



“Investigating cases of children in vulnerable situations in the child protections system: the role of Ombudspersons”

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The Ombudsman for Children's Office was established under statutory legislation, the Ombudsman for Children's Act 2002. It is an independent statutory office – debated in the Dáil and appointed by the President. The Office has direct accountability to the Oireachtas (Irish Parliament). The 2002 Act identifies three particular functions of the Office:

1. Independent complaints handling
2. Policy and legislative advice
3. Promotion of children's rights (including the principles and provisions of the UNCRC)

To date the Office has received over 8500 complaints and the patterns and themes which have emerged throughout are striking. The information obtained through the receipt, examination, and investigation of complaints by the Office continues to provide valuable insight into the experiences of children and families in dealing with public services. Due to the volume of complaints it is essential that my Office is strategic in selecting cases that will receive a better systemic result. In addition to my Office's own experience, a piece of baseline research commissioned by my Office on the obstacles to the realisation of children's rights in Ireland identified the lack of a child-focused platform on which policy, practice and decision-making can be based as a major barrier to guaranteeing that children's rights are respected . The report pointed out that children without parental care represented a particularly vulnerable group. Under the cluster of Family, Environment and Alternative Care from the UNCRC my Office targeted its work in this area.

I intend to discuss three key pieces of work completed by my Office:

1. St Patrick's Institution
2. Separated children project
3. Children in the care of the State

1. St Patrick's Institution

St. Patrick's Institution is a closed, medium security prison in Dublin for 17-21 year olds. Office wanted to hear directly from young people under 18 detained in the Institution about their experiences of and perspectives on their detention. Of the 32 young people OCO initially met to introduce the project, 22 decided to take part in the project. Young people took part in regular group interviews and drawing sessions to share their views on different aspects of their detention in the Institution.

Project outputs:

- a **project report** detailing OCO's findings and recommendations;
- a **film** presenting young people's perspectives on their detention, based on views they expressed during the group interviews and using the drawings they completed as part of the project (on OCO's YouTube channel) OCO Ireland.

Outcomes

The Government has committed to ending the practice of detaining young people in St. Patrick's Institution and has put in place transition arrangements to move those under the age of 18 from a custodial to a care model. The budget for these developments has been ring-fenced. The OCO's investigatory remit has been expanded. A recent report by the Inspector of Prisons confirmed that the serious concerns raised by the young people who worked with the OCO remain current and valid.

2. Separated children project

48 young people participated in a project open day at OCO in April 2009. 35 young people took part in project groups to share their experiences and concerns on a range of issues relating to their care in Ireland.

Project outputs

They young people worked to develop:

- an **Orientation book**, which introduces Dublin to separated children arriving in Ireland;
- a **Story Book**, with accompanying audio which tells separated children's stories in their own words.

A **project report** detailing OCO's findings and recommendations including:

1. Best interests of the child
2. Non - discrimination
3. Independent inspection
4. Missing children
5. Asylum process
6. Education
7. Absence of an independent Guardian / Adviser
8. Communication of concerns
9. Aftercare
10. Out of hours support

Outcome

The practice of accommodating separated children in inappropriate hostels in the absence of care staff ceased shortly after the publication of the OCO's report. Separated children in Ireland today are largely cared for in foster families. Some issues still remain in relation to access to aftercare services for separated children who 'age out'.

3. Children in the Care of the State

In 2009/10 my Office undertook the first national investigation into the implementation of the *Children First: National Guidelines for the Protection and Welfare of Children*¹ which resulted in

¹ Children First is the national guideline on child welfare and protection. It sets out specific protocols for HSE social workers, police and other front line staff in dealing with suspected abuse and neglect of children.

several findings of unsound administration against the relevant public bodies and 22 recommendations by my Office to improve the system. While some may claim that practice on the ground in Ireland is good, in the absence of any internal or external audit we could not know this for sure. In the 11 years since the introduction of the *Children First* guidelines, case files from only one part of the country, and only on one occasion, have been audited to assess implementation on the ground. The result of that audit was worrying and yet did not prompt any further action nationally.

My investigation examined a time period when health and social services were undergoing fundamental reform, in particular with the creation of Ireland's health service under which child protection falls. It is recognised nationally that the health service is a complex organisation, but it is also recognised internationally that change is a constant in any health service. My investigation examined how children fared in the context of this wider reform.

What progress has been achieved in recent years in this area?

The report concludes from this investigation that at times child protection services were not given priority in this reform process. While it is acknowledged that efforts were made to implement *Children First*, critical momentum was lost in 2003. At the same time, it is acknowledged that since the completion of the investigation a number of initiatives, with positive potential, are currently underway. It is important that this potential is realised. To date, there has been no shortage of analysis of what the problems are, but far less action to tackle them.

