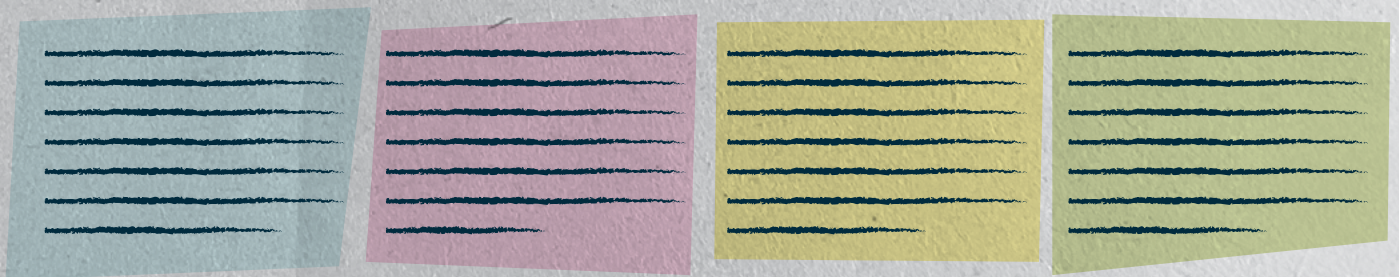


Uncertain Times

The Ombudsman for Children's Office

ANNUAL REPORT 2023



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Message from the Ombudsman for Children



Dr Niall Muldoon
Ombudsman for Children

Each year we try to give our Annual Report a title that reflects the current state of play for children, the changes that have taken place or the challenges they face. This year I returned again and again to the themes of uncertainty and instability, as this is unfortunately what I see too many children facing every day.

Children's issues are fighting for Government's attention at a time when there is a housing crisis, a cost-of-living crisis, an international protection crisis, and when all our public services are under increasing pressure. These issues are all having an unquantifiable impact on children too, yet they are not necessarily seen as children's issues. This separation of children from these core issues is protecting the State from having to properly fulfil its obligations to them – but those hardest hit by each of those crises are children!

In addition, the State is failing to meet its commitments and obligations to children in relation to accessing essential services for those with disabilities and children in State care, as well as not providing all the school places required.

Legislation impacting children has not progressed as planned; we are still waiting for the review of the Mental Health Act to be published, the Parent and Student Charter has not been finalised and the Review of the Childcare Act has not been completed in a way that fully addresses the needs of children.

During 2023 we published Ivy's Case, which, once again highlighted the ongoing issues with delays for children waiting for scoliosis surgeries, something we first highlighted in 2017. We also completed a Special Report on Direct Provision (first reported on in 2021), and the "Nowhere to Turn" Report (a follow-up to Jack's Case published in 2020) detailing the cases of children left in hospital by parents who could not secure the services and supports needed to care for them.

It is clear that the same issues are coming up again and again for children. This Office has investigated those issues and reported on them and made recommendations around them. Promises have then been made by the Government, and broken. We have not seen progress as promised, and as we face into a new general election cycle – ambiguity and unreliability seem to be the only certainties

In July 2023 I was honoured to act as an advisor to the Mental Health Commission in the Review of national Child and Adolescent Mental Health Services (CAMHS), carried out by Dr Susan Finnerty. The Review told us that the Commission cannot provide an assurance to all parents in Ireland that their children have access to a safe, effective and evidence-based mental health service. If these children are not safe, then they are at risk. I called for a radical and brave reimagining of our mental health services for children. That precise and comprehensive review made a number of very important recommendations; most significantly the regulation of CAMHS and the generation of a comprehensive new strategy. It is unacceptable that more progress has not been made at this stage. It seems that in the Ireland that we live in today outrage, and there was plenty of that from both the Government and opposition, does not equal action.

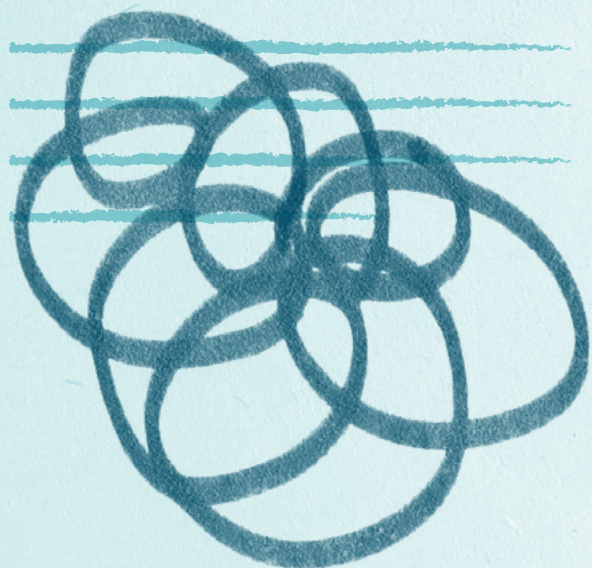
As Ombudsman for Children I am increasingly aware and concerned about issues raised by children both directly to me, and through the work of our Youth Advisory Panel, in relation to discrimination and racism. In this new Ireland, these issues are not going away and need to be addressed with young people themselves.

In many ways Ireland is a wonderful place to be a child – we are one of the richest countries in the world, and most of our children live in happy, loving homes. However, world issues like war, migration, climate change, online safety, and AI have changed the reality of childhood for this generation. How children learn to cope and thrive within this new reality is unclear, and for children who are born into vulnerable situations things are even more uncertain.

2023 was a busy year for the OCO with the number of complaints remaining steady. We also noted more complex complaints involving more than one agency, and where the issues are more difficult to deal with. On one hand this is a good sign, showing that agencies are addressing many complaints at source, with only the more difficult ones coming to the OCO. However, this can also mean that the families we meet are even more stressed and upset when they come to us.

As we approach the end of the current Dáil term it is a natural time for reflection and to set targets for the coming years. Throughout 2024 we will be engaging with all the political parties to seek assurances that children's rights will be prioritised in the manifestos they put forward to the electorate.

Uncertainty is not good for any of us, but for children it can be extremely challenging, and often damaging. It is a truth, universally agreed, that stability and certainty are good for children and help to provide the solid foundation they need to reach their potential. Let us hope that 2024 can bring an end to these Uncertain Times in the best interests of the children of Ireland.



Who We Are

The Ombudsman for Children's Office (OCO) is a human rights institution that promotes the rights and welfare of all 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. Dr Niall Muldoon is the Ombudsman for Children.



Statistics and Highlights

Total Number of complaints: In 2023 the OCO received 1,790 complaints. This is a slight reduction on the number of complaints received in 2022 (1,812). However, there has been a notable increase in the complexity of complaints with one in five relating to multiple agencies.



What Were the Complaints About?

The reporting tools we used for 2023 have allowed us to refine how we collect our complaint data, meaning we have a more focussed picture of what kind of complaints were submitted to our Office. The below data reflects the complaints we received in 2023, which were in our remit.

As is the case every year, education is the most complained about issue to the OCO, with complaints about access to school places, bullying, school transport, the State Exams Commission and access to complaint procedures in schools.

Complaints about health included complaints about services within hospitals, CAMHS, Children's Disability Network teams and HSE funded services providing supports for children.

Complaints on the issue of housing included complaints about Local Authority housing, appropriate housing for children with disabilities and housing for children living on local authority halting sites.

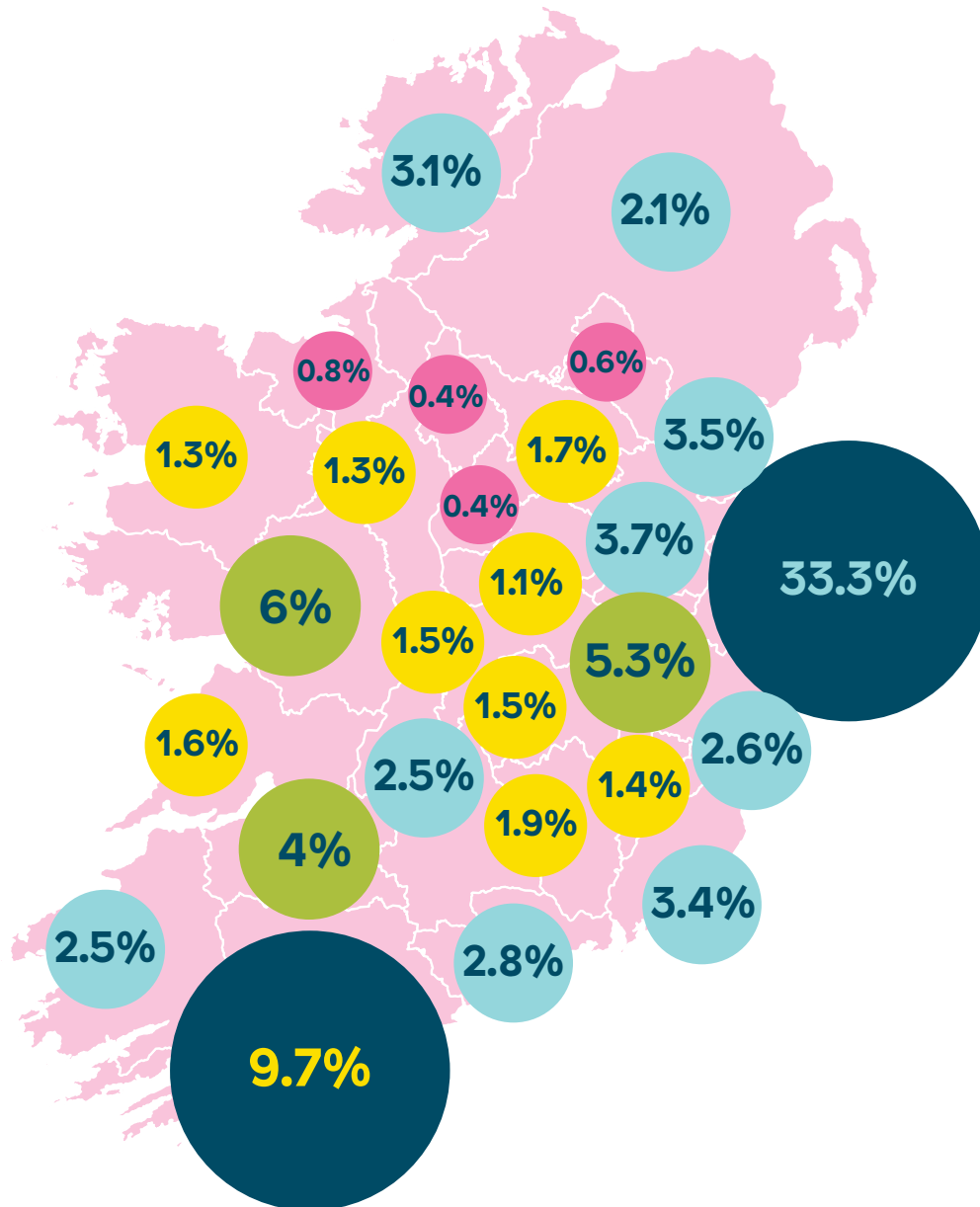
Complaints about Tusla included complaints from children living in residential care and secure care, interagency work between services, complaint processes and access to interventions and supports provided by the agency.

