that Conor did not have an allocated social worker and that this was the case since 2019. She further explained how this was not in line with best practice and was adversely affecting Conor and impacting him in a number of ways including delaying his adoption process. Conor's advocate attempted to engage with Tusla on a number of occasions to highlight the matter. She made a formal complaint and although her complaint was upheld and a social worker was due to be allocated, this did not happen. Resource allocation was cited as the main reason. This meant that during three of Conor's Child in Care Review meetings, no social worker was present.

### **What We Did**

We wrote to Tusla asking them to provide us with policies and procedures relating to children without an allocated social worker and how these matters are addressed. We also asked them to provide us with Conor's care plans for the past two years to understand if the quality of care he had received and the understanding of his needs, had been impacted.

## **Outcome**

Tusla acknowledged the deficit of social work service that Conor had received and committed to allocating Conor a social worker and provided a date of allocation. A response then issued to Conor's foster mum following our intervention. The new social worker was allocated accordingly and Conor was delighted to have a new social worker.

## **Nina, Darren and Ben - Traumatised children in the care of the State**

### **Background**

In February 2020, a foster carer named Anne contacted the OCO about her experience of caring for her foster children. \*Nina, Darren and Ben aged 12, 10 and 9 years of age.

There were concerns about the children's emotional presentation and behaviour related to trauma, arising from their experiences prior to coming into care. Anne speaks very lovingly of the children and she and her husband are strongly committed to meeting their needs on a long-term basis. The children's needs have been very challenging, the foster carers' listed their concerns as including:

- Sexualised behaviours
- Suicidal ideation
- Reckless self-endangerment
- Violent outbursts
- Destructive behaviours
- Disclosures of neglect
- Disclosures of alleged sexual abuse
- Stealing from home/ school / shops
- Disclosures of being taught to steal
- Flight risk
- Self-harming
- Incontinence and soiling when in a heightened state
- Disclosures of being told to self-harm, act violently and steal by a birth family member
- Reports of hearing voices
- Cruelty to family pets

Anne described her experience of having to ‘fight’ for therapeutic services on behalf of the children. The children were linked in with a lot of services across the HSE and Tusla, which included CAMHS, Primary Care Psychology, Assessment of Need, the School Aged Disability team and the Tusla child sexual abuse assessment team in the area concerned.

None of these services were able to address the therapeutic needs of children who had experienced trauma. Anne was informed that while the child abuse assessment team were unable to reach a ‘founded’ outcome this did not mean that the children had not been sexually abused and there remained a high level of concern among all professionals involved about the level of trauma experienced by the children prior to coming into care.

CAMHS provided a service to Nina, the oldest child for her ADHD. While recognising that she also required long-term trauma informed therapy the CAMHS Consultant Psychiatrist stated that, they were not in the position to provide this and that it was the responsibility of Tusla.

HSE Primary Care Psychology provided short-term intervention to the two boys, which focused on their presenting emotional and behavioural issues but stated that they were not in a position to provide long-term intervention.

There was a lack of clarity around what service was responsible for meeting the therapeutic needs of the children. The foster carer herself paid for play therapy for Darren for a period of time after he had been refused services by HSE Primary Care Psychology, CAMHS and a private play therapy service organised by Tusla, with all services of the view that his needs were not within their remit and suggesting an alternative service.

Anne told us that in the 5 years since the children were first received into care, no service had been identified to address the trauma they had experienced.

#### **What we did**

We engaged with the Principal Social Worker and the Social Work Team Leader responsible for the case. They spoke at length about the difficulties they encounter in securing therapy services for children in the area who have experienced abuse or trauma related to their experiences prior to coming into care.

They stated that once a child is confirmed as having been sexually abused in their area, HSE Primary Care Psychology would provide them with intervention. In such circumstances intervention is initially on a short-term basis for 6 to 8 sessions, however on a case by case basis longer-term intervention may be offered.

However, in general, HSE Primary Care Psychology will only provide brief interventions and will not accept a referral that relates to support around possible Child Sexual Abuse or sexualised behaviour, even in circumstances where a validation assessment has taken place.

They also reported it can prove very challenging for them to secure services to meet a child's needs when longer term intervention is required but the child does not meet the threshold for CAMHS, whose remit is to provide intervention to children with moderate to severe mental health disorders.

