

# Respecting Children

Annual Report of the  
Ombudsman for Children's Office

April 2005 – December 2006

This is the second Annual Report of the Ombudsman for Children. It has been submitted to the Oireachtas pursuant to Section 13 (7) of the Ombudsman for Children Act, 2002. The report covers the period 25 April 2005 to 31 December 2006.

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### *Who we are and what we do*

The Ombudsman for Children's Office (OCO) was established in April 2004 under primary legislation: the Ombudsman for Children Act, 2002. The Ombudsman for Children is independent of Government and other civil society actors and is accountable to the Oireachtas.

The role of the Ombudsman for Children is to promote and safeguard the rights and welfare of children and young people up to eighteen years of age. The main functions are: to provide an independent complaints handling service regarding public bodies; to promote children's rights, including through participation and communication activities; and to provide research and policy advice to ensure that law, policy and practice meet the highest standards and obligations under the UN Convention on the Rights of the Child.

Emily Logan became Ireland's first Ombudsman for Children in March 2004.

# Message from the Ombudsman for Children

## *Shaping and safeguarding children's rights in Ireland*

It is a very exciting and important time to be the Ombudsman for Children in Ireland. It's a time when social attitudes and opinions are shifting and our population is becoming ever more diverse. These changes are reflected in how people view and treat children and young people. These changes are also reflected in how children themselves think, feel and act. The values, attitudes and behaviour of society are crucial in supporting children and young people to live fulfilled lives.

This is my second annual report. This period of review has been an energetic and exciting time. There has been a growing momentum in terms of public debate about children in Ireland, culminating in November 2006 with An Taoiseach, Bertie Ahern, making a public commitment to developing a culture of respect for children in Ireland and strengthening the position of children in the Constitution. In the latter part of 2006, the Minister for Children began a consultation with key stakeholders to agree a wording for a Constitutional referendum on children's rights.

Against this backdrop of constitutional activity, a changing social environment and a more diverse set of cultural and political beliefs, we need to put children and young people centre stage and ensure that their participation is guaranteed. We need to hear their voices. We need to recognise their unique experiences. We need to respect their views.

In my capacity as Ombudsman for Children I am lucky to front the organisation that is the Ombudsman for Children's Office and I wish to explicitly pay tribute to my committed and loyal team who have worked tirelessly to make sure that this second period of operation has been a success both for the Office and for children. I also want to thank my team of young advisors known as YAP. The current team have been involved with the Office from the beginning and will make way shortly for a new group of young people. I am very grateful for the enormous contribution YAP has made to the OCO.

In terms of the highlights in this reporting period, I include:

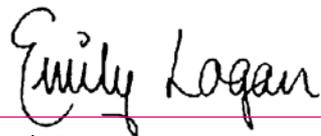
- the endorsement of our work by the UN Committee on the Rights of the Child;
- referral by Cabinet of draft legislation affecting children;
- the direct work with children and young people and a growing awareness of the OCO; and
- an active response by public bodies to our complaints and investigations, which increased from 177 to 790 in that time.

Next year will see the OCO explore the obstacles that prevent the full implementation of children's rights. One of the emerging obstacles is the cultural and attitudinal approaches to providing services to some children and families, approaches that fail to respect children.

While I accept that complaints may not accurately reflect the quality of a service, they can often reflect an organisation's culture and the experience of a child and family. For instance, of much concern to me for this reporting period has been an issue raised by the father of a child with an intellectual disability. The substantive issue is within the remit of the Office but this man did not want my Office to investigate the matter because he was fearful of the system and the possible ramifications for his child. It causes me concern that any parent would feel fearful of any public service system on which they rely.

The Ombudsman for Children's Office was set up to promote the rights and welfare of all children living in Ireland. We have statutory responsibility for this task, but we are by no means working alone in this area. Many others, non-governmental organisations, professionals working with children and some politicians among others, have campaigned tirelessly to create a country where children are listened to, believed and respected.

What role do we all have in shaping an Ireland where children are respected? What role do our nation's children and young people have in shaping those changes? My staff and I are determined that the OCO's contribution will be a meaningful, positive and empowering one.

A handwritten signature in black ink that reads "Emily Logan". The signature is written in a cursive style with a prominent loop at the end of the name.

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Emily Logan  
The Ombudsman for Children

# Policy and Research

## *Driving change. Strengthening children's rights.*

Many children are vulnerable in Ireland today. The OCO uses its policy and research functions to drive change and encourage the development of a society which truly values and respects all its children. Our work is aimed at ensuring that law, policy and practice meet the highest standards and our obligations under the UN Convention on the Rights of the Child. In this way, we aim to contribute to the shaping of a better Ireland for children.

### **The research and policy role of the Office**

The Ombudsman for Children Act, 2002 sets out the policy and research role of the OCO. This role includes:

- Advising Ministers on the development and co-ordination of policy relating to children;
- Monitoring and reviewing the operation of legislation relating to the rights and welfare of children;
- Monitoring and reviewing the operation of the Ombudsman for Children Act and, whenever necessary, making recommendations for amending it;
- Undertaking, promoting and publishing research into any matter relating to the rights and welfare of children; and
- Exchanging information with Ombudsmen for Children of other States.

In addition, the 2002 Act makes clear that the Ombudsman, Emily Logan, may give advice to Ministers on any matter relating to the rights and welfare of children. This includes the important function of advising Ministers on the consequences of implementing relevant legislative proposals and the implications for children and their wellbeing.

During the period under review here, the policy and research work undertaken by the OCO has sought to effect real change at the highest level in the State. We have provided advice on a range of issues following requests from Government or on the Ombudsman's own initiative. The Office has made submissions to Oireachtas Committees and important international bodies to strengthen respect for the rights of children in the State. In order to improve our understanding of the difficulties faced by children and young people in Ireland, the OCO commissioned research into the nature of those difficulties so that practical solutions can be identified and recommendations can be made on how to effectively tackle them.