One of my recommendations included whether child protection services are best delivered within the context of the HSE and I am happy to report that since January of this year a new Child and Family Agency has been established which has a statutory obligation for child protection and welfare. The Government is currently in the process of redrafting the General Scheme of the Children First Bill in order to place Children First on a statutory footing. Using the knowledge amassed from investigations, my Office engaged with the Department of Children's focused consultations on the Scheme as well as submitting written advice as per my mandate under the Ombudsman for Children Act. The Bill is expected shortly and when passed will herald a change in the way that organisations working directly with children and young people commit to child protection.

My Office has specific statutory function to advise on the probable effect of proposals for legislation on children. To date I have provided advice on a range of legislation relating to child protection including:

- Proposals to place aspects of the national child protection guidance on a statutory footing;
- Legislation relating to reporting child abuse;
- Vetting;
- Spent convictions.

This advice is informed by the UN Convention on the Rights of the Child, ECHR and other standards, as well as practical experience gained through the complaints and investigations function.

What are remaining/persisting challenges?

My Office has also noted throughout the course of investigations that there continues to be examples of an excessively bureaucratic approach to public decision-making, and often a disconnection between administrative decision-makers and those affected by those decisions. For those children and young people who do not have someone advocating on their behalf they can miss out on the services they are entitled to. In addition to my Office's own experience, a piece of baseline research commissioned by my Office on the obstacles to the realisation of children's rights in Ireland identified the lack of a child-focused platform on which policy, practice and decision-making can be based, as a major barrier to guaranteeing that children's rights are respected. The report pointed out that certain vulnerable groups – including children in the care system, the criminal justice system, Traveller children, homeless children, immigrant and asylum seeking children, children in poverty, and children at risk of abuse or neglect – face multiple barriers to the realisation of their rights, cutting across areas such as family, health, education and material deprivation.

It clearly highlights the imbalance of power that exists in our society, with legislators, decision makers and policy writers through to civil administrators having an influence over the lives of every young person in the State leaving those who are unused to navigating through such bureaucracy powerless. There appears to be few checks and balances in administrative decision-making processes, and few mechanisms for challenging the decision being made or the position adopted. Repeated requests for information, for flexibility or for review appeared to fall on deaf ears. This is indicative of excessive bureaucratisation of public and civil administration.

Some of the key challenges in the Irish system as I see them have recently been identified in a Meta-analysis report my Office published in advance of the setting up of the new Agency. These include:

- Assessment and Care Planning;
- Record Keeping;
- Provision of Residential Care;
- Child Protection for Children in Care;
- Social Work Practice and Supervision;
- Inter-professional and Multi Agency Collaboration;
- Governance arrangements;
- Child Protection of Children in Care;
- Concerns include 2 years to investigate a sexual abuse allegation;
- Children First not implemented in one area until late 2012.

What is required for Assessment and Care Planning?

A multi-agency policy, procedures and a system in place for identifying, referring and responding to situations where young people in care place themselves at risk through their own behaviour.

What is required for Provision of Residential Care?

Children First should be fully applied in respect of children in care when there are child protection concerns including the use of the CPNS in situations where there is ongoing risk for these children

What is required for Record Keeping?

Key concerns included poor quality of Information, accuracy of information, file management; and accessibility of files. This impacts retrieval of information therefore Social Workers and the Child and Family Agency are left exposed.

The new policy on records management needs to be fully implemented, social workers needed to be adequately trained and records need to be audited annually.

What is required for Social Work Practice and Supervision?

Issues OCO highlighted included no social worker allocated for long periods of time, duties not discharged by social workers, difficulties with case transfers; as well as irregular supervision eg a child without a local social work service for 7 years.

Sufficient training of social workers needs to be provided to ensure good quality supervision as well as an annual audit of how policy is implemented.

What is required for Inter-professional and multi-agency collaboration

In both this analysis and over the course of other cases that OCO have investigated, a number of concerns have arisen about multi agency responsibilities for children in care. These include issues in relation to mental health provision, education provision and housing difficulties.

There needs to be a recognition of corporate parenting role across all government departments and state agencies and all relevant service providers. The Child and Family Agency annual report to include reporting on this area and any issues arising – proper method of accountability across all agencies and professionals.

What is required for Governance arrangements?

Key Concerns are:

- Case Transfer Policy;
- Accessing Special Care;
- Inter-professional/agency co-operation

Robust Governance in place to avoid the shortcomings as highlighted in this Meta-analysis.