The Principal Social Worker spoke about using the Tusla / HSE Joint Protocol to try to secure services but if the HSE determine that the child is not within their remit, even in circumstances where the child may be presenting with high levels of distress, they will not provide a service. Tusla did tell us that, where a child was within the remit for HSE services they had a positive experience of working with both CAMHS and Primary Care Psychology and felt that children in care received a high quality service from them.

The HSE told us that the remit of primary care psychology service is to provide short-term interventions for children with mild to moderate difficulties.

CAMHS is a secondary care model for moderate to severe mental health issues and operates under the national CAMHS operational guidance (2019). In primary care psychology services children in the care of Tusla are prioritised while taking into account clinical need and staffing levels.

With regard to HSE services for children who have been sexually abused or suspected of having been abused, information from the HSE Psychology Manager was provided as follows:

Confirmed abuse cases of children are seen by specialist therapists in HSE Primary care.

This is a legacy issue from eight years ago, as Childcare Services / HSE were combined prior to the commencement of Tusla Child and Family Agency and at that time, identified psychology were part of assessment and therapy teams. Over the years HSE primary care has become more focused on mild / moderate presentations.

It has been highlighted to Tusla, the Child and Family Agency that they need to:

1. Develop their own therapy services.
2. That they need to identify and engage practitioners re Long term work / play therapy – they have done this for many children in care.

### **Outcome**

Significant steps were taken by Tusla to resolve the issues for Nina, Darren and Ben, and since early 2020 funding has been provided for Nina to engage with a suitable trauma informed therapist. She continues to experience significant difficulties, however Anne told us that she believes Nina is now receiving a high quality service, which is meeting her needs.

In December 2020, following extensive engagement between the HSE and Tusla, the primary care psychology service wrote to Tusla confirming that while they would complete a short-term specific intervention with Darren and Ben they could not provide trauma informed therapy on long-term basis. Tusla has now identified a suitable service for them but this has yet to commence.

Anne told us that she is satisfied with the level of support she receives from the social work team. However, she is very frustrated that it took so long to get the children the right services despite the level of trauma experienced by them, her strong advocacy and the efforts made by the children's social worker. Anne is also unhappy that the children have to travel for services, as there are no suitable services available near their home

### **Systemic issue affecting children in Ireland**

Some of the delays experienced by the children in accessing therapy were outside of the control of the services involved and are unrelated to resource considerations.

When there is a concern about possible child sexual abuse, this must be investigated by both the Gardaí and by Tusla in accordance with Children First: National Guidelines for the Protection and Welfare of Children (2017). It is best practice that Garda interviews and thorough assessments take place prior to therapy commencing. In this case, the children made a number of disclosures of concern over a long period. This was a complicating factor in the provision of therapy to the children. Notwithstanding this there were very significant delays in securing the correct services for the children.

This case raised serious concerns about the provision of therapeutic support to children who have experienced trauma through possible abuse or neglect.

It appears that there is a gap in terms of the state's provision of mental health and psychological services to children who have experienced trauma related to possible abuse or neglect. This is despite growing international recognition of the impact of trauma on health and well-being outcomes for children and into adulthood.

The OCO is concerned that adults who have experienced abuse or neglect in childhood appear to be better served than children in terms of therapeutic service provision through the National Counselling Service which is a dedicated service for adults who have experienced childhood abuse.

Section 8 of the Child and Family Agency Act (2013) sets out the functions of Tusla, among them is 8(3)(c) 'services related to the psychological welfare of children'.

Tusla funds a variety of counselling and psychotherapy services around the country. Many of these services provide high quality trauma informed interventions but there are no services in many parts of the country and Tusla often source interventions privately. The Principal Social Worker for these children advised that she has reservations about this;

there can be concerns about the governance and quality of the services and it can prove difficult to maintain oversight of the services provided.

### Next Steps

Given the positive efforts made by the Social Work Department to put in place services for the children, this case did not proceed to statutory investigation. However the Ombudsman for Children plans to use this case study to inform our discussions with Tusla and the Department of Children, Equality, Disability, Integration and Youth on the need for development of therapeutic services for children in care.