Here are some selected examples of the OCO's Policy and Research programme of work:

### **Advice requested by Government**

During the period under review, the Government referred three separate pieces of draft legislation to the Ombudsman's Office.

The first set of legislative proposals was the proposed changes to the Children Act, 2001. These included the introduction of anti-social behaviour orders (ASBOs); lowering the minimum age for criminal prosecution in certain cases and the gradual extension of the children detention school system to all children under the age of 18 years. The OCO was of the opinion that these legislative changes could have major implications for the lives of children and young people. Consequently, the Ombudsman's advice submitted to Government in April 2006, focused on the need for compliance with the relevant international human rights standards on juvenile justice.

The second legislative proposal referred to the Office was the Criminal Law (Sexual Offences) Bill, 2006. The Bill was drafted to fill a legislative gap resulting from the decision of the Supreme Court to strike down as unconstitutional a provision of the existing 'statutory rape' legislation. That legislation had criminalised sexual relations with girls under the age of 17 years and allowed no provision for a defence of reasonable mistake as to age in respect of girls under the age of 15.

The decision of the Supreme Court, in what became known as the CC case, led to much public outcry and the swift enactment of the replacement Bill. The implications for children arising from this legislative action were of concern to the Ombudsman for Children's Office. The provisions of the UN Convention on the Rights of the Child guided our advice on the Bill. In that advice, the Ombudsman welcomed certain aspects of the Bill such as the provision to extend protection from exploitation to boys – the previous legislation enacted in 1935 protected girls only. However, Emily Logan also raised a number of concerns including the possibility that children could be prosecuted under the terms of the new bill; that child victims might be subjected to damaging court proceedings; and that a provision extending immunity from prosecution to girls was discriminatory against boys. This advice on the Bill was submitted to Government on 1 June 2006.

The Trafficking Bill was the third legislative proposal referred to this Office. The Ombudsman's advice on this Bill will be submitted to Government in early 2007.

### **The OCO's pro-active advice to Government**

In addition to referrals from Government seeking opinion on proposed legal change, the OCO provided advice to Government on the Office's own initiative under Section 7 of the Ombudsman for Children Act, 2002. In December 2006, the OCO submitted advice on a proposed referendum on children's rights announced by An Taoiseach in November 2006. Emily Logan had previously called for a change to the Constitution to enhance the protection of children's rights in her submission to the All-Party Oireachtas Committee on the Constitution in January 2005 and in her report to the UN Committee on the Rights of the Child in April 2006.

In the Ombudsman's advice on the proposed constitutional referendum, Emily Logan called for change to Articles 40, 41 and 42 of the Constitution aimed at providing explicit protection for the rights of children and the rights of all families. In summary, the OCO called for:

- the inclusion of a provision that, in all actions concerning children, the best interests of the child must be a primary consideration and – in child protection matters – the paramount consideration;
- the inclusion of a provision setting out explicit rights for children including the right to family care;
- an end to the practice of treating differently children from non-marital families to those from marital families; and
- a reformulation of the grounds upon which the State can act to protect children.

### **Submissions to Oireachtas Committees**

During 2006, the Ombudsman made two formal submissions to Oireachtas Committees. Her submission to the Oireachtas Joint Committee on Health and Children on child protection concerns is referred to in Chapter 3 of this Report dealing with the complaints function of the OCO (see page 18).

In August 2006, the OCO made a written and oral submission to the Oireachtas Joint Committee on Child Protection. The Committee was established in July 2006 in the wake of the Supreme Court decision in the CC case and the subsequent enactment of the Criminal Law (Sexual Offences) Act, 2006 which criminalised sexual relations with children under the age of consent.

In the OCO's submission, the Ombudsman focused on the probable effects on children of the newly enacted law. The Ombudsman's principal concerns regarding the 2006 Act were that it could expose children to damaging court proceedings. Under its provisions, there was nothing to stop a defendant

asserting a defence of reasonable mistake as to age from directly cross examining a child witness. The Ombudsman recommended that steps be taken to protect child witnesses including: the admission of video-recorded evidence by a child; prohibiting cross examination of a child by a defendant; the presence of intermediaries to support children in the court room; pre-trial preparation measures for children and training for all personnel working with children in the criminal justice system.

The Ombudsman also noted in her submission that a confluence of important issues: the Supreme Court decision in the CC case; the enactment of the 2006 Act; and the public debate on the child protection issues at the heart of the CC case; all indicated the need for a constitutional referendum to include explicit rights for children in the Constitution.

### **Contribution to the reporting process to the UN Committee on the Rights of the Child**

In September 2006, the UN Committee on the Rights of the Child reviewed Ireland's second report under the UN Convention on the Rights of the Child. Ireland ratified the Convention in 1992 and is under an obligation to comply with its terms. This was the second occasion on which Ireland's performance was reviewed. The first took place in 1998.

In addition to the State, other bodies can submit reports to the UN Committee on the Rights of the Child and the Ombudsman submitted her report to the Committee in April 2006. The report focused on particular areas of concern highlighted by children and their families. These were issues on which the OCO had a unique perspective: the need for Constitutional change to ensure respect for children's rights; child abuse; health care; education; disability; poverty; corporal punishment; juvenile justice; and separated children seeking asylum.

In June 2006, the Ombudsman travelled to Geneva and met with the UN Committee at a pre-sessional hearing to provide further information about the key issues and concerns for children and young people in Ireland. Emily Logan returned to Geneva in September 2006 to observe the Committee's formal examination of an official delegation from Ireland headed by the Minister for Children.