Our Office also received complaints from children and families living in Direct Provision and from people seeking passport services.

While our Office does not have remit to examine complaints about Early Learning settings (crèches/Montessori/pre-school) it is significant that 4% of complaints to the OCO were about these settings.

Topic	2023
Education	40%
Health	23%
Housing (Local Authority)	7%
Tusla	23%
- International Protection (IPAS)	3%
- Department of Foreign Affairs	3%
- Other Government Departments	1%
* Special Category – Early Childhood Education and Care (not currently within remit of OCO)	4%

Complaints by County;



County	Cases	2023	County	Cases	2023	County	Cases	2023
Carlow	12	1.4%	Kilkenny	16	1.9%	Offaly	13	1.5%
Cavan	15	1.7%	Laois	13	1.5%	Outside Rep. Of Ireland	18	2.1%
Clare	14	1.6%	Leitrim	3	0.4%	Roscommon	11	1.3%
Cork	83	9.7%	Limerick	34	4%	Sligo	7	0.8%
Donegal	27	3.1%	Longford	3	0.4%	Tipperary	21	2.5%
Dublin	285	33.3%	Louth	30	3.5%	Waterford	24	2.8%
Galway	52	6%	Mayo	11	1.3%	Westmeath	9	1.1%
Kerry	21	2.5%	Meath	32	3.7%	Wexford	29	3.4%
Kildare	45	5.3%	Monaghan	5	0.6%	Wicklow	22	2.6%

* The OCO received a total of 1,790 complaints. However not all complainants declared their location. These percentages are total of those who declared their location.

Who were Complaints from?

Slight increase in complaints received directly from children (2% in 2022, 3% in 2023)

Parent	Professional	Extended Family	Unrelated Adult	Child
82%	7%	5%	3%	3%

Age of the children we received complaints about:

1-4	5-9	10-14	15-19	20-24
14%	24%	33%	28%	1%

OCO Education Workshops

Every year we welcome hundreds of children and young people from all over Ireland to our office in Dublin to take part in education workshops. We can facilitate groups of children to learn about their rights in an interactive, age-appropriate way.

This year we delivered workshops to 2,090 children and students

This is the most we have hosted in six years! We met 1,930 children from early years groups, primary schools, secondary schools and youth groups, alongside 160 third level students training to work with children.

1,930 children came from 69 schools all across Ireland

49 Primary (71%)

20 Secondary (29%)

49% DEIS schools

57% of the schools were visiting the OCO for the first time

Outreach

During 2023 the Participation and Rights Education team visited children in various settings to educate them about their rights.

Early Years, Primary and Secondary

480
children

Child and Adolescent Mental Health Services (CAMHS)

26
children

Unaccompanied Minors

50
children

Direct Provision

99
children

OCO in the Oireachtas

February

1.

Joint Oireachtas Committee on Autism Policy

At this meeting, Niall and the team highlighted three areas of concern, including: the need for inclusive education; ongoing delays affecting autistic children being able to access assessments and supports; and the views of autistic children being taken into account in the design of policies and services.

May

2.

Joint Committee On Children, Equality, Disability, Integration and Youth General Scheme of the Child Care (Amendment) Bill 2023

The OCO told the Committee that while we welcomed several proposals in the Bill, the overall Scheme doesn't have enough vision and ambition. The team also expressed concern about the lack of provisions for unaccompanied children seeking asylum and taken into care here, and around unregulated accommodation for children in care.

June

3.

Committee on Public Petitions Ombudsman for Children's Annual Report 2021 and 2022: Office of the Ombudsman for Children

Niall and the team were before the Committee to discuss our 2021 and 2022 Annual Reports and highlight key activities of the Office during that time.

November

4.

Joint Oireachtas Committee on Disability Matters Rights-Based Care for People with Disabilities

The OCO team was invited by the Committee to discuss our report, *Nowhere to Turn*, which highlighted the plight of some children with complex disabilities who are being left in emergency departments, schools and respite centres by desperate parents in an attempt to access vital services. We recommended that the HSE immediately implement all the outstanding recommendations from the OCO's Jack's case. Not doing so is causing harm and distress to children and families. We also recommended that the Minister for Children, Equality, Disability, Integration and Youth, and the Minister of State for Disabilities, set up an independent monitoring mechanism alongside the Disability Action Plan 2024-2026 to hold the State to account for their support of these children.

5.

Dáil debate on the OCO's Special Report on the Safety and Welfare of Children in Direct Provision

The OCO's first ever Special Report was debated by TDs in a Private Members Motion brought before the Dáil and the Change to Minister for Children, Equality, Disability, Integration and Youth. Among the issues discussed was our recommendation to end the use of commercial hotels for children and the need for vulnerability assessments for all children seeking International Protection within 30 days of arrival in Ireland.

Spotlight Issues and Case Studies

In 2023 the OCO became aware of a number of systemic issues impacting children's ability to fully enjoy their rights. These are extremely important issues that must be in the public domain and which we continue to highlight to policy makers.



Spotlight

Spotlight 1: OCO Outreach to Special Care

Despite the clear legislative framework directing that a child cannot stay in Special Care for more than 9 months, many children are detained in these units far beyond this timeframe due to a lack of step-down places. The aim of Special Care is to provide short-term, stabilising and therapeutic support to children who need secure care to keep them safe from harm. Special Care placements can only be accessed via a High Court order as the child is being detained.

In 2023 the OCO complaints and investigation team started regular outreach visits to the three Special Care Units currently operating in Ireland. During our visits we took complaints about prolonged stays of detention, these complaints identified;

- Many children were detained in Special Care for extended periods of time – in some cases up to two years as a direct result of lack of appropriate move on accommodation, with Special Care orders extended by the high court on this basis.
- Children and staff told us about the inappropriateness of the high intensity environment of Special Care for these prolonged periods of time, with children exhibiting institutionalised behaviours and behavioural regression as a result.
- Staff told the OCO that the crisis of securing step down placements was exacerbated by the increased privatisation of residential units, with 60% of providers of this care being private. Staff in Special Care also told us that in some cases private providers of step down services are reluctant to offer places to children in Special Care due to their risky or sometimes criminal behaviour.

The OCO also received complaints from families who were trying to access Special Care for their children, in instances where risks of harm were identified but the application was not put forward by Tusla, to the High Court, because Special Care places are limited.

In December 2023 Tusla appealed a High Court judgment in the Supreme Court which directed that they apply for Special Care places for two vulnerable teenagers. Tusla argued that they should not be mandated to put the applications before the High Court as there were no Special Care places available. The Ombudsman for Children's Office was granted access to observe the Supreme Court hearing and judgement in February 2024. The court dismissed Tusla's appeal stating that they had failed in their statutory duty by not applying for the Special Care orders when it had been deemed that they were necessary in the circumstances of the two children.

Special Care and Special Emergency Accommodation continue to be major issues of concern to the Ombudsman for Children's Office. Removing a child from his or her parents and taking them into the care of the State is a monumental decision, particularly when it has been identified that the child is a risk to themselves and others. When this happens, every support should be provided to help this child without delay. The State has a duty to these children that must be fulfilled.

Spotlight 2: Teenagers at Risk

Throughout 2023 we continued to seek government leadership to meet the needs of a cohort of teenagers in Irish society who are harming themselves, their families and their communities. These are vulnerable children but this vulnerability can often be masked due to their risk taking behaviour. They are often

criminally and sexually exploited, and many have left school without qualifications. Their behaviour may well be shaped by traumatic events in their childhood such as death, imprisonment of a parent, addiction, separation and poverty and compounded by intellectual disabilities, mental health problems and their own addiction. Many of these children may be in State care and are often the children living in 'special emergency placements' which simply should not be part of our care system. We have called for legislative changes to stop the placement of children in unregulated settings and focus on ensuring that we have a range of safe, caring placements for all children.

We will continue to highlight the cross government responsibilities towards these highly vulnerable teenagers and to ensure they are given priority and focus across all departments and services and ensure adequate funding at community level to schools and services to help change the outcome for these children.

Spotlight 3: Transition Year Access

In December 2023 we wrote to the DoE about a child being refused a place on the Transition Year (TY) programme. A number of complaints were made to the OCO about this issue and there were a range of reasons for refusals including past behaviour, additional needs and availability of places.

It appears that there is no national transparent policy made available to parents/guardians and students to guide allocation of Transition Year Places and that the decision lies solely with school management.

We discovered that a significant number of schools have a local policy that they refer to when considering Transition Year applications, however this does not appear to be the case for all schools. In the complaints we received, it is unclear how applications are administered, considered and decisions reached.

Some of the reasons given to parents for refusal were poor behaviour in the past, a diagnosis of additional needs or disability, or mental illness. Parents told us their children felt excluded and they were also concerned as they felt their children were not ready to go straight into the Leaving Certificate programme.

We have seen situations where schools have been unable to show how applications were considered fairly when parents asked for feedback or if they appealed an unsuccessful application. Parents are particularly concerned about the fairness and subjectivity of a student interview process or including student's past behaviour as part of the decision making.

Some parents have moved their child to an alternative school that can offer a Transition Year Place. They told us that before doing this some schools suggested repeating third year or fifth year instead. It is our view that this is less than ideal for students.

ESRI research has shown that, students who take part in Transition Year achieve higher Leaving Certificate exam results and are more likely to go on to higher education. Consequently, it is a very significant decision to exclude a child entry to the programme and therefore requires the highest level of transparency and fairness. We are aware that Transition Year has become more popular since its mainstreaming in 1994/95 and we look forward to seeing the revised TY Programme Statement due for release in 2024. We understand that schools have autonomy and flexibility to design their TY programme within the design parameters of this TY Programme Statement. However, we have asked the DoE to ensure that there is a rights based framework to inform access to the TY programme to ensure the process is fair, non- discriminatory, transparent and equitable to all children who wish to apply.

Case Studies



James misses out on TY by one place

The complaint

James, a 15-year-old boy, was placed on the Transition Year waiting list by his school. The school had a local TY admissions policy, but it was not published on their website.

The system of admission appeared to focus on behaviour – James had 13 reports on his behaviour related to incomplete homework, his lack of organisation and poor class participation. James' parents main concern was that the school had told them that the application process would consider a completed application form, James' age and attendance record, and an interview. They believe that none of the above were considered nor was James interviewed but the sole decision was based on his behaviour deficit as outlined above. The parents told us that James was being assessed for ADHD which may have contributed to some of his behaviours.

Since missing out on the Transition Year place, James has engaged in school refusal and his mental health has deteriorated. Both his GP and parents believe that he is not mature enough at 15 for 5th year and his mental health may suffer further were he to be pushed into this option.

James' parents met with the school and appealed to the Board of Management but were unsuccessful. Ultimately they do not feel that the TY admissions policy was fair and transparent and there is no appeal process for non-admission to TY.

What we did

This was one of a number of complaints we received about access to TY but as there is no guidance for how schools should administer access to this year we determined that this was a policy matter for the Department. We were aware that the revised TY Programme Statement National Council for Curriculum and Assessment was due for release in early 2024. Considering this, we wrote to the DoE in January of this year and informed them of the concerns we had in regard to the lack of a national admissions policy or framework for TY for students. Following this we also met with the DoE and at their request we shared a sample of five case studies/complaints that spoke to this issue.