## Birth (Information and Tracing) Bill

The General Scheme of the Birth (Information and Tracing) Bill 2021 was published in May 2021. The OCO met with officials from the Department of Children, Equality, Disability, Integration and Youth (DCEDIY) to discuss the proposals in the General Scheme affecting young people under 18 years of age. Following this meeting, the OCO wrote to the DCEDIY in July 2021 to request further information about provisions relating to children set out in the General Scheme. We sought information on the consideration given to:

- children's rights when drafting the provisions of the General Scheme that are relevant to young people under 18
- the provision of supports to young people aged 16 and 17 when receiving their birth and early life information
- the inclusion of children aged under 16 in the General Scheme
- seeking the views of young people as part of the Contact Tracing Register process.

The Birth (Information and Tracing) Bill 2022 was published in January 2022. The OCO welcomes the strengthening of the provisions relating to young people under 18 in the Bill as well as commitments made by the DCEDIY in terms of future work on matters relating to adoption and identity rights for children.

## Development of a national family justice system

The need to reform the family justice system in Ireland has been recognised for many years. The OCO welcomed the establishment of a dedicated Family Justice Oversight Group (Oversight Group) by the Department of Justice to facilitate a coordinated approach to developing a national family justice system. The OCO attended an initial consultation meeting with stakeholders in January 2021 and we followed up with a written submission to the Oversight Group in February 2021. We proposed that the development of a national family justice system should be directed towards transformational change. We suggested that a national family justice system needs to:

- be person-centred, with a corresponding focus on anticipating and accommodating the diverse and sometimes complex needs and circumstances of children and families who engage with it
- be developed as a service that is outward-looking and public-facing
- provide a comprehensive, coordinated, interdisciplinary service to children and families
- be inclusive of and accessible to all service users in all its aspects
- enable and support service users to interact and engage with it effectively
- be open, transparent and accountable.

Having regard to children's status as subjects of rights and to children's rights, we also proposed that a national family justice service needs to be developed in such a way that, in all circumstances where a child is involved or affected, the child comes first. Taking into account relevant European and international standards, we recommended that an appropriate way to achieve this would be to establish from the outset that the best interests of the child will guide actions and decisions to develop and, in due course, deliver a national family justice service. Furthermore, with reference to Ireland's domestic law, including Article 42A of the Constitution, we suggested that, where children are concerned, actions and decisions associated with the development and future delivery of a national family justice service should be grounded in the paramountcy principle, i.e. the best interests of the child should be treated as the paramount consideration. In our view, a focus on children's best interests would also help to ensure that children's right to be heard is upheld within a new national family justice service.









# 10

# Children's Voices

## OCO Youth Advisory Panel

At the end of 2020 the OCO set up a new Youth Advisory Panel or YAP on a two year pilot basis to inform and advise the OCO on aspects of our work. The members were recruited through a diverse range of youth organisations and schools. The YAP members do not represent any organisation, group or community, rather they simply have an interest in children's rights and in working with the OCO.

The YAP met a total of nine times during 2021. All of these meetings were held on Zoom. The YAP engaged in a range of work over the year and their input was invaluable. They worked in a large group to provide advice and input on the development of the OCO's Children's Report to the United Nations Committee on the Rights of the Child. They also identified priorities for the office's forthcoming Strategic Plan for 2022-2024 and they worked in small groups to design a logo and merchandise for the YAP. With support from the OCO they wrote to politicians, policy makers and schools to highlight the issue of period poverty, and Brid Smith (TD) raised a Parliamentary Question in response to this letter. Raising this issue in YAP also resulted in the OCO changing its environment by providing free period products in all office toilets.

Further to this work, the YAP acted as a judging panel for the office's #MoreThanSchool social media competition. This sought photos, drawings, videos or reels from children to tell us what returning to school after Covid-19 closures meant to them. Some YAP members

also undertook media training with the OCO's Communications Team and created a social media video to promote the OCO's survey to inform the Children's Report to the UN Committee on the Rights of the Child.

YAP is not all work and no play however. In 2021 we held two fun evenings with the members that allowed them and us to relax, get to know each other better and acknowledge the contribution that YAP has made to our work.

## #MoreThanSchool

In April 2021, the OCO launched #MoreThanSchool, a social campaign to hear directly from children about how they felt about returning to school following Covid-19 closures since Christmas. A logo and other assets were created to invite children to share their views and experiences. The OCO YAP was invited to judge the competition to ensure that children were involved in every aspect of this campaign. Our social posts from this campaign reached 413,093 timelines on twitter and 150,650 timelines on Instagram.