At the end of September, the UN Committee published its Concluding Observations on Ireland. In this document, the Committee notes the positive and negative aspects of Ireland's performance under the Convention on the Rights of the Child and makes recommendations to the Government. The Ombudsman for Children's Office will continue to monitor the progress of Children's Rights. The UN Committee's report is appended at Appendix 1.

### International level work

The establishment of the Ombudsman for Children's Office in Ireland was part of a growing international trend towards the establishment of national institutions charged with promoting and safeguarding the rights of children. Ombudsmen or Commissioners for children have now been established in 24 countries in Europe. The vast majority of the Offices have been set up in past decade.

National Children's Ombudsmen and Commissioners work within an increasingly well-defined international context. In 1993, the United Nations General Assembly adopted what are known as 'the Paris Principles' for the functioning of national human rights institutions. The Principles set out the roles and functions of national institutions and children's ombudsmen and underline the requirement that such offices be independent in the exercise of their functions. The Council of Europe in Strasbourg is currently undertaking a three-year programme to promote children's rights and the European Union is in the process of developing its own policy and work programme on children's rights.

In order to link into developments at international level and to share learning with our counterparts in other European countries, a function provided for in the Ombudsman for Children Act, 2002, the OCO became a full member of the European Network of Ombudsmen and Commissioners for Children (ENOC).

The Network, established in 1997, acts as a forum for the exchange of information and best practice. It also supports interaction between national offices and international bodies such as the European Union and supports the development of effective children's rights institutions in Europe. Its principal mission is to encourage implementation of the UN Convention on the Rights of the Child throughout Europe.

During 2006, the Office contributed to the work of ENOC on a number of levels. We actively contributed to the development of the ENOC statutes and administrative structures for the network. This included hosting a meeting for ENOC members in Dublin in May 2006 at which the statutes for the network were adopted. The OCO also contributed to the development of position statements on specific issues and participated at the annual meeting of ENOC held in September 2006.

Closer to home, our Office is also a member of the British and Irish Network of Ombudsmen and Children's Commissioners (BINOCC). This network brings together the Children's Commissioners of England, Northern Ireland, Scotland

and Wales and our Ombudsman for Children's Office here in Ireland. Given the geographical proximity of our operations and the similarity of issues faced in all five jurisdictions, the Network provides a very useful and effective forum for the exchange of information and collaboration on issues of a cross-border nature. In addition to collaboration at Commissioner/Ombudsman level, senior staff in each of the five offices work together on an ongoing basis to develop common policy positions and communications strategies.

In 2006, the Ombudsman for Children hosted the third BINOCC summit in Dublin and participated at the first BINOCC staff conference held in Belfast. The conference was attended by staff from each of the offices involved in the network. In terms of facilitating shared learning and best practice, it was a great success and will be repeated on an annual basis.

For further information on the work of the ENOC and BINOCC networks, please consult the networks' websites:

[www.ombudsnet.org/enoc](http://www.ombudsnet.org/enoc) [www.binocc.org](http://www.binocc.org)

### **Baseline research study on children's rights in Ireland**

In August 2006, the Office commissioned a baseline research study on children's rights in Ireland. The study will be completed in March 2007.

The objective of the research is to identify the principal obstacles to the realisation of children's rights in Ireland. It will identify both the barriers to the exercise of children's rights and those factors that prevent full implementation of children's rights, notably those recognised under the UN Convention on the Rights of the Child.

The research will serve three main purposes.

Firstly, it will help us to see where the major problems are in relation to respect for children's rights. Identifying these problems will help us to design our future research and policy programme and to develop specific activities aimed at overcoming those obstacles.

Secondly, the research will give the OCO a general picture of the state of children's rights in Ireland today against which we can judge progress over the coming years. In this way, the research will act as a baseline or a starting point to be used for future comparisons. It will also help the OCO to identify indicators of change that will be crucial in assessing the efficacy of our work over the coming years.

The baseline research is also an integral part of our three-phase Voice Project. The Voice Project is described in more detail on page 23. In short, the Voice Project will facilitate the participation of children and young people in the development of the priority areas of work for the Office of the Ombudsman for Children over the next four years. The baseline research constitutes the first phase or academic element of the Voice Project.



# Complaints and Investigations

*Solving individual problems. Encouraging change.*

## **Background**

In 1998 the UN Committee on the Rights of the Child called for the establishment in Ireland of an Ombudsman for Children accessible to children and with the power to deal with complaints and to provide solutions. This followed efforts by NGOs and others to establish such an Office to promote and protect children's rights. The Ombudsman for Children's Act, 2002, provides for an independent, impartial complaints handling service. Under the Act, the OCO can look into complaints made by children – or by adults on their behalf – about public organisations, schools or hospitals. This is a free service.

## **How the OCO views and operates its complaints function**

The complaints and investigations service is a core function of the Office. The Ombudsman utilises this power in order to investigate individual complaints where children have been adversely affected and to find solutions. But the Office believes that the execution of this function should be a constructive rather than an adversarial one in order to enable public bodies and organisations to improve their policies, practices and service provision so as to achieve the best possible outcomes for the child making the complaint and ultimately all children in contact with the public body. In this respect, the complaints and investigations function is used as a catalyst to promote positive change and the implementation of models of good practice beyond the individual case under investigation. It therefore allows the Office to have an impact at both micro-level with regards to individual cases and at macro-level by solving systemic difficulties. The Ombudsman views this as especially important given Ireland's failure in the past to respond to the ill-treatment of children.

In making recommendations, the Ombudsman aims to find solutions that are fair, constructive and empowering for all parties. The Office is neither an advocate for the child nor an adversary to the public body.