Outcome

At the time of writing we await a formal response from the DoE.

Treatment Abroad Scheme for Philip

The complaint

Philip was born with extensive limb abnormalities. In October 2021 Philip's parents contacted us because they felt the HSE had reneged on its agreement in relation to Treatment Abroad Scheme for Philip.

Philip's parents first came to the OCO back in 2013 when he was 9 and the outcome of that investigation was that the HSE committed to honouring a written agreement made in 2009 to fund travel and subsistence for Philip to receive a series of planned surgeries abroad.

Between 2021 and 2023 Philip had serious and painful limb lengthening surgeries abroad and during this time the family who were under serious financial pressure with lengthy stays, had to arrange funding for

***children's names have been changed**

themselves. Philip's parents felt that the HSE had been failing to keep to its word in relation to travel costs since 2018, and there was a disagreement as to whether an upcoming surgery Philip was to undergo was covered by the previous agreement or whether it was new surgery requiring a new application to the Treatment Abroad Scheme.

What we did

We met with Philip, his mother and other members of his family. We also had extensive contact with staff at the Treatment Abroad Scheme to try progress the matter framed by the agreements the HSE made to our Office and the family in 2013. This initially proved unsuccessful and we escalated our concerns to the HSE's Director of Acute Services.

Outcome

The HSE agreed to have a senior manager in their National Schemes and Reimbursement Office review Philip's case. That review, completed in November 2023, determined that a reimbursement of the full previously agreed travel and subsistence monies was appropriate in this instance. Agreements were also made as to how claims for any further surgeries would be handled.

Ryan restrained in school

The complaint

Ryan is 14-year-old boy with ASD, an intellectual disability and complex needs. His mother contacted the OCO to raise her concerns regarding the school's use of a wetsuit on Ryan to prevent him from smearing while in school – we understand this is a standard wetsuit used for water sports. Ryan's mother also raised concerns about her belief that despite a child protection and welfare referral made to Tusla about the use of the wetsuit, no action had been taken, and it had not been investigated.

Ryan was distressed and very upset. As he is non-verbal, this resulted in him acting out and being visibly upset when going to school which his mother and the staff in his residential setting also found upsetting.

What we did

We wrote to the school to see what efforts had been made to resolve the situation at a local level. We also wrote to Tusla to ask about their knowledge and involvement in Ryan's case, and we asked what action had been taken regarding the child protection and welfare referral. Ryan's mother had provided information indicating that there had been a "preliminary categorisation of physical abuses from Tusla", albeit before any investigation into the matter had taken place.

Response from the school

The school provided a comprehensive response and informed us that although they had not received a formal complaint from Ryan's mother, they were aware of her concerns about the use of the wetsuit and had met and discussed the matter with her. The school apologised to Ryan and his mother for the practice the teacher had chosen to implement at the time. The school also engaged with Tusla regarding the child protection and welfare referral that had been made, and to answer any outstanding questions or concerns Ryan's mother had after their meeting with her days after the incident took place.

The school has acknowledged that it did not have a policy in place at the time of the incident to deal with situations where mechanical restraint would be used. However, as a result of this incident, the school has drafted and ratified a new Positive Behaviour Support and Restrictive Behaviour Policy to provide appropriate guidance for teachers in the school.

It appears the new policy which has been ratified by the Board of Management and shared with families, sufficiently addresses all instances of the use of restrictive practices. The school intends to encourage an environment where the focus is on positive behaviours and reinforcement rather than sanctions, in line with the school's ethos. The school has informed us that it found drafting and ratifying this policy challenging in the absence of any guidelines from the DoE.

The school moved Ryan to a new class along with this favourite SNA to provide him with continuity, as part of a transition plan that was drawn up to facilitate the transfer and both the school and Ryan's mother report that he is doing really well in his new class. He has been able to travel on the school bus without incidents and participated in swimming with the school for the first time in April.

Response from Tusla

Tusla upheld Ryan's mother's complaint and acknowledged that their inaction was as a result of incomplete information regarding the purpose of the wetsuit. They have taken steps to address this with Ryan's mother directly. They have also followed up with the school to investigate the referral and to find out why Ryan's mother was unclear or unsure about actions being taken by the school. While it appears from the correspondence provided by Tusla that they have apologised extensively to Ryan's mother and that she indicated to them that she was satisfied with this, the relationship naturally has suffered and it will take time for trust to rebuild between Ryan and his mother, the school and Tusla.

Both the school and Tusla have taken steps to rectify the gaps in policy and have made efforts to apologise and be transparent with Ryan's mother while attempting to resolve matters to her satisfaction.

A suitable home for Michael where he can sleep in a bedroom and use the bathroom

The complaint

Michael, who was born with a serious medical condition, is a 16-year-old boy and a full time wheelchair user. Michael is also on the Autistic Spectrum and has a developmental and intellectual disability. His mother made a complaint to us about his living conditions

and the lack of progress by their Local Authority in securing accommodation appropriate for his significant needs.

Michael and his family were approved for social housing support in 2017 and had been on the priority list for a specially adapted property since 2019. Michael's mother had raised a complaint directly with the Local Authority but could not get the matter resolved.

She told us that Michael's reality was that he could only exit and enter his home through a back door with portable ramps as the front door was not wide enough to accommodate his wheelchair. Michael had to sleep in the sitting room, use a commode and can only have bed baths as he could not access the upstairs bathroom. We were also told that as Michael has grown his mother is no longer able to carry him for longer than a few seconds and that their current house is unable to be fitted with a hoist. This situation was negatively impacting a number of aspects of Michael's quality of life, his ability to develop independent living skills and undermines his dignity.

What we did

We met with the Local Authority to explore the issues involved as well with Michael, his brother and his mother in their home.

Outcome

In the course of our investigation the Local Authority identified a suitable property for Michael and in the following months they worked with the Children's Disability Network Team and Michael's family to agree plans on how the property could be adapted for his particular needs. Michael's mother signed for tenancy of the home in the summer of 2023 and since moved in. This has been a great outcome for Michael who is looking forward to living a fuller life in his new home.

Confusing, unhelpful and stressful response to Daniel's application for exam supports

The complaint

Daniel, aged 16, was diagnosed with severe dyslexia in 2018. His school submitted an application for a Spelling & Grammar Accommodation on his behalf to the State Examinations Commission (SEC) for his Junior Cycle exams. However, the SEC denied Daniel the accommodation and on the returned form, handwritten notes stated that the applicant was ineligible to resubmit or lodge an appeal. Daniel's mother believed that this was contrary to the SEC's policies and procedures which state that a decision can be appealed.

The deputy principal of the school wrote to the SEC disputing the decision. His letter was acknowledged but no response to his queries issued.

Daniel was worried and stressed as he faced into his preparation for the Junior Cert knowing he did not have a spelling and grammar waiver.

What we did

We wrote to the SEC and asked how they consider cases like Daniel's and how the criteria for a spelling and grammar waiver is applied. We also asked the SEC to explain why Daniel was not entitled to resubmit or appeal the decision.

The SEC said that when a school submits an application on behalf of a candidate who is clearly ineligible, this can create an expectation that supports will be sanctioned and will result in disappointment when the application is returned. In Daniel's case they said that his assessment showed he was outside the qualifying criteria required for access to a waiver. They said it would be fairer on the child involved and their parents/guardians if the school tells them that they are not eligible for RACE at the earliest opportunity and not submit an application that they know will not qualify.

The SEC told us that there are other pathways, other than appeals, to advance accommodations applications for complex cases. The Complex Case referral process is available to assist schools in mediating decisions in more difficult cases or where there is a question regarding eligibility. Complex Case applications are referred to the National Educational Psychological Services (NEPS) for consideration. Evidence of need is an integral component of the Reasonable Accommodations at Certificate Examinations (RACE) scheme.

In Daniel's case a standard SEC non-compliance form, along with handwritten notes was returned with his application form. This caused some confusion and upset for Daniel, his parents and his school. The non-compliance form states that the candidate is ineligible based on their assessment, and tells the school that the application form should not be resubmitted. The form also states that the application can be amended if applicable and if that is the case the SEC considers that no application has been made on behalf of the candidate until such time as the corrected/completed application form is returned. The SEC said that the handwritten notes were meant to reinforce the message on the non-compliance form. On reflection, the SEC believed they were unnecessary as the form is clear.

Outcome

As a result of Daniel's case, the SEC said they will ensure that if there are any issues that need to be raised with school authorities that they will write a separate formal letter to the school, rather than notes on the form which might be the source of confusion.

Changes were made to the RACE form for the next application process to specifically refer school authorities to the Complex Case process. The RACE scheme will also be reviewed as part of the Senior Cycle reform with a key priority of increasing the use of Assistive Technology to enhance access, and to further support, independent learning. The SEC told us that as part of this review there would be extensive consultation and engagement with relevant stakeholders.

No crèche place for Ava and no proper oversight of complaints

The complaint

Ava's mum contacted us in March 2023 because Ava's (aged 3) preschool place had been terminated by the management team. Ava was asked to leave after her mother made a complaint. She told us that she believed Ava was asked to leave because the owner has a personal dislike to the parent and this had happened to other families previously. She said there was poor communication and that the preschool's policies and procedures weren't being adhered to correctly. Ava's Mum was faced with a situation where she was potentially having to give up work to care for her children full time, in absence of a suitable early years service.

What we did

We had to contact Ava's parent to explain that the issues she was raising, while concerning, are not within the OCO's current remit to examine as they related to the actions taken by an Early Year's Provider. These providers are considered private businesses despite the fact that they receive significant state funding to provide early year's education as part of the ECCE Scheme.

We signposted Ava's parent to the County Childcare Committee who provide support at local county level. While local committees can assist parents to engage with their childcare provider's complaint policies, they do not have a statutory function to investigate complaints.

Outcome

We are contacted regularly with complaints about the Early Years Sector. We try to signpost people to the most suitable agency but we are increasingly concerned about parents' access to suitable and effective complaints procedures. We are also concerned about the oversight of this complaint handling mechanism.

Tusla delays in managing Sarah's sexual abuse disclosure

Sarah made a disclosure of alleged sexual abuse to Tusla in 2014 when she was 11 years old. Sarah's parents contacted us as they were not happy with how this disclosure was handled by Tusla.

They told us that there were significant delays and periods of inactivity in the assessment process. Sarah was initially interviewed, then re-interviewed by Tusla on multiple occasions over a period of four years.

The family were aware that the court had become involved in the assessment process but they couldn't fully understand how or why this happened. They couldn't get clear answers throughout the Tusla assessment process and they were left feeling that the Court or the person subject to the abuse allegation was responsible for what was happening. They had to follow up with Tusla to try progress matters.

The Tusla assessment process concluded that on balance of probabilities, Sarah had been sexually abused. Sarah's parents tried every appropriate avenue for meaningful redress to get better answers before contacting us.

What we did

We investigated and found that a young person spent half their teenage years seeking answers on why the assessment process took the path it did.