## Child Talks

Child Talks is an event hosted by the OCO to mark World Children's Day. Child Talks involves hearing directly from young people about their experiences and issues that are important to them. The Child Talks 2021 speakers were selected in August following a national invitation for participants. The launch included



an interview with previous speakers on RTÉ 2FM. The seven young people taking part in Child Talks 2021 worked on their talks through a series of workshops and explored topics including scoliosis, equality, climate change, treating children with respect, mental health, fast fashion and living in Direct Provision. Child Talks took place in the RDS and was attended by 25 young people in person, with over 500 people viewing online. Child Talks was also streamed live via oco.ie and on RTÉ News Now, and viewed in classrooms all over the country. The OCO partnered with Independent.ie to promote Child Talks with the young speakers featuring on the cover of the weekend magazine the week before World Children’s Day. Child Talks included a social campaign pre and post event – consisting of images, graphics and videos. Ahead of the event, we ran a ‘Meet the speakers’ campaign – introducing our speakers and their topics to our followers. We created a ‘Meet Our Speakers’ webpage featuring headshots and bios of all our speakers. This was available on our website and via a QR code for our audience members.



# 11

## Equality

### Review of the Equality Acts

In July 2021, the Minister for Children, Equality, Disability, Integration and Youth announced a consultation seeking views on a review of the Equality Acts (the Equal Status Acts 2000-2018 and the Employment Equality Acts 1998-2015). Due to the possible impact of the Equal Status Act on children and their rights, the OCO decided to highlight a number of issues we believed should be considered in the context of this review so as to ensure that the rights of children are more fully protected.

#### Recommendations

- Children's rights and children status as rights holders should be considered as part of the review to ensure that law, policy and practice in this area is in line with, and does not adversely affect, children's rights and best interests.
- The exemption of children from protection from discrimination based on age should be reviewed.
- Draft legislation should comply with the State's non-discrimination obligations, including in respect of children.
- A consistent, rights-based, child-centred and inclusive definition of disability

needs to be adopted by all Government departments and agencies responsible for meeting the needs of children.

- Consideration should be given to amending the law on reasonable accommodation to bring it into line with the UNCRPD.
- Child-friendly information materials on the complaints process should be made available and accessible to children and their parents/ guardians.
- A separate child-friendly complaints process for child complainants should be developed.

The OCO will engage further with the review during 2022, as necessary and appropriate.

# Children's Rights in the Digital Environment

# 12

## General Scheme of the Online Safety and Media Regulation Bill 2020

During 2021, the OCO continued to engage with developments relating to the General Scheme of the Online Safety and Media Regulation Bill 2020 (General Scheme). Following an invitation from the Joint Committee on Media, Tourism, Arts, Culture, Sport and the Gaeltacht, the OCO made a submission on the General Scheme in March 2021 to inform the Joint Committee's pre-legislative scrutiny of the proposed legislation.

We noted that the proposals to establish a regulatory framework for online safety to address the spread and amplification of harmful online content represent a significant opportunity to strengthen the protection of children from harmful content online. We also highlighted a number of issues that we believe require further attention, in particular the proposals to enumerate categories of harmful content and to establish a systemic complaints scheme rather than to provide for the Online Safety Commissioner to deal with individual complaints. We welcomed the opportunity to meet with the Joint Committee in April 2021 to discuss our concerns in more detail.

The Joint Committee published a report on its pre-legislative scrutiny of the General Scheme in November 2021. The OCO welcomes that the Committee's report has regard to a number of our concerns. We expect that the Committee's recommendations will be examined in the context of ongoing work to prepare the Online Safety and Media Regulation Bill. The OCO will continue to monitor and engage with developments relating to this proposed legislation during 2022.

## Digital Voices

In September 2021, the OCO hosted a webinar to launch Digital Voices, research carried out by TU Dublin on behalf of the OCO about how digital and social media might be mobilised to advance the implementation of children's right to be heard in public decision-making.

We were delighted to welcome a diverse range of stakeholders to this launch and to hear from a number of eminent speakers, including: Philip Jaffé from the UN Committee on the Rights of the Child; Regina Jensdottir, Head of the Council of Europe's Children's Rights Division and Council Coordinator for the Rights of the Child; Valeria Setti, European Commission Coordinator for the Rights of the Child; Professor Sonia Livingstone from the LSE; and Professor Pat Dolan from NUI Galway.