## **Work to date**

In its first year of operation, from April 2004 to April 2005, the OCO received 177 complaints. The number of complaints has since substantially increased reaching 790 for the period covered by this report.

During this time, the nature and complexity of the complaints have changed. We are witnessing a rise in cases of greater complexity concerning children in vulnerable situations such as child protection; cases of children with limited access to an advocate such as those in care and separated children seeking asylum; complaints involving a wider number of agencies and stakeholders; and

cases that had escalated to a point of conflict where the relationship between the family and a service provider was impaired.

When it is not appropriate for the Ombudsman's Office to investigate a complaint, we will refer the complainant to the appropriate redress mechanisms or the relevant organisation.

### **Sample cases**

Here we provide a number of sample cases in order to illustrate the variety, processes and outcomes of this important aspect of our work.

#### **CASE 1**

##### **The complaint**

A school principal contacted the OCO because he believed that the financial allocation given by the Department of Education and Science to his school to provide for students with special needs was unfair. He asserted that the allocation was based on the school's 2003 enrolment figure and that the Department of Education intended to use this figure as an indicator of need until 2008. The Department told him that it would only review this allocation if the school qualified as a 'developing school'. To qualify for this, the school had to demonstrate a substantial increase in enrolment in one individual year. However, despite the fact that the school had nearly doubled its enrolment since 2003 because it did not reach the target in any one individual year, it did not qualify for 'developing school' status.

The Department said that when it devised the scheme in June 2004, it used 2003 figures, which were the most recent available at that time. They explained that the allocation would not be reviewed for three years to let the scheme settle in.

##### **The outcome**

The Office concluded that it may have been contrary to fair and sound administration for the Department to neglect to take into account the cumulative growth in enrolment. On this basis the Department agreed to review this school's general allocation and agreed to employ two additional Learning Support Teachers.

## **CASE 2**

### **The complaint**

A mother made a complaint that her local authority failed to provide adequate housing for her son who had been diagnosed with a progressive disabling disease. The mother refused a house offered by the local authority on foot of medical advice that the accommodation would not meet her son's specific and changing needs. The Council contended that the house was developed for her son in consultation with his Occupational Therapist. Since 2000, the Council had refused to review the child's case despite several medical representations outlining the deterioration in the boy's condition.

### **The outcome**

Following an involved and comprehensive investigation, the Office found that there was no evidence that the house had been adapted for the boy's specific needs and, therefore, did not constitute a reasonable offer and that no review of the case took place for a period of almost four years.

On this basis, the office made a number of recommendations including that the child's case be reviewed to find a suitable housing solution for him; that the local authority administrative processes be reviewed; and that the local authority adopt a more integrated and responsive approach to children. The local authority recognised the findings and recommendations as fair and accurate and is currently working on implementing them. The report will be published and disseminated in early 2007 as the Office believes that the findings of this investigation can offer constructive learning for other local authorities and public bodies.

## **CASE 3**

### **The complaint**

A 17 year-old girl living in residential care contacted the OCO because she was very worried about her aftercare. She was studying for her Leaving Certificate and was due to turn 18 at which time she would have to leave the residential centre in which she had resided for nearly 10 years. She had become attached to the staff and other residents in the care facility. She expressed concerns about her ability to cope with the separation and lead a normal life without support.

Under the current legislation, the HSE has the power, but is not compelled, to provide aftercare.

### **The outcome**

The HSE met with the young person and agreed to keep her in care until after she had completed her Leaving Certificate exam. They also agreed to develop, in consultation with her, an appropriate aftercare plan to support her once she leaves care.

### **Submission to Oireachtas Committee**

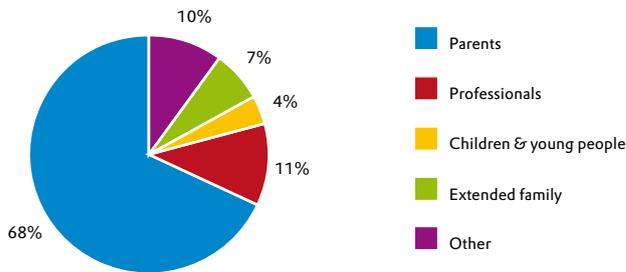
Collating key information from the individual complaints dealt with by the OCO offers a set of unique and important data regarding children's lives in this country. The complaint handling mechanism constitutes a powerful tool to achieve change not just for these individual cases, but also for all children experiencing difficulties and inadequate services in Ireland.

An example of this is a written submission made to the Joint Oireachtas Committee on Health and Children on the 31st of January 2006, based on 61 complaints we received regarding child protection. There was consistency in the issues raised by complainants. While it was not appropriate to investigate each complaint, the Office decided it had the responsibility to make the relevant authorities aware of our concerns.

The Ombudsman for Children made an oral presentation to the Health and Children Committee to discuss the above submission in March 2006. The recommendations in the report, especially the need to review the current child protection services, have been taken on board and acted upon by the Minister for Children's Office.