We found there was an imbalance between how the best interests of the child were considered when compared to the fully supported legal consideration of the obligations owed to the person subject to abuse allegations.

Tusla admitted some mistakes and failings throughout the assessment process and provided a limited apology. There were multiple opportunities throughout for Tusla to be transparent and accountable for what had occurred, but this did not happen.

Outcome

We found that Tusla's internal oversight of the case, had a significant adverse impact on the young person and was the result of negligence. Making a disclosure of sexual abuse as a child is extremely traumatic, and Sarah then had to spend half her teenage years seeking answers on why the assessment process took the path it did.

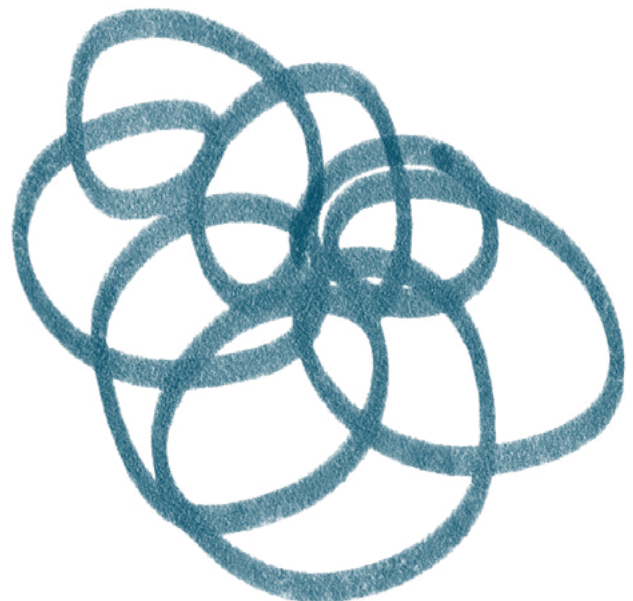
Tusla failed:

- to adhere to established best practice and its own policies and procedures. This resulted in a significant delay and Sarah having to participate in four interviews by Tusla and other agencies. This was deeply distressing for Sarah and her mother.
- to communicate key information to the child and her family, and to respond to communication from the family from 2014 to 2017.
- to appropriately or comprehensively review the case.
- to take an active role in the legal proceedings and their outcome.
- to give adequate consideration to the child's best interests throughout its actions concerning her.

Recommendations

We recommended that Tusla;

- review how it communicated and explained its actions, including any mistakes and failings, and to provide a written account to Sarah and her family.
- develop a principle based framework (informed by the UNCRC) for the assessment of best interests in social work practice concerning children and families.
- review comprehensively how social workers engage with, and instruct, legal professionals.
- support the initiation and completion of practice reviews where there are significant breaches of policy and/or where a child or young person is significantly and avoidably adversely impacted by Tusla's actions or inactions.



Education

Early Years

In 2023 the Participation and Rights Education Team continued its Early Years Education pilot which developed a workshop designed to work directly with children from as young as 3 and their parents, so that parents can learn about their children's rights and the role of our Office. Ballinasloe Therapeutic Learning Centre who support children with: speech, language and communication difficulties; developmental and learning delay; physical disability/movement difficulties; behavioural and emotional problems; and social disadvantage took part in the pilot. We welcomed 30 children and 20 parents to our office and worked with them, in an age appropriate way. This was an extremely successful approach and one we hope to continue.



Youth Groups

Throughout the year youth groups participate in our rights awareness workshops. This year we met seven youth groups from across the country including Youth Education Service for Migrants and Refugees, who visit us with their unaccompanied minors group. This is a wonderful opportunity for us to make sure that children who are newly arrived to Ireland learn about their rights under the United Nations Convention on the Rights of the Child.

Third Level

We continued to facilitate seminars and lectures to third level students. Every year we target disciplines that we know will be working with children in their future careers, such as nursing, teaching, psychology, social works and early years education. We welcomed students to our office and also travelled to universities across Ireland, including Trinity College Dublin, University College Dublin, Technical University Dublin, Dublin City University, University College Cork and University of Limerick.

The Participation and Rights Education Team had a busy year on outreach in 2023 visiting a total of 655 children in a range of settings. Our outreach work prioritises children who would find our office in Dublin difficult to visit either because of their circumstances or geographical location. We also take the opportunity to meet with organisations providing services around the county. We find it is a brilliant way for us to learn more about the issues facing children and to develop links with grassroots services.

We visited three Child and Adolescent Mental Health Service (CAMHS) in-patient units, namely, Merlin Park in Galway and both Linn Dara and St. Vincent's units in Dublin. We held rights awareness workshops with the children and listened to their opinions about mental health services in Ireland. These visits are always a unique way for us to hear directly from children who have experience of CAMHS.

The team undertook two separate trips to counties that find it hard to visit us in Dublin. In May we visited County Kerry. Over the course of four days' staff held rights education workshops in three Primary Schools and two Secondary Schools in Killarney and Tralee. We also took the opportunity to visit with two Family Resource Centres in Listowel and Ballyspillane. This is the first year that we have specifically visited family resource centres, and we have found it incredibly useful. We had the opportunity to not only meet staff but also children and parents who use the service. This allows us to get an insight into the children's rights issues in the communities.

In June the team ventured to County Galway, visiting four primary schools including and the two primary schools on Inis Mór. While on the island we were also able to deliver a workshop to Junior Infants as Gaeilge. We were delighted to be able to offer this important service and we hope to develop our Irish language workshops further in the incoming year. During our time in Galway we visited BarnaHus to learn about their wonderful participative work with children, to develop a child centred service for victims of sexual assault. To wrap up our visit we visited and worked directly with children in Ballinasloe Therapeutic Preschool, who came up to visit our office later in the year.

Direct Provision

While on outreach in Kerry and Galway we visited four Direct Provision centres. It is our job to ensure that all children living in Ireland know about their rights so we visit asylum accommodation to hold workshops. Typically, we deliver three workshops in each Direct Provision centre, we meet 4-7 year olds after primary school ends, and then we hold two separate workshops with 8-12 year olds and 13-17 year olds after secondary school finishes. We always hold a parents' information session as well to make sure that parents know about children's rights and are aware of our complaints function. This is great way to ensure that everyone understands their rights and for us to get an understanding of families lived experiences while in Direct Provision.

Transition Year Work Experience

In 2023 we increased the number of Transition Year students who took part in work experience within the OCO. In total, we welcomed twelve students to the office over the course of the year with four separate placements running in February, March, May and September. Students came from Meath, Wicklow, Galway, Dublin, and Kilkenny.

As well as assisting the Participation and Rights Education team in delivering workshops, students had the opportunity to attend numerous events including a children's rights seminar at the School of Psychology in Trinity College Dublin and our own annual report launch.

Students got the chance to conduct research into state supports for Ukrainian children, to assess sample complaints, and even to produce their own rights posters graphic design software.

They also wrote blog posts on supports for children with disabilities, child protection, secure housing, children's mental health care and the importance of rights education for the It's Your Right section of our website.

Review of the Education for Persons with Special Educational Needs ('EPSEN') Act 2004

In March 2023, the OCO submitted recommendations on the review of the Education for Persons with Special Educational Needs ('EPSEN') Act in response to a public consultation initiated by the DoE. The EPSEN Act, enacted in 2004, aimed to address the educational needs of students with disabilities in Ireland, but significant portions remain unimplemented.

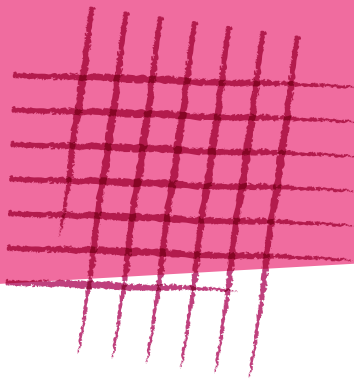
Our submission highlighted the need for:

- Full enactment of the EPSEN Act
- Alignment with international human rights standards, particularly the UN Convention on the Rights of Persons with Disabilities (UNCRPD)
- Enhanced access to educational support for children with special needs
- Improved parental agency in education decisions
- Strengthened inclusive education provisions

Concrete actions toward full enactment and systemic changes are crucial to ensure timely and comprehensive support for all children with special educational needs, fostering a truly inclusive educational environment. The OCO will continue to monitor developments relating to this review and to the rights of children with special educational needs.



Health



Child and Adolescent Mental Health

The Ombudsman for Children was an advisor to the Mental Health Commission in its review of the Child and Adolescent Mental Health Services in the State which took place during 2023. This review was undertaken in response to the extremely serious concerns highlighted in Kerry by the Maskey Report.

The recommendations of the Mental Health Commission Review must be acted upon without delay to address concerning and totally unacceptable practices that were taking place in a number of CHOs and which leave children at risk.

The Mental Health Commission report details governance and oversight failures at the highest level of the HSE. It outlines cases where children were at risk of harm, where one CAMHS area accepted only 38% of referrals, where 140 children were 'lost to follow up'. The appointment of a Child and Youth Mental Health Lead in the HSE is an important first step in committing to change in this area. However, further commitment to governance and oversight of CAMHS is needed.



4.

Mental health briefing at Leinster House

Promoting children's right to Mental Health Services is a strategic priority for the OCO. As part of this work we presented our Mental Health Priorities for Children to TDs, Senators and Oireachtas staff in the AV Room at Leinster House in November 2023. Our presentation detailed the type of complaints we receive relating to mental health, what children are telling us about their experiences of mental health services, our priority asks relating to mental health policy and some of the other key issues impacting children's mental health in Ireland. The briefing was attended by up to 30 members of the Oireachtas and their staff. The OCO's key asks on Children's Mental Health focused on four main areas: legislation, investment, reform of CAMHS and inclusion of mental health supports in schools. Some of our key points included:

- Welcoming work to progress the Mental Health (Amendment) Bill 2021.
- Welcoming proposed provisions for children aged 16 and older to consent to and refuse admission and treatment, but outlining our concerns about proposed provisions in relation to children under 16.
- Outlining our significant concerns about proposals to place children's admission to adult inpatient facilities on a statutory footing.
- Highlighting that the overall budget allocated to mental health remains less than 6% of the overall health budget.
- Noting that less than 0.7% of the health budget is spent on CAMHS, there is no ring-fenced funding for children's mental health services and the State cannot say what it is spending on these services.
- Noting that while some individual CAMHS teams and professionals across the country do excellent work for children, the Mental Health Commission Independent Review published in 2023 has shown that such high quality provision is not available on an equal basis to all children across the country.

- Welcoming the launch of the Pilot Programme of Counselling Supports in Primary Schools in September 2023 and noting our support for the development and extension of the pilot Programme into all primary and post primary schools.