Digital Voices recommends a number of areas for action to advance the use of digital media as a mechanism to support children's right to be heard. These areas are:

- Convene a Digital Participation Expert Group drawing from relevant expertise across the public sector, academia, youth organisations and from industry to distil best practice and to develop new policies on how social and digital media may be used in public decision-making affecting children.
- Develop a Charter for Children and Young People's Digital Participation to underpin the rights-based nature of children's participation in public decision-making on matters affecting them.
- Develop a Digital Participation Toolkit to support take-up of best digital participation practice and the fostering of Digital Citizenship across a range of settings.
- Establish a dedicated Digital Participation Space or platform that can be shared by relevant actors and public agencies for children and young people's digital participation in public decision-making.
- Initiate a series of demonstrator projects to pilot new and innovative forms of children and young people's participation in decision-making processes.

Following the publication of this research, the OCO is hoping to engage with key stakeholders to examine how these actions might be progressed for the purposes of enabling digital media to be mobilised effectively and appropriately to support children and young people to exercise their right to be heard.

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

Ireland's progress in fulfilling its obligations to children under the UN Convention on the Rights of the Child is due to be examined by the UN Committee on the Rights of the Child in early 2023. In addition to requiring the State to provide a report on measures to promote and protect children's rights, the UN Committee also accepts alternative reports from national human rights institutions (NHRIs), Ombudspersons, NGOs, and children. Children's reports are usually based on consultations or participation initiatives with children that are facilitated by State bodies and/or NGOs.

In 2021, the OCO decided that it would produce a children's report for the forthcoming examination. This is a large and multifaceted project which was supported by the Children's Rights Alliance (CRA) and UNICEF. The CRA, which produced the last children's report, and many of their member organisations assisted greatly with reaching as many children as possible in the creation of the report.

In order to find out what the key issues are for children, we commissioned a market research agency to administer a nationwide survey with children of all ages. The questionnaire contained three substantive questions: What are the best

things about being a child in Ireland? What is not good about being a child in Ireland? What would make life better for children in Ireland?

Information and links to the survey were sent to 100 organisations who either worked directly with children or were the umbrella organisation for many local projects and services who did. These were also sent to every primary and second level school across Ireland, as well as being promoted by the OCO on social media platforms. Support documents were sent to organisations and schools, and the questionnaire was made available in English, Irish, Arabic and Polish. Parents and carers were encouraged to help children who needed support, including younger children, to take part.

Between 23rd April and 4th May 2021, 5,515 children aged between 2 and 17 submitted completed questionnaires. Using these findings and working with the OCO YAP, a number of key themes were identified across two broad age groups: those arising for children under 12 years, and those arising for children aged 12 years and over. Common themes across the age groups included school and having a say. Issues such as play and rest, and being with family and friends were significant for younger children. Discrimination, social inclusion and services were more important to older children.

To explore these themes further, focus groups were organised with diverse groups of children. Efforts were specifically made to include children experiencing disadvantage or who may find it hard to have their voices heard, including

children in detention, Traveller and Roma children, children with disabilities, and children in care. Efforts were also made to include the voices of younger children and we are very grateful to a number of early years services who supported us in achieving this.

In total, 182 children participated in 22 focus groups during 2021. Staff of the OCO's Participation and Rights Education team hosted and facilitated 13 focus groups. The remaining nine focus groups were hosted and facilitated by external organisations.

The importance of the support provided by external organisation in setting up and facilitating these focus groups cannot be overstated. Without this, these would not have been possible, particularly in light of the public health restrictions in place at the time.

The focus groups created an abundance of rich qualitative data and analysis will continue into 2022. We will work closely with our YAP in the analysis and writing of the children's report. We are looking forward to continuing this creative and important reporting process with them and supporting them to present it to the UN Committee on the Rights of the Child.

## Universal Periodic Review

In March 2021, the OCO made a submission to the UN Human Rights Council in advance of the third examination of Ireland's human rights record under the Universal Periodic Review (UPR) process. The UPR is a State-driven process that involves a periodic review of the human rights records of all 193 UN Member States. The OCO also participated in the UPR pre-session meeting on Ireland in October 2021. The pre-session provided an opportunity for the OCO and other national organisations to present their recommendations to UN Member States in order to inform their examination of Ireland's human rights record.