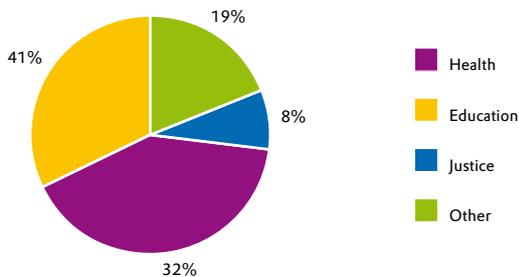
## Statistics

### Who is Complaining to the office

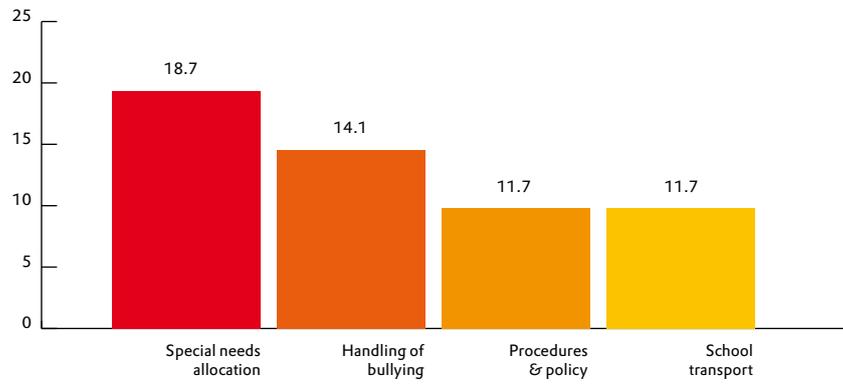


Studies of children's wellbeing have indicated that children themselves consider their families the most important people in their lives. The importance of families for children is reflected in those who are contacting the OCO on behalf of children. In this reporting period 75% of all complaints to the OCO come from family members: mothers, fathers, grandparents, aunts and uncles. Irrespective of how Irish society is changing, the role of the family has not diminished and should not be underestimated. The structures of families may be changing but the love, commitment and dedication families have for their children is as strong as ever. Next year the OCO will work directly with children to raise awareness of its complaints service among children themselves.

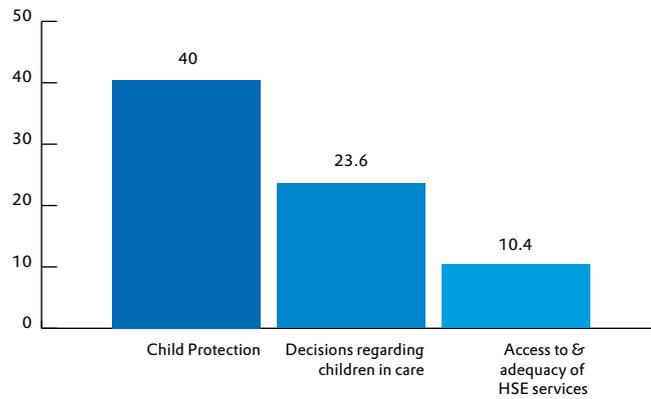
### Complaint Categories from April 05 to December 2006



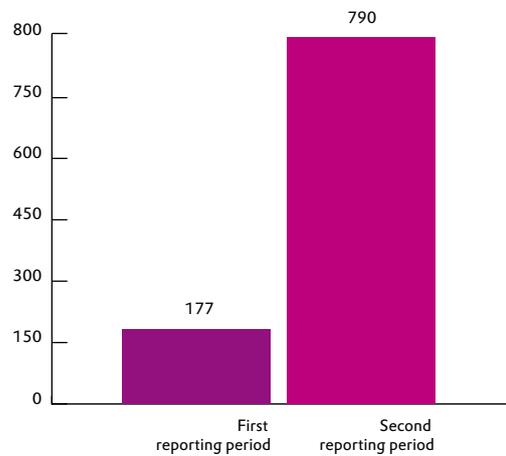
**Top four issues in Education in % of total complaints about education**



**Top three issues in Health in % of the total health complaints**



**Increase in complaints – 2004/05 – 2005/06**



# Communications and Participation

## *Communicating well. Enabling participation.*

### **Children shaping our work**

The Ombudsman for Children's Office has a statutory responsibility to promote the rights and welfare of children and young people in Ireland. It must also promote awareness of children's rights and the UN Convention on the Rights of the Child which Ireland ratified in 1992. Article 12 of the UN Convention is all about children and young people having a say in decisions that directly affect them. The Ombudsman for Children's Office is determined that this article has real meaning for children and young people. Emily Logan believes that we need to both encourage and enable the active participation and voice of children. That also means that children and young people must be provided with the skills and opportunities to influence and shape the work of the Office and to inform us about the issues and concerns that are relevant to them and their lives.

Here is a sample of some of the ways in which we achieved this over the past 18 months.

### **Participation research**

In December 2005, the OCO commissioned the Children's Research Centre, Trinity College Dublin, to undertake a piece of important research on participation. It was envisaged that the report arising from it would provide a solid foundation for the OCO's participation activities and assist the OCO's development of a model for children's participation in and across our core areas of work. Conducted between January and July 2006, this project has included action research with OCO's staff members as well as with members of the OCO's Youth Advisory Panel (YAP) and an external group of children and young people. In addition, the research team undertook a targeted literature review and surveyed seven of the OCO's counterparts in other jurisdictions and a spectrum of relevant statutory and non-statutory agencies in Ireland. The report is based on the views and perspectives gathered during this period.

In the OCO, we believe that upholding children's right to be heard is not about placing our responsibilities to children on children's shoulders. Nor is it about providing for the exercise of full autonomy by children or affording children the right in all circumstances to determine decision-making. Being a child is, however, the primary business of children. It will necessarily take time – considerable time – to create a culture in which hearing children's voices becomes part and parcel of how issues and decisions affecting them are addressed and made. In upholding children's right to be heard, we must attune our ears to children's voices. It is not outside the realms of possibility that a child's life could depend on our willingness and ability to do so. The OCO plans

to make the results of the participation research available to as wide an audience as possible in 2007.

### **The role of OCO's Youth Advisory Panel (YAP)**

The Youth Advisory Panel or YAP for short, are a group of young people that give the Ombudsman and her staff guidance on how to work best with young people. Young people on the panel participate as individuals in their own right who offer a youth perspective to the OCO, rather than as representatives of other young people's views. The current group have been involved with the Office from the beginning and were part of a bigger group of young people who interviewed Emily Logan for the post of Ombudsman for Children.