Consultation on the Further Regulation of Tobacco and Nicotine Inhaling Products (December 2023)

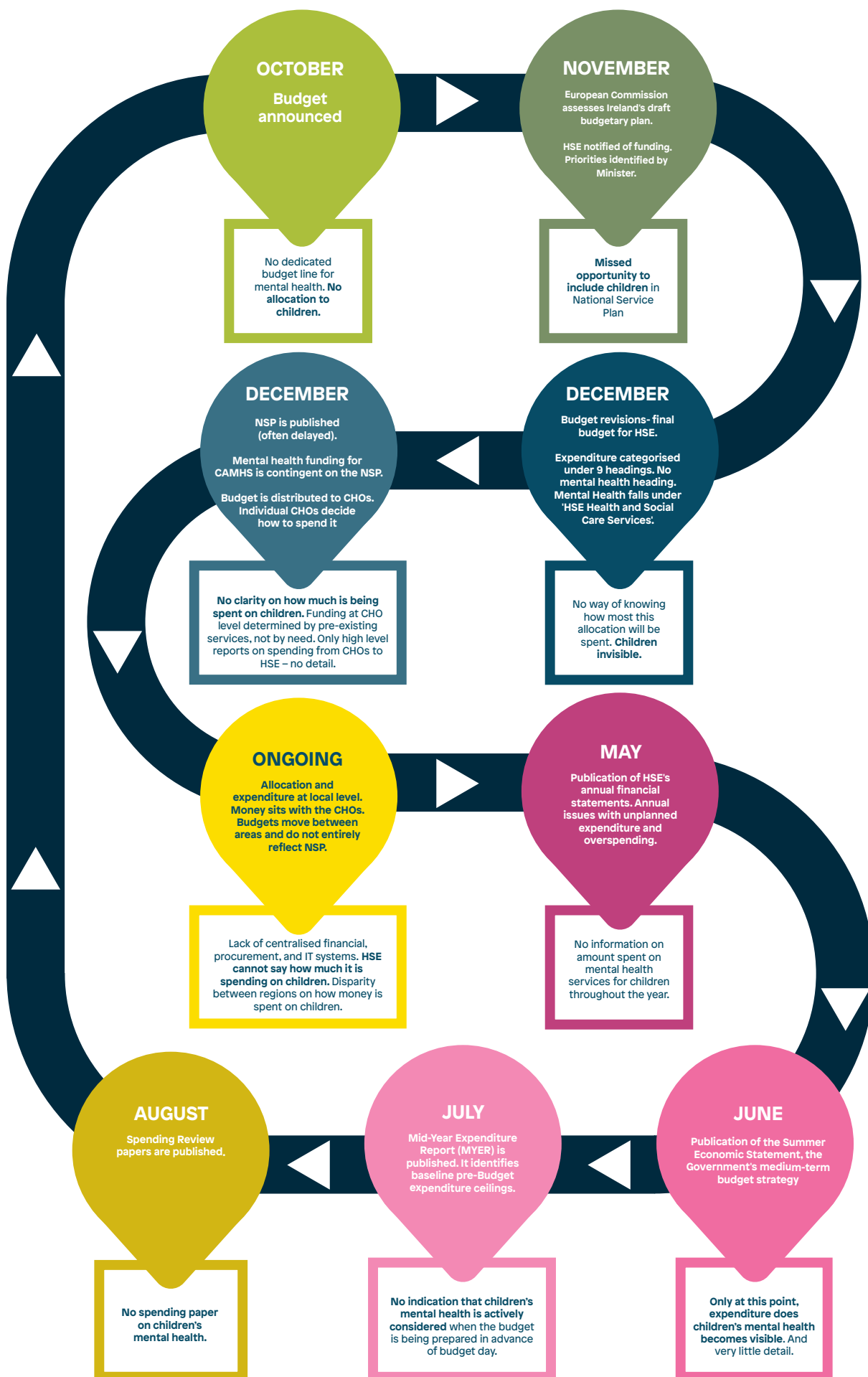
The use of vaping products by children is an issue of concern to the OCO. In December 2023, we wrote to the Minister for Health in response to a consultation being held on the further regulation of tobacco and nicotine inhaling products.

We outlined the relevant children's rights standards, including Article 24 of the UN Convention on the Rights of the Child (UNCRC) which requires States to recognise a child's right to enjoy the highest attainable standard of health, as well as the Committee on the Rights of the Child's guidance that the minimum age limit should be 18 years for the purchase and consumption of alcohol and tobacco, in view of the degree of associated risk and harm.

We supported the development of regulations that prevent access to nicotine inhaling products to all children aged under 18 in order to protect their right to the highest attainable

standard of health. We suggested that consideration should be given to developing regulations that are, at a minimum, on par with regulations around the availability of, and exposure to tobacco products. We also asked the Minister to consider regulating to provide stronger safeguards for children and young people around access to, and advertising of, both tobacco and nicotine inhaling products. We will continue to monitor developments in this area.





OCO Mental Health Survey - *A Piece of My Mind*

A Piece of My Mind is a survey which came about as a result of the Pieces of Us, the children's report the UN Committee on the Rights of the Child. Mental health was the single biggest issue raised in the children's report. It was referenced in relation to school pressures and CAMHS services, and more specifically, around waiting lists and quality of services. Due to the significance of this issue the OCO decided to look at it further. In December 2022, we commissioned a survey to gather some more information from children to help us better understand their experiences, concerns and suggestions for supports and services. *A Piece of my Mind* surveyed 2,166 children aged 12-17.

A Piece of My Mind found that six in ten children who attended Child and Adolescent Mental Health Services (CAMHS) in the past year had difficulty accessing the service, with nearly half of them (42%) saying the service that they finally received didn't help with their mental health issues.

Of the children who took part in the online survey, 6% were using CAMHS at the time, with 12% having accessed CAMHS at some time. Children identified long waiting times as the biggest challenge in accessing CAMHS and many found that when they were seen, the service failed to address their needs.

It is significant that 78% of children surveyed say they have experienced some mental health difficulties. The top five causes of mental health difficulties for children were pressure in school (74%), body image (65%), friendships or relationships (61%), social media pressure (48%) and bullying (47%). More girls than boys struggled with their mental health (55% to 44%), while of the 6% of non-binary children or those who identified as other, almost all (94%) said they had some sort of mental health difficulties.

Nowhere to Turn – children with complex needs with no residential places

Our *Nowhere to Turn* report highlighted the plight of some children with complex disabilities, whose parents are making the agonising decision to leave them behind in hospitals, residential centres and special schools because they can't access the adequate supports and services they need to be cared for at home.

This failure by the State impacts a child's right to grown up within their families and can often result in children remaining in inappropriate settings for weeks or months without an adequate alternative placement option. *Nowhere to Turn* followed on from our 2020 investigation into the case of Jack, a little boy who acquired profound disabilities following a car accident, and was left in a hospital setting for over two years beyond medical need.

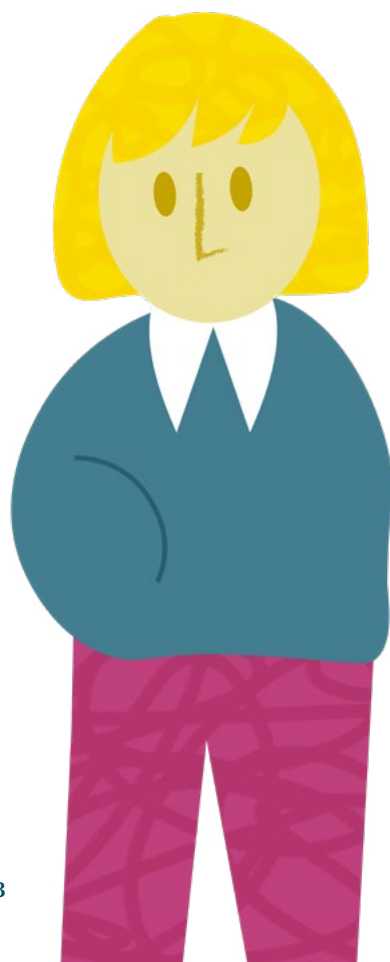
While Jack is now doing well, the failure of the HSE to fully implement all our recommendations arising from his case, means that other children and their families are still not receiving the appropriate supports and services they need.

These recommendations included developing an assessment process to determine the needs of the child, providing a specific support package for them, and ensuring there is ring-fenced funding for these services. We also asked the HSE to ensure they have a range of placement options for medium and long term if children cannot return home.

As a result, the OCO has continued to receive complaints from parents of children who, like Jack, due to a lack of strategic planning, are stuck in the wrong setting for too long or left without the right support.

Scoliosis Treatment for Ivy

In June 2021 the Ombudsman for Children's Office (OCO) published an investigation into the effectiveness of the HSE multi-disciplinary planning process by Children's Health Ireland (CHI) at Temple Street in providing scoliosis treatment. Our investigation centred on the case of Ivy who had been waiting for spinal fusion surgery for scoliosis for five years since 2016. At that time, she was 12 years old. Ivy, who was born with cerebral palsy, experienced major deterioration in her spinal curvature, going from 30 to over 135 degrees. When Ivy and her family came to us, after previously raising their concerns a number of times with their GP, Ivy's consultant and CHI, they told us how the uncertainty surrounding her surgery impacted every aspect of Ivy's life, physically and mentally. They also explained the distress the whole family suffered because of Ivy's worsening spinal deformity and the impact on her overall health and ability to function and ability to attend school. Ivy eventually received surgery in 2021, significantly reducing her pain levels and improving her quality of life.



When we investigated Ivy's case we found that the administrative actions of CHI had a negative impact on her life. What we found was that CHI failed to appropriately communicate with Ivy herself, and her family about her medical care planning. We found that the poor communication breached the hospitals own policies and procedures for managing waitlists and engaging with patients and their families. We also found that the hospital failed to properly address a complaint made by Ivy's father on her behalf about these matters.

We recommended CHI undertake an audit of the waiting list for children's scoliosis care, to be assured that the data and information is current, up to date and valid. We proposed that CHI reform the process where reviews of patient care can be initiated by the patient/family/caregiver/GP or others involved in the patient's care. We asked that this investigation statement be shared with the HSE and other interested parties so there would be learning taken from Ivy's negative experiences. Finally, we recommended CHI undertake an audit of the complaints handling policy and practices at CHI.

Review of progress made by CHI on the Recommendations

In 2024 the OCO will be reviewing with all stakeholders the progress made by CHI on the agreed recommendations.