We outlined positive developments concerning children's rights that have taken place since

Ireland's second UPR examination in 2016. We recommended measures that we believe the State should adopt to address gaps in the implementation of children's rights in Ireland. Our recommendations addressed child protection, domestic violence, alternative care, child justice, asylum and immigration, Traveller and Roma children, children with disabilities, child poverty, homelessness, health, education and the impact of Covid-19 on children's rights.

During the UPR examination in November 2021, Ireland received 260 recommendations, many of which address areas highlighted by the OCO. The State supported 221 of the recommendations received, including the majority of recommendations relevant to children, which indicates that the State is committed to implementing these recommendations before its next UPR examination. The State has noted 33 recommendations, including five directly related to children. This means that the State has not committed to implementing these recommendations before its next UPR examination. Ireland's implementation of recommendations it received will be examined in 2026 and the State has committed to submitting an interim report to the UN in 2023/2024.

## Day of General Discussion on children's rights and alternative care

Every two years, the UN Committee on the Rights of the Child (Committee) holds a Day of General Discussion (DGD) to foster a deeper understanding of children's rights set out in the UN Convention on the Rights of the Child. The Committee decided to focus its 2021 DGD on children's rights and alternative care.

The OCO made a submission to the Committee in June 2021. Areas addressed in our submission include legislative reform, coordination of services for children in care, best interests assessments, respect for children's views,

education, foster care, special care, aftercare, and the impact of Covid-19.

The DGD was held in September 2021 and the OCO attended the discussions remotely. We anticipate that the Committee may issue a report on the DGD during 2022, which will include recommendations for State Parties, including Ireland, on upholding the rights of children in alternative care.

## European Network of Ombudspersons for Children

The OCO is a member of the European Network of Ombudspersons for Children (ENOC), which consists of 43 Ombudspersons and Commissioners for Children in 34 countries across Europe. ENOC is a not-for-profit association of independent children's rights institutions with a mandate to facilitate the promotion and protection of children's rights at European and international levels.

The thematic focus of ENOC's work in 2021 was 'Covid 19: learning for the future'. The OCO contributed to ENOC's activities by participating in a webinar for ENOC members held in June 2021 and by sharing information about the impact of Covid 19 emergency measures on children's rights in Ireland. The OCO also participated in ENOC's Annual Conference in September 2021 where ENOC's statement on 'COVID-19: learning for the future' was adopted by the 25th General Assembly. This statement sets out a range of measures that ENOC recommends should be adopted by international and European institutions, States and all other relevant authorities to ensure that children's rights are respected, protected and fulfilled when responding to future public emergencies.

During 2021, the OCO also chaired an ENOC working groups relating to ENOC's Standards and Values and Membership.





# Ombudsman for Children Act 2002

## Review of Ombudsman for Children Act 2002

Under section 7(1)(h) of the Ombudsman for Children Act 2002 (2002 Act), the Ombudsman for Children is tasked with monitoring and reviewing the operation of the 2002 Act and making corresponding recommendations for amending this legislation. A first review of the 2002 Act was undertaken in 2012 and a number of recommendations made following this review have since been implemented.

In 2021, the OCO decided to commission a follow-up review of the 2002 Act, as amended. The main objectives of this review are to identify amendments that could or should be made to the 2002 Act in order to strengthen:

- the independence of the OCO
- the OCO's core statutory functions under the Act
- the OCO's capacity to discharge its statutory functions effectively in the best interests of children.

Work undertaken for this review included a desk-based review of relevant documentation, engagement with OCO staff and consultation with a number of external stakeholders, namely officials from the DCEDIY, the Ombudsman, and a number of Ombudspersons for Children that are members of ENOC.

The OCO will finalise and publish a report detailing the findings of this review during 2022.

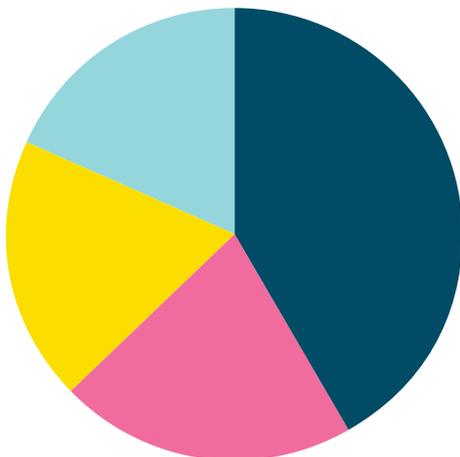
# Running the Office

# 15

## Budget

The budget of the OCO is allocated through the Department of Children, Equality, Disability, Integration and Youth and drawn down on a regular basis throughout the year. In 2021, our budget was €2.95m (2020: €2.87m). 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 Financial Statements are subject to audit by the Comptroller and Auditor General. The audit of the 2021 accounts