In this reporting period, the YAP have been involved in a variety of activities including youth-proofing some of the OCO's external communications, advising on the best means of communicating with the children and young people and promoting the OCO at a variety of events.

As part of the participation research more than 30 children and young people were invited to attend a day-long focus group meeting in order for the OCO to hear their views on the best way of involving young people in the Ombudsman for Children's work. Members of YAP were given support to prepare them for their role as workshop facilitators. They then facilitated the focus group with OCO staff attending in a backup capacity. The evaluation of the workshops indicated that the consultation was a positive experience for the children and young people who took part.

### **The Participation Lab**

The 'Lab' is an education programme designed to teach children and young people about the Ombudsman for Children's Office and about children's rights as outlined in the UN Convention on the Rights of the Child. The Lab is a set of education workshops that are facilitated by staff at the OCO. Young people from schools and non-school settings attend these sessions.

The workshops are intended to complement the human rights education curricula already in use in the school and youth settings. Children and young people were actively involved in the design of the workshops. Some members of the OCO's Youth Advisory Panel have also been involved in facilitating the sessions. The workshops also provide the OCO with an opportunity on an ongoing basis to consult with children and young people on issues related to its work.

The Lab was piloted from September 2006 to December 2006. Ten groups of young people from primary schools, post primary schools and youth projects from a variety of geographical locations took part in the pilot. The evaluation report is currently being compiled and it is planned to offer the workshops to further groups of children and young people in 2007.

### **UN Committee members visit the OCO**

When Ireland ratified the UN Convention on the Rights of the Child in 1992, it signed up to a monitoring process whereby the Irish State would report to the UN Committee on the Rights of the Child approximately every five years on its progress on complying with the Convention. Ireland reported to the Committee in 2006 as detailed on page 10. The Ombudsman for Children believed it would be beneficial to provide members of the UN Committee with the first-hand opportunity to understand what it is like to be a child and young person growing up in Ireland today. Consequently Emily Logan invited two members of the Committee, including the Rapporteur for Ireland, to visit the OCO to meet young people and to hear directly about their different experiences. Members of the OCO's Youth Advisory Panel outlined their role to the UN visitors. A group of separated young people seeking asylum and a group of young people in care were invited to participate in the day with the UN visitors. These groups of young people rely heavily on the State and rarely have their voices directly heard. Two other groups of young people who were working with some of the OCO's NGO colleagues also came to meet with the Committee members while they were at the OCO.

### **The Voice Project**

In order to give young people a say in establishing the work priorities of the Ombudsman for Children in the period 2007-2010, the OCO established the Voice Project.

The Voice Project will have three individual but closely linked phases. The first phase will establish the main obstacles to children realising their rights in Ireland (as set out in the UN Convention on the Rights of the Child). The second will ask children and young people to comment on and add to the list of issues emerging from the first phase. In phase three, children and young people will be invited to participate in a country-wide consultation process which will provide them with an opportunity to identify the issues they wish the OCO to work on over the next number of years.

### **Work experience**

The OCO welcomes Transition Year pupils who have an interest in carrying out their work experience with our team in the Office. We have consulted with

young people to put together a programme of work and activities that will offer Transition Year students the opportunity to develop important skills and to work in a unique environment. We have had seven young people take part in this programme to date.

Three members of YAP worked in the OCO in Summer 2006. They were involved in visual communications, developing youth friendly information materials and in general offered us a very beneficial youth perspective on the work of the office. The OCO plans to offer such placements on an on-going basis to members of YAP.

### **Making our website work**

The Ombudsman for Children's Office wants to make sure that our website is interesting and relevant to young people so we ran a competition in 2005 looking for ideas for the new OCO site. The winners met with a web design company and came up with ideas for what the site would look like and they provided content ideas for different web pages. We asked three more groups of young people to help us write 'youth-friendly' content and then we checked out all of this with even more young people, including online consultation until the new site was ready to go live. To view the results of the young people's work visit [www.oco.ie](http://www.oco.ie).

### **The Media Initiative for Children**

The Ombudsman for Children has a mandate to promote the rights and welfare of all children up to the age of 18. The pre-school age group (0 to 4) is a particularly challenging one to engage with because of their age. The OCO took its first steps to achieve this through its involvement with the Media Initiative for Children (MIFC). The MIFC is an educational programme about respecting difference and diversity aimed at pre-school children, developed by NIPPA, the Early Years Organisation in Northern Ireland and the US-based Peace Initiatives Institute. The programme originated in Northern Ireland following research by Dr Paul Connolly of Queens University, Belfast, which demonstrated that children at an early age are sensitive to difference and diversity. It includes a curriculum for pre-schools and supporting materials featuring specially-developed cartoon characters. The MIFC was extended to the Republic of Ireland in 2006 and an additional cartoon focusing on bullying was developed in cooperation with the Ombudsman for Children's Office and the Northern Ireland Commissioner for Children and Young People (NICCY). This cartoon introduced a new character, Bukola, from Dublin, who joined the existing set of characters to help stop bullying.



# The UN Committee on the Rights of the Child. Concluding Observations on Irelands Second Report to the Committee, September 2006

## COMMITTEE ON THE RIGHTS OF THE CHILD

Forty-third session

### CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

#### Concluding observations: IRELAND

1. The Committee considered the second periodic report of Ireland (CRC/C/IRL/2) at its 1182nd and 1184th meetings (see CRC/C/SR1182 and 1184), held on 20 September 2006, and adopted at its 1199th meeting, held on 29 September 2006 the following concluding observations:

#### A. Introduction

2. The Committee welcomes the submission of the State party's comprehensive report, as well as the detailed replies to the list of issues (CRC/C/IRL/Q/2 and Add.1), which provide further information on the situation of the children in Ireland. It further notes with appreciation the fruitful and open dialogue with the high-level delegation of the State party.