Promoting the Rights of Children Arriving in Ireland

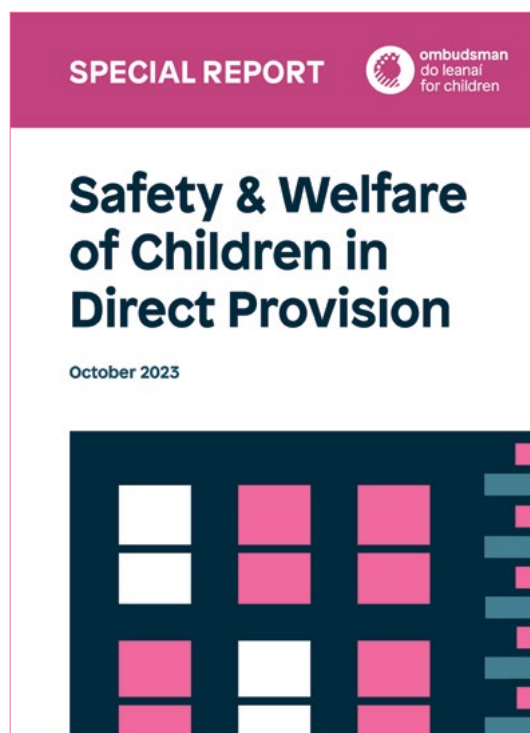
OCO Special Report on the Safety and Welfare of Children in Direct Provision

For the first time since the Ombudsman for Children's Office was established in 2004 to the OCO published a Special Report on the Safety and Welfare of Children in Direct Provision in October 2023. This was laid before the Houses of the Oireachtas under section 13 (5) of the Ombudsman for Children Act 2002, when the Ombudsman is not satisfied with measures taken in response to an investigation. The Special Report followed a previous OCO investigation into Direct Provision in 2021 and was prompted by concern that a crisis driven response from Government since then has made the situation worse for children living in Direct Provision. Our Special Report included three main calls to action:

- Cease the use of commercial hotels and plan for accommodation capacity pressures
- Put in place a robust quality assurance mechanism
- Assess vulnerability of children in the international protection process

The Special Report was launched at a press conference in Buswells Hotel in Dublin by 'the Ombudsman for Children, our Director of Investigations Nuala Ward and CEO of the Irish Refugee Council, Nick Henderson. In November 2023, a Private Members Motion on the OCO's Special Report was debated in Dáil Éireann.

5.



'History will not judge us well': Children unsafe in Direct Provision, Ombudsman warns

Irish Independent

News Opinion Business Sport Life Style En

Stop putting asylum children in hotels, Children Ombudsman tells Government in scathing criticism of direct provision system



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Special report on concerns for children in Direct Provision submitted to Oireachtas

Unaccompanied Minors from Ukraine

In 2023, the Participation and Rights Education Unit visited three locations where children from Ukraine were living, without their parents. In total we met 50 Unaccompanied Minors from Ukraine. We held four rights awareness sessions with the children to ensure that they understood their rights under the UNCRC and what they were entitled to while in Ireland. They told us about their concerns for their families and their hopes for life in Ireland. Some of the children were in school or college

in Ireland while others were continuing their education remotely from Ukraine. Most of the children were happy with the care that they were receiving in their residential homes and were grateful for the support that they were receiving from Social Care Workers. However, many were very fearful of what would happen when they turned 18 and were no longer eligible to live in residential care facilities and entered mainstream Beneficiaries of Temporary Protection accommodation. This caused a great deal of anxiety and fear among the children. The OCO raised these concerns with the relevant Departments and will continue to work on this issue throughout 2024.

Children's Voices

OCO School Ambassador Programme

The OCO's pilot School Ambassador Programme was launched in 2023, which saw us partner up with two primary schools to raise awareness of children's rights through a variety of fun activities and content creation. We were delighted to work with the Student Council at St Aidan's National School, Tallaght and 5th class students from Rathmore National School in Naas, who were our very first OCO School

Ambassadors. The programme began with a visit to both schools by the Ombudsman for Children to deliver a Children's Rights workshop. There were more visits throughout the year, and our School Ambassadors carried out rights awareness activities in the classroom. They also highlighted the rights that were important to them, which were shared on the OCO's social media channels. At the end of the year, our Ambassador schools were issued with an OCO School Ambassador Programme Certificate of participation. Given the success of the pilot programme in 2023, the OCO School Ambassador Programme will be continued and developed into 2024.

6.





Child Talks 2023

Now in its sixth year, Child Talks 2023 came live from the Helix in Dublin on November 7th and was our biggest to date. Held every year to celebrate World Children's Day, Child Talks is a unique event that gives children and young people a public platform to talk about issues that are important to them. This year we heard from six young speakers, ranging in age from 10-17, whose chosen topics included mental health, being LGBTQ+ in Ireland, vaping, neurodiversity in schools and access to STEM subjects for girls. The event was attended by almost 1,000 schoolchildren from Kildare, Dublin, Wicklow, Cork, Westmeath, Mayo, Roscommon and Meath. Child Talks was also viewed in classrooms

across Ireland on our OCO livestream. The event was presented by Mark Langtry the Science Guy and our past speaker Sophia Mulvany, with special performances from Matilda's Alisha Weir, Michael Moloney from the Late Late Toy Show and two young DJs from Music Generation. We also had content creator and TikTok star India Sacha filming behind the scenes content for our social media channels. Recruitment began online and through local radio ads for Child Talks in early 2023 and children from across Ireland applied to take part. The OCO team also got out and about to schools around Dublin to spread the word and invite school students to apply. The OCO worked with our six chosen speakers, with the support of the Dublin Story Slam, to help them.





Foxford teenager takes part in Child Talks 2023

Eoin Murphy, aged 16, from Foxford, was one of six young speakers to take to the stage at the Helix in Dublin last month for Child Talks 2023, the annual World Children's Day event hosted by the Ombudsman for Children's Office.

Almost 1,000 schoolchildren from Kildare, Dublin, Wicklow, Cork, Westmeath, Mayo, Roscommon, and Meath attended Child Talks, now in its sixth year.

This year's speakers ranged in age from 10 to 17 years and their chosen topics included mental health, being LGBTQ+ in Ireland, vaping, neurodiversity in schools, and access to Stem subjects for girls.

Presented by Mark the Science Guy and past speaker Sophia Mulvany, there was also live entertainment from special guests *Matilda*'s Alisha Weir and singer Michael Moloney from the *Late Late*



Foxford teenager Eoin Murphy speaks at Child Talks 2023.

Dublin Story Slam, worked with the young people involved to help them tell their stories.

For his talk, Eoin spoke

journey as a country on talking about sensitive topics such as this but we need to go further.

Ombudsman for Children

What aspect of the event did you find the most enjoyable/memorable?

All speakers were absolutely brilliant, and our students really enjoyed the whole atmosphere of the event.

The atmosphere was great, the students involved spoke really well and facilities were excellent

The Children's Personal Talks were so inspiring. The entertainment was also very enjoyable.

Positive atmosphere, diverse topics presented, wonderful for young people to see peers on a big stage speaking from the heart.

Student Speeches

OCO Youth Advisory Panel

The OCO Youth Advisory Panel (YAP) was established in 2020 on a pilot basis and following a review carried out in 2023 the YAP has been fully integrated into our work programme. The YAP will continue working closely with the OCO to influence our work and to ensure children's voices are heard on issues affecting them. The YAP is made up of 20 young people from a range of backgrounds all over Ireland. During 2023 they primarily worked on the follow-up to *Pieces of Us*, the children's report submitted to the UN Committee on the Rights of the Child.

Luke's experience as a member of the OCO YAP

Hi my name is Luke, I'm 16 and I live in the inner city of Dublin. I've been part of the OCO YAP since early September 2023. When I first joined I wasn't fully aware of all the rights we have as children but I was eager to learn.

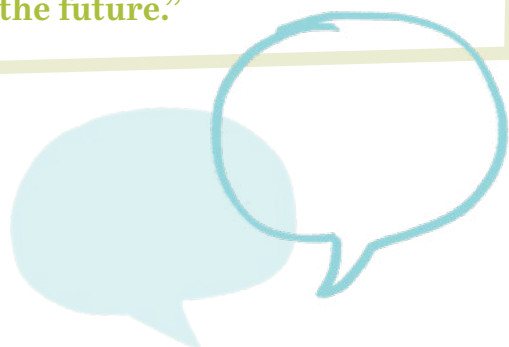
The OCO YAP aims to protect the rights of all children living in Ireland. Being a part of the YAP has been a great experience. From meeting new people and seeing the amazing work that is done like *Pieces of Us* which is a report that highlights the voices of 5,715 children who participated. Everybody who works with or on the youth advisory panel has been extremely welcoming, kind, supportive and helpful. This was great for me as a new member as I was easily able to make friends. The OCO YAP is a great space where everyone feels comfortable and accepted. No matter who you are or where you're from the OCO YAP is a great place to share your ideas with likeminded individuals. Being part of the YAP is great and I constantly look forward to the meeting with my friends.

As part of the YAP we have regular meetings where we discuss the rights of the child and issues we face every day. These issues can vary from lack of teacher training in schools and other areas, lack of disability accessible spaces in sports clubs, schools and after school clubs. This is great as we have people from all walks of life with their own individual experiences on the YAP. This diversity allows us to deal with each situation to the best of our ability. During any of these meeting we can also address separate concerns of our own which we'd like to address. I use these moments to educate myself on the experiences of other children elsewhere in the country.

EU Participation Platform

As part of the EU's commitment for children to lead happy and healthy lives and based off feedback from thousands of children they created the EU Strategy on the Rights of the Child. This strategy focuses on children providing their opinions and participating in decision making processes, the participation platform allows a safe space for this. The platform is for all under 18's living in the EU and has four parts. The members are children and organisations working for children's rights, the children's panel is composed of 10-20 children to advise the work of the platform, the advisory board has adults and children from EU organisations that support children's participation and lastly the platform secretariat consisting of professionals and experts to ensure the platform runs how everyone wants it to. Our YAP member Toby explains their involvement:

"My experience with the EU participation platform was very informative, educating me on the thoughts and opinions from young people from across the European Union and not just the young people from Ireland. Building a European participation platform gave me more perspective on how to grab young people's attention. And the icebreakers we did together made it easier to work together. It brought me more passions and ideas on how I want to work on children's rights across Ireland and the European Union in the future."



Child and Youth Participation Awards

The Participation and Rights Education Team continued to support the work of the Child and Youth Participation Awards, alongside our partners, Tusla, the Children's Rights Alliance, Gaisce, Hub ná nÓg and the Department of Children, Equality, Disability, Integration and Youth. Representatives from our team assisted the awards process by sitting on the Steering Group and the Evaluation Committee. The Child and Youth Participation Award recognises good quality work by services and projects in supporting children's participation in decision-making. The award is given to those who show that they have met the four criteria of the Lundy Model of Participation. The awards ceremony for successful applicants was held in October in the Lighthouse Cinema. It was a joyous event and a pleasure to meet the participants of the wonderful projects from across Ireland.

Student Voice in Education

In late 2022, the DoE published its whole education approach to preventing and addressing bullying in schools: Cineáltas: Action Plan on Bullying. One of the key actions in Cineáltas is to establish a dedicated unit in the DoE to promote the voice of children and young people and to ensure that they have meaningful input into the development of Department policy. The Participation and Rights Education team joined an independently chaired Expert Group on participation of children and young people in the to advise the Department on how best to progress this commitment. The Expert Group examines how the DoE currently fulfils its obligations under the UNCRC and identifies existing structures, systems, processes, and practices across the Department that ensure participation and the voice of children informs policy and service oversight. The Expert Group also makes recommendations on further actions to assist the Department in developing policy and practices that support the participation of children and young people.

Children in the Justice System

Concerns about Expert Reports in Family Law Proceedings

Serious concerns about expert reports in family law proceedings was an issue that came to the OCO in 2023. We engaged with the Department of Justice as we were concerned about:

- an absence of regulation and oversight of experts
- a lack of transparency about experts' qualifications
- inequitable, inconsistent and ad hoc access to expert reports for some parents
- the sometimes poor quality of the reports
- excessive delays in delivering reports to the court.