will take place in June/July 2022, and will be conducted by the Comptroller and Auditor General. In accordance with Section 17 (2) of the Ombudsman for Children Act 2002, the draft Financial Statements for the year ended 31st December 2021 were submitted for audit by the Office of the Comptroller and Auditor General by 31st March 2022. Once approved by the Comptroller and Auditor General, the Financial Statements for 2021 will be published on the OCO's website, as has been done in previous years. Mazars Chartered Accountants provided our internal audit function, and undertook a review of internal controls in Q1 of 2021 and 2022. They also conducted an audit of our data protection framework.

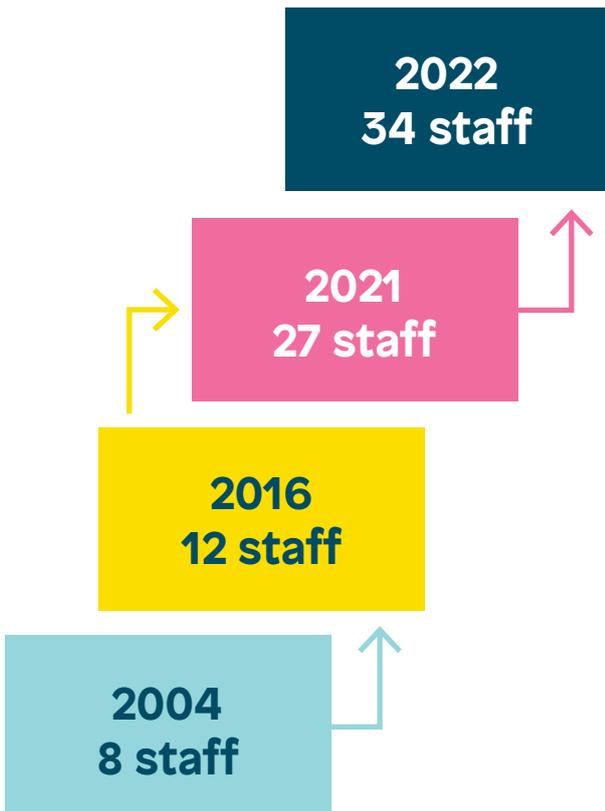


## Budget 2021

- **Complaints and investigations 44%**
- **Communications 22%**
- **Participations and rights education 20%**
- **Policy and research 19%**

## Recruitment

At the start of 2021, the OCO had 27 permanent staff members. By the end of 2021, there were 34 permanent staff members. A lot of workforce planning that took place during 2019/2020 was implemented throughout 2021. The focus in 2022 will be on consolidating the team, having grown from 23 staff since 2020.



## Covid-19

The onset of the Covid-19 pandemic in early 2020, and the resulting public health advice and safety measures rapidly changed the working practices of the Ombudsman for Children's Office. The OCO monitored the developments closely, looking to mitigate the risks that may affect the OCO's business operations, staff and stakeholders. The Office implemented a hybrid working pilot in October 2021 which was paused when the government guidelines required working from home. The government guidelines were followed at all times with the Office moving between remote and office based working as necessary.

## OCO ICT Infrastructure

The Office took the decision to move its IT service provision from the Department of Health to the Office of the Government Chief Information Officer (OGCIO) to enable future ICT developments within the Office and seamless remote access. The migration project began in September 2020 and was completed in March 2021. The Office now has fully remote access and is supported by the OGCI0 for all IT policies and disaster recovery. The full suite of applications available from OGCI0 will be prioritised and implemented from 2022 in line with our new Strategic Plan 2022-2024.

## Implementing the Public Sector Equality and Human Rights Duty

**The Office is committed to fulfilling our Public Sector Duty.**

In our Strategic Plan for 2022-2024 we commit to completing an assessment of the equality and human rights issues that are relevant to our purpose and functions. We will address the issues raised in this assessment and report on our progress annually in our annual report in a manner that is accessible to the public.

## 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 2021, the OCO used 77,013kWh of electricity, a 2.6% increase on 2020. 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.

## 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. In 2021 we received and processed 19 FOI requests.