#### B. Follow-up activities and progress achieved by the State party

3. The Committee notes with appreciation the adoption of new legislation and policy measures, such as:

- (a) The Equal Status Act and the Education (Welfare) Act of 2000;
- (b) The Human Rights Commission Acts of 2000 and 2001;
- (c) The Children Act of 2001;
- (d) The Ombudsman for Children Act of 2002;

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- (e) The Education for Persons with Special Needs Act of 2004; and
- (f) The National Children's Strategy of 2000, entitled Our Children – Their Lives, the National Play Policy of 2004, entitled Ready, Steady, Play, and the National Anti-Poverty Strategy reviewed in 2001.

4. The Committee notes with appreciation the ratification of international treaties relevant to the protection of the rights of the child, including:

- (a) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts in November 2002;
- (b) The International Convention on the Elimination of All Forms of Racial Discrimination in December 2000; and
- (c) The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in April 2002

5. The Committee welcomes various measures taken as follow-up to the Committee's concluding observations (CRC/C/15/Add.85) after the consideration of the initial report to the implementation of the Convention, in particular:

- (a) The establishment of the National Children's Office (NCO) and the National Children's Advisory Council in 2001;
- (b) The appointment of an Ombudsman for Children in 2004; and
- (c) The establishment of the Office of Minister for Children in 2005.

## C. Main subjects of concern and recommendations

### 1. General measures of implementation (arts. 4, 42 and 44(6))

#### Committee's previous recommendations

6. While welcoming various measures taken to follow-up and implement the Committee's previous concluding observations, the Committee regrets that some of the concerns expressed and recommendations made have not yet been fully addressed, in particular those related to the status of the child as a rights-holder and the adoption of a child rights-based approach in policies and practices.

**7. The Committee urges the State party to make every effort to address the recommendations issued in the concluding observations on the initial report which have not yet been fully implemented, and to address the list of concerns contained in the present concluding observations related to the second periodic report.**

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#### Legislation and implementation

8. The Committee welcomes the steps taken to further develop the legal framework but remains concerned about the slow pace of enactment of specific provisions, in particular the Children Acts 1997 and 2001, that hampers effective implementation of the legal framework. The Committee expresses regret that the Convention has not been incorporated into domestic law as recommended by the Committee in its previous concluding observations.

**9. The Committee urges the State party to take, as a matter of priority, all necessary measures, including the allocation of resources, to enact the outstanding provisions in the relevant Children Acts for the protection of children's rights. The Committee encourages the State party to undertake further action to incorporate the Convention into domestic law.**

#### National Plan of Action

10. The Committee welcomes the adoption of the National Children's Strategy in 2000 as the main instrument for the improvement of the lives of children and the enhancement of the protection of their rights. The Committee also notes with appreciation the over-arching principles guiding the actions and the goals set out in the Strategy and the broad-based cooperation and public consultations undertaken in its development, including with non-governmental organizations (NGO) and academics.

**11. The Committee recommends that the State party:**

- (a) Evaluate and assess the achievements of the Strategy in order to ensure that a rights-based approach is applied to all the activities;**
- (b) Establish specific timeframes for the implementation of the goals and activities of the Strategy; and**
- (c) Provide specific budget allocations for the implementation of the Strategy.**

**12. The Committee recommends that the State party take steps to ensure that the plan of action covers all areas of the Convention and takes into account the outcome document "A World Fit for Children" adopted by the United Nations General Assembly at its special session on children held in May 2002. The Committee further recommends that the State party implement and monitor the National Children's Strategy in a participatory and holistic way and submit information on the status and impact of these activities in its next report.**

#### Independent monitoring

13. The Committee welcomes the establishment of the Irish Human Rights Commission and the Ombudsman for Children including his/her Office which deal with the promotion and protection of human rights in general and in particular with children's rights and their welfare.

While welcoming the specific inclusion of powers to investigate complaints by children or on their behalf, the Committee is concerned that some limitations may undermine the mandate of the Ombudsman for Children in investigations related to children in prisons and Garda stations. CRC/C/IRL/CO/2

**14. The Committee recommends that the State party, together with the Ombudsman for Children, review and propose amendments to the specific provisions which limit the scope of the Ombudsman's Office investigative powers with a view to eliminating possible gaps which may result in a violation of children's rights.**

**15. In order to ensure the independent functioning of the Office of the Ombudsman, the Committee recommends that the State party seek ways and means to provide the Office of the Ombudsman with financial resources directly through the Oireachtas (National Parliament) and the Department of Finance. The Committee also draws the State party's attention to the Committee's general comment No. 2 (2002) on the role of independent national human rights institutions in the promotion and protection of the rights of the child.**

#### **Data collection**

16. The Committee notes the progress made in the collection of statistical data, in particular through the research functions of NCO within the National Children's Strategy, and notes with appreciation the commissioned National Longitudinal Study on Children which will explore the lives of children in Ireland. The Committee also notes with appreciation the information provided by the State party in its written replies and the references to a new National Data Strategy (CRC/C/IRL/Q/2/Add.1). However, the Committee remains concerned that there is a lack of systematic and comprehensive data on children, disaggregated by age, sex, ethnicity, and rural and urban areas, which would enable the analysis of the situation of particularly vulnerable children in Ireland, including victims of abuse, neglect or ill-treatment; street children; children with disabilities; and children in institutional care.