There is evidence that, among some experts, there is a lack of expertise and training on the dynamics of abuse and coercive control in the context of custody and access arrangements. We have also been made aware of a failure to recognise children as victims of domestic violence, including as witnesses of domestic violence and abuse in the family.

The OCO welcomed the commitments made in the Third National Strategy on Domestic, Sexual and Gender-Based Violence (DSGBV) Implementation Plan and in the Family Justice Strategy 2022-2025 to establish a working group to review the effectiveness of the current arrangements for hearing the voice of the child in private family law cases. We also welcomed commitments to develop professional criteria, accreditation and regulation of court experts and assessors appointed by the courts to include training on children's rights, DSGBV analysis and child friendly communication, and, as a first step, to examine the role of expert reports in the family law process.

7.



We requested updated information from the Department about the working group's establishment, composition and programme of work, which was not available at the time. We also encouraged the Department to ensure that the ongoing review took into account children's rights standards, including the UNCRC, the Council of Europe Istanbul Convention and guidance provided by the Committee on the Rights of the Child in its General Comments.

Third Domestic Sexual and Gender Based Violence Strategy

The OCO was approached by the Department of Justice requesting independent oversight of the elements of the third Domestic Sexual and Gender Based Violence Strategy that relate to children. Funding to allow the OCO to provide this oversight has not been forthcoming and therefore we have not been able to fulfill this role. We are concerned about the impact this will have on the children who are being subjected to domestic or sexual and gender based violence.



Children's Rights in the Digital Environment

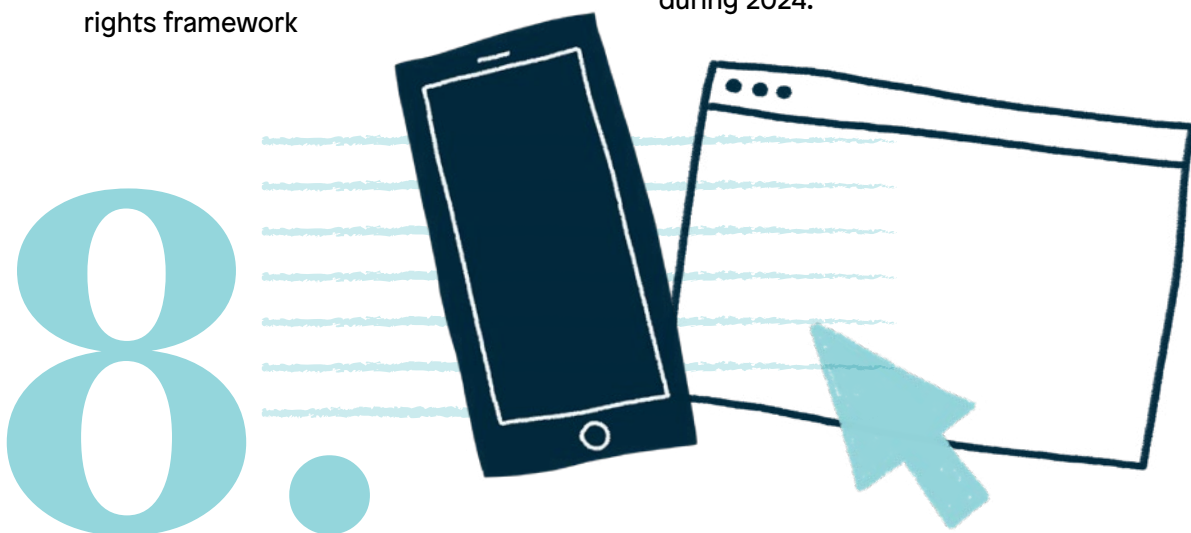
Ireland's First Online Safety Code

During 2023, the OCO continued to engage with developments relating to children's rights in the digital environment. Following its establishment in March 2023, Coimisiún na Meán invited submissions from the public on the development of Ireland's first online safety code for video-sharing platform service (VSPS) providers.

- In our [submission](#) we noted that the code presented a significant opportunity to set an important precedent by adopting and promoting a human rights-based approach to the regulation of online safety. Our submission made a number of recommendations for the code, including that Coimisiún na Meán should:
- situate the code within a human rights framework

- ground the code in cross-cutting, rights-based principles
- require VSPS providers to conduct child rights impact assessments
- ensure age verification requirements respect children's rights
- ensure that parental controls respect children's evolving capacities
- require VSPS providers to provide child-friendly and easily accessible information to children and their parents
- require VSPS providers to establish child-friendly complaints processes.

The OCO welcomed the publication of the draft code in December 2023. The OCO will continue to monitor and engage with the development of the code and matters relating to online safety during 2024.



International Engagement

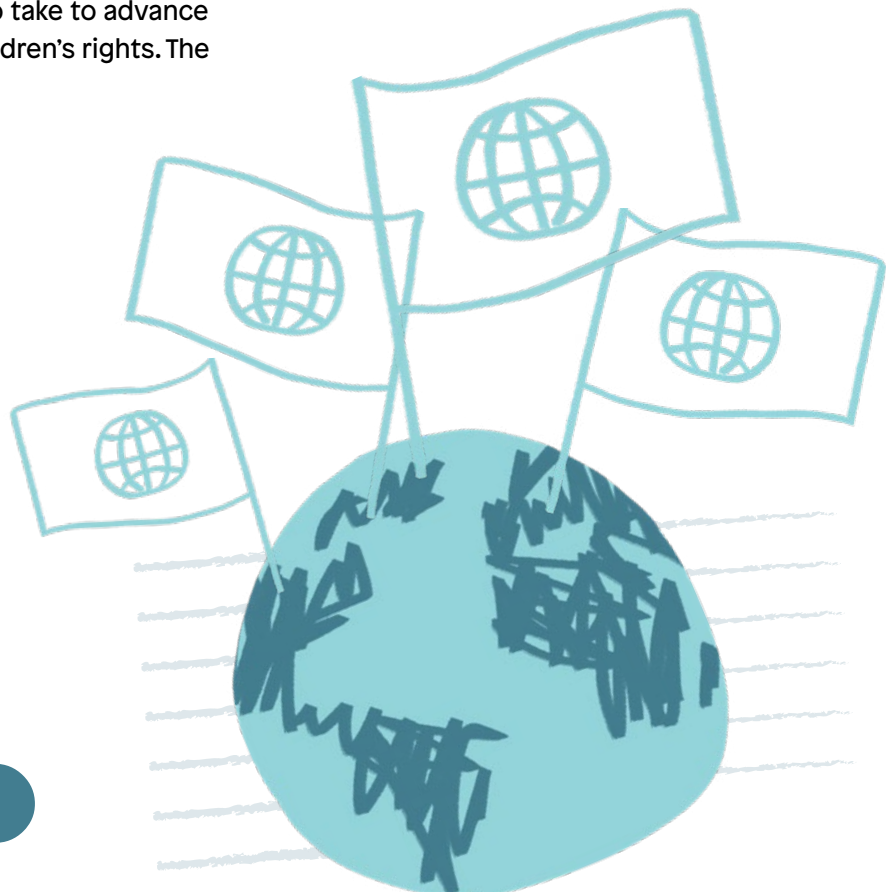
UN Committee on the Rights of the Child Monitoring and Reporting Process

The Irish State reported to the UN Committee on the Rights of the Child in 2023 as part of their monitoring and reporting procedure. This is an important opportunity to assess how Ireland is doing in meeting its obligations in relation to children's rights under the UN Convention on the Rights of the Child. In our alternative report, we highlighted areas of concern to the Committee and made recommendations about actions the State needs to take to advance the implementation of children's rights. The

Concluding Observations, which were published in February 2023, contained a significant number of recommendations on the areas of concern we had raised with the Committee. A detailed report on the OCO's participation in this monitoring and reporting process which was prepared in 2023 is available [here](#).

Since 2021 the OCO, along with our YAP, have carried out a significant body of work in relation to the UN Committee on the Rights of the Child monitoring and reporting process. The OCO engaged with a wide range of stakeholders, most importantly children.

9.



Our work has included:

2021

- 5,515 children completed online survey and 200 children took part in 23 focus groups

2022

- YAP and OCO staff co-analysed, wrote and submitted *Pieces of Us* the Children's Report to the United Nations Committee on the Rights of the Child
- OCO staff prepared and submitted an Alternative Report to the UN Committee on the Rights of the Child
- YAP and OCO staff developed website and videos to accompany *Pieces of Us*
- YAP travelled to Geneva to present to the UN Committee on the Rights of the Child. 2,166 children surveyed about mental health, the single biggest issue identified in *Pieces of Us*
- Ombudsman for Children and OCO staff travel to Geneva to meet with the Committee on the Rights of the Child for the pre-session.

2023

- YAP held a Policy Makers Round Table ahead of Ireland's Constructive Dialogue
- Ombudsman for Children and OCO staff travel to Geneva for Constructive Dialogue
- OCO hosts screening of Constructive Dialogue for stakeholders YAP and OCO publish *A Piece of My Mind*, the mental health survey 100 children attend a children's conference called *Pieces of Us – What's Next?*

2024

- Publication of *Pieces of Us – What's Next?* report

Pieces of Us – *What's Next?* Event and Report

In July 2023, over 100 children attended a children's conference on the Concluding Observations which was hosted and facilitated by our YAP. Children from across Ireland came together to consider the UN Committee on the Rights of the Child's recommendations and to give their views on what needed to be prioritised to meet these recommendations. Some of the suggestions made by children included changes in teacher training, more widely accessible leisure facilities and community events to tackle discrimination. A report on the findings from the event was published in January 2024.

Our YAP member Chris explained his experience:

"The event '*Pieces of Us - What's Next?*' took place in Croke Park and the atmosphere on the day was truly on par with an All-Ireland Final. The OCO Youth Advisory Panel (YAP) had been preparing for the past few weeks, rehearsing tirelessly, ensuring that we had a smooth running show on the day.

Our brilliant hosts Karolina and Méabh took to the stage and welcomed everyone to the conference. We had children come from all parts of Ireland with different groups, ethnicities, nationalities, genders and abilities all taking part.

Alongside our Ombudsman, Dr Niall Muldoon, we even had Philip Jaffé fly all the way over from Geneva and take part in the event too! Philip Jaffé is on the UN Children's Rights Committee.

Every YAP member got to take part in the event, speaking on the various topics that had been presented to the UNCRC. The YAP members spoke so eloquently and were shining examples to everyone there.

After lunch all the adults were instructed to leave the room aside from the facilitators. Every YAP member (and a few former ones) hosted different discussions around various topics directly with the children.

The YAP heard every child's concern and hopes around issues facing children in Ireland today. We will work hard with the Ombudsman for Children to get the Government to implement changes children want.

What a day it was!! Everyone who took part should be so proud of themselves for the impact they have made."

OCO Report to the UN Committee on Economic, Social and Cultural Rights

In 2023, the OCO expanded its engagement with international reporting mechanisms by preparing its first report to the UN Committee on Economic, Social and Cultural Rights as part of this Committee's periodic examination of Ireland's implementation of the International Covenant on Economic, Social and Cultural Rights. In our [report](#) we highlighted:

- Government expenditure allocated to children
- Discrimination against children
- Habitual residence condition
- Childcare
- Domestic violence
- Child poverty
- Adequate housing
- Deinstitutionalisation of children with disabilities
- Physical health
- Mental health
- Availability, accessibility and quality of education
- Inclusive education

The Committee's [2024 Concluding Observations](#) will be a valuable resource in holding the Government to account and in seeking positive change for children as we seek to fulfil our role to promote and protect the rights of children in Ireland.

ENOC Working Group on the Independence of National Children's Rights Institutions

The OCO is a member of the European Network of Ombudspersons for Children (ENOC), which consists of 44 Ombudspersons and Commissioners for Children in 34 countries across Europe. ENOC is a not-for profit association of independent children's rights institutions (ICRIs) with a mandate to facilitate the promotion and protection of children's rights, as set out in the UN Convention on the Rights of the Child.

The thematic focus of ENOC's work in 2023 was the 'Role of Independent Children's Rights Institutions (ICRIs) in the Protection and Promotion of the Rights of the Child.' The OCO contributed to ENOC's activities by participating in a working group about this theme, and by taking part in an ENOC seminar in Stockholm in May 2023. This seminar focused on the role of ICRIs in the protection and promotion of the rights of the child, but also involved information sharing by ENOC members in relation to upholding children's rights in crisis and emergency situations, including the situation of children from Ukraine.

In September 2023, the OCO participated in ENOC's 27th Annual Conference in Brussels, entitled "The Strength of Independent Children's Rights Institutions: Upholding Children's Rights in Europe." The Annual Conference addressed the main findings of [ENOC's 2023 Synthesis Report](#) on "ICRIs: a study of good practices for promoting and protecting children's rights." At the conference, ENOC's European Network of

Young Advisors (ENYA) played an active role and made specific [policy recommendations](#) on the role of children's rights institutions. The [2023 ENOC Position Statement on Strengthening ICRIIs and recognising their unique role](#) was endorsed by ENOC's 27th General Assembly.

Meeting with the Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities

In September 2023, the Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities visited Ireland as part of their monitoring process. We met with the Committee and raised the lack of data around children in the Traveller and Roma communities; housing issues faced by Traveller children, including the OCO's *No End in Site* Report; the lack of specific educational supports for Traveller and Roma children; the over-representation of Traveller children being placed on reduced timetables; and the significant impact of the Covid 19 pandemic on children in the Traveller and Roma communities.

We await the publication of the Committees report which will provide a valuable overview of the lives of Traveller and Roma children in Ireland.

Ombudsman for Children Act

Review of the Ombudsman for Children Act 2002

An **independent review** of the Ombudsman for Children Act 2002, commissioned by the OCO, was published in December 2022. In 2023 work commenced to progress recommendations in the report.

The priority recommendations for the OCO include:

- Extension of the OCO's statutory complaints function to:
 - > young people aged over 18 in aftercare
 - > young people aged over 18 in Oberstown.
 - > privately owned early learning and childcare settings in receipt of State funding

- Repeal of section 9(2) of the 2002 Act, which, if commenced, would preclude complaints about the administrative actions of schools being investigated by the OCO unless local complaints procedures in schools have already been availed of and exhausted.

Discussions are ongoing with colleagues from the DCEDIY to identify how best to bring about the required legislative change to extend our statutory complaints function.

10.



Mainstreaming Children's Rights in National Policy

Low Pay Commission on the National Minimum Wage (July 2023)

Children engaged in employment are currently not entitled to the national minimum wage. Instead, the National Minimum Wage Act 2000, as amended, permits children under 18 years to be paid a sub-minimum rate of 70 per cent of the full minimum wage. Following a request from the Minister for Enterprise, Trade and Employment in 2022, the Low Pay Commission is examining the retention or removal of the sub-minimum rates of the national minimum wage.

In July 2023, we made a [submission](#) to the Low Pay Commission highlighting Ireland's children's rights obligations that should be considered in examining the sub-minimum rates that apply to children under 18. We also outlined the concerns

raised by international monitoring bodies, including the UN Committee on Economic, Social and Cultural Rights and the European Committee on Social Rights, in relation to the sub-minimum rates in Ireland. Our submission encouraged the Low Pay Commission to ensure that its recommendations are in line with Ireland's international and European rights obligations and corresponding guidance.

Since our submission, the Commission published its 2023 Annual Report which noted that it would be submitting a report to the Minister for Enterprise, Trade and Employment on sub-minimum rates before the end of 2023. The OCO will continue to monitor developments arising from the Commission's examination of sub-minimum rates in 2024.

11.

Children's Rights in Brief Pilot Project

In 2023, the Ombudsman for Children's Office commenced a pilot project to strengthen awareness of children's rights among civil servants by producing and disseminating a series of short briefing papers on children's rights. The aim of these briefing papers is to provide information on children's rights under the UN Convention on the Rights of the Child for civil servants whose work impacts on children, whether directly or indirectly, and to support them to give consideration to children's rights in the context of their work.

Three briefing papers have been prepared for inclusion in the pilot phase of this initiative:

- 1. The UN Convention on the Rights of the Child**
- 2. The best interests of the child**
- 3. Respect for the views of the child**

The OCO has identified and contacted divisions in a number of Government departments to participate in this pilot phase. Once feedback is received from those participating in the pilot, we will work to further develop the series. These papers will be available on the OCO website following the end of the pilot phase and it is anticipated that new papers focusing on a variety of children's rights will be developed on an ongoing basis.

Running of the Office

Budget 2023

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 2023, our budget was €3.9 million (2022: €3.495 million) which was fully drawn down by the year end.

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 2023 accounts will take place in May and June of 2024 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 2023 were submitted for audit by the Office

of the Comptroller and Auditor General by 31st March 2024. Once approved by the Comptroller and Auditor General, the Financial Statements for 2023 will be published on the OCO's website, as has been done in previous years. Mazars Chartered Accountants provided our internal audit function for 2023. Mazars undertook a review of internal controls in Q1 of 2024 (for 2023) and a review of our complaints and investigations policies and procedures in Q3 2023.

The breakdown of our expenditure (after apportionment of corporate services costs including the role of the Ombudsman) is as follows:

47% Complaints and Investigations

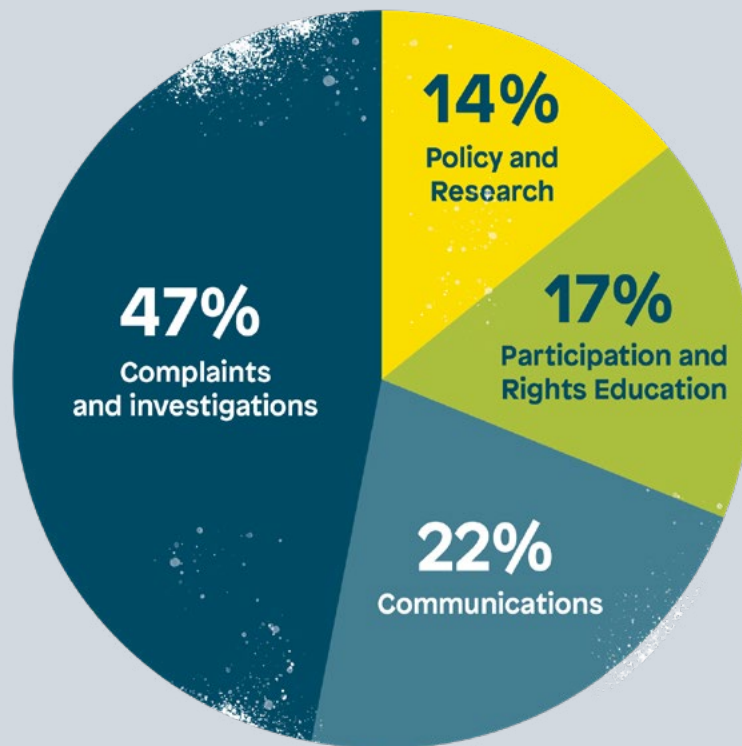
14% Policy and Research

17% Participation and Rights Education

22% Communications

100% Total

12.



Recruitment 2023

At the start of 2023, the OCO had 37 permanent staff members. By the end of 2023, there were 34 permanent staff members. In 2023, we continued to bed down the OCO team, while also looking to progress a structural review and medium term plan for growth.

OCO ICT Infrastructure

Since 2021, the Office is supported by the Office of the Government Chief Information Officer (OGCIO) for our desktop requirements.

We continued to update our ICT infrastructure in 2023 to ensure we can support workshops and visitors to the Office as well as our outreach work. We also agreed our ICT Strategy for 2023-2026 which is linked to our strategic plan and will remain a live document as we develop our new Office Strategic Plan 2025-2027.

Plain English

Our cross-unit Plain English project got underway in 2023 as part of the OCO's commitment to ensuring our work is accessible. Plain English ambassadors from each team attended training with the National Adult Literacy Association (NALA), with an office wide staff session also run. The OCO's Plain English policy was updated and work will begin in 2024 to acquire the official NALA Plain English mark on some of our materials.

Customer Charter

A cross-unit Working Group was created in 2023 to review and update the OCO Customer Charter in accordance with the twelve Guiding Principles for Quality Customer Service within the Public Service.

Implementing the Public Sector Equality and Human Rights Duty

The Office is committed to fulfilling our Public Sector Duty which is reflected in our Strategic Plan for 2022-2024. Training and upskilling of relevant staff started in 2023. 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 annually in a manner that is accessible to the public.

Freedom of Information

In 2023, we received and processed 13 requests for information under the Freedom of Information Act 2014.

Child Protection and Welfare Obligations

To fulfil our own responsibilities for the protection and welfare of children we have policies and procedures to guide us and have appointed Designated Liaison Officers (DLP's) to ensure any such concerns are dealt with appropriately and that they are reported on to Tusla and or the Gardaí as necessary.

In 2023 our Office received 74 reports where there were child protection and welfare concerns. These reports arising mainly in the context of our complaints handling function and it is noted that a number of those reports related to more than one child. The breakdown of those reports by primary category of abuse was as follows;

There were 22 reports of alleged physical sexual abuse; 18 of alleged sexual abuse; 10 of alleged neglect and 9 of alleged emotional abuse. 15 of the reports related to child welfare concerns.

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 they already have the information and have, or are engaged around those concerns. In 2023 we formally notified Tusla of 14 of those reports we received.

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

Irish Language

The Ombudsman for Children's Office's (OCO) continues to implement our Irish Language Scheme ahead of confirmation of Section 19A, Irish Language Standards, of the Official Languages (Amendment) Act, 2021.

Section 10A of the Advertising by Public Bodies came into effect in October 2022 and the OCO is working to comply with the provisions of this Act.



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 2023, the OCO used 75,078kWh (2022: 103,365kWh) of electricity, a decrease of 27% on 2022. This is due to an increased push internally to ensure that we are being mindful when using a space and only using the necessary lights and turning them off when the space is not in use. We also started swapping out old, less environmentally friendly lightbulbs with newer LED lights that consume less energy.

We have been engaged with Optien on behalf of the SEAI in drafting our Climate Action Plan, as well as reducing our energy use.






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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
www.oco.ie
X @OCO_Ireland