**17. The Committee recommends that the State party take further measures, including through strengthening the role of the Central Statistical Office and other governmental departments and agencies to develop a systematic and comprehensive collection of disaggregated data in compliance with the Convention, which should be used for the creation, implementation and monitoring of policies and programmes for children.**

#### **Dissemination, training and awareness-raising**

18. The Committee notes with appreciation that in response to its previous recommendations, the State party has taken further measures to disseminate and make known the Convention among relevant authorities and the public at large. In particular, the Committee welcomes the dissemination of the Convention together with the National Children's Strategy and the awareness-raising activities of the NCO and the Office of the Ombudsman for Children, including through their respective web pages.

**19. The Committee encourages the State party to further strengthen its efforts to ensure that the provisions of the Convention are widely known and understood by both adults and children, including through periodic and nation-wide public awareness-raising campaigns that also include child-friendly material, and through targeted campaigns and necessary training for professionals working with and for children, in particular within schools and health and social services, and legal professionals and law enforcement officials.**

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### **3. General principles (arts. 2, 3, 6 and 12)**

#### **Non-discrimination**

20. The Committee welcomes the establishment of the National Action Plan against Racism in 2005 and in particular, the five objectives of the plan for protection, inclusion, provision,

recognition and participation. However, the Committee is concerned that the principle of non-discrimination might not be enjoyed equally by all children in the State party and that children of different ethnicities and children belonging to minorities face higher levels of racism, prejudice, stereotyping and xenophobia.

**21. The Committee recommends that the State party ensure that the National Action Plan against Racism is fully implemented and that specific attention is given to measures to address racism, prejudice, stereotyping and xenophobia among children, in particular in primary and secondary education.**

#### **Best interests of the child**

22. The Committee notes that steps have been taken in some areas to ensure respect for the best interests of the child, yet remains concerned that the principle is still insufficiently addressed.

**23. The Committee recommends that the State party:**

- (a) Ensure that the general principle of the best interests of the child is a primary consideration without any distinction and is fully integrated into all legislation relevant to children; and**
- (b) Ensure that this principle is also applied in all political, judicial and administrative decisions, as well as projects, programmes and services that have an impact on children.**

#### **Respect for the views of the child**

24. The Committee notes with appreciation the measures taken to promote the respect for the views of the child, including through the Children and Youth Parliaments, and progress made to establish effective student councils in post-primary schools. The Committee is, however, concerned at the lack of sufficient provisions for guardian ad litem and the fact that these measures are not taken in a systematic and comprehensive manner and that the local level and subject-specific authorities are not addressed. The Committee also notes that a high number of the complaints received by the Ombudsman for Children relate to a lack of respect for the views of the child.  
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**25. In the light of article 12 of the Convention, the Committee recommends that the State party:**

- (a) Strengthen its efforts to ensure, including through Constitutional provisions, that children have the right to express their views in all matters affecting them and to have those views given due weight, in particular in families, schools and other educational institutions, the health sector and in communities;**
- (b) Ensure that children are provided with the opportunity to be heard in any judicial and administrative proceedings affecting them, and that due weight is given to those views in accordance with the age and maturity of the child, including the use of independent representations (guardian ad litem) provided for under the Child Care Act of 1991, in particular in cases where children are separated from their parents; and**
- (c) Take into account the recommendations adopted on the Committee's day of general discussion on the right of the child to be heard held on 15 September 2006.**

#### **4. Civil rights and freedoms (arts. 7, 8, 13-17 and 37 a)**

##### **Protection of privacy**

26. While noting with appreciation that the privacy of children being prosecuted in the Children Court is protected, the Committee is concerned that children prosecuted in higher courts are not provided with the same protection.

**27. The Committee recommends that the State party take necessary measures to extend**

the protection of privacy to all legal proceedings involving children.

**4. Family environment and alternative care**

(arts. 5; 18 (1-2); 9-11; 19-21; 25; 27 (4); and 39)

**Parental responsibilities**

28. The Committee welcomes a number of developments in the field of family support structures, in particular the establishment of the Family Support Agency, the introduction of quarterly payments for families with children under the age of 6 and the phased extension of paid maternity leave. However, the Committee is concerned that these structures lack a broad-based and child-centred approach and that the responsibility for support programmes and the delivery of support services is allocated to different governmental authorities.

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**29. The Committee recommends that the State party:**

- (a) Undertake an extensive review of the support services provided under the different governmental departments to assess the quality and outreach of these services and to identify and address possible shortcomings; and**
- (b) Extend the social work services provided to families and children at risk to a seven-day, 24-hour service.**

**Family reunification**

30. The Committee notes that the Refugee Act of 1996 provides for an adequate legal framework for family reunification. However, family reunification in accordance with article 10 of the Convention also applies to other situations, including migration. The Committee is concerned that family members seeking reunification do not have access to procedural information and that the principle of the best interests of the child is not taken into account in the decision-making process.

**31. The Committee recommends that the State party:**

- (a) Consider reviewing the definition of family in the Refugee Act of 1996 to better correspond to the developing understanding of the family;**
- (b) Consider establishing a legal framework for family reunification outside situations under the Refugee Act; and**
- (c) Ensure that the principle of the best interests of the child is always a primary consideration when making decisions involving children under any legal or administrative procedures.**

**Alternative care for children without parental care**

32. The Committee welcomes the establishment of the Social Services Inspectorate which conducts inspections of foster care and residential centres' operated by statutory and non-statutory agencies for children without parental care. However, the Committee is concerned that the Social Services Inspectorate has not yet been established on a statutory basis, lacks the necessary resources to undertake its mandated functions and does not protect all children without parental care.

**33. The Committee recommends that the State party:**

- (a) Consider measures to create a statutory basis for the Social Services Inspectorate to function and extend its mandate to all children without parental care, irrespective of the care required; and**
- (b) Strengthen its efforts to ensure and provide for follow-up and after-care to young persons leaving care centres.**

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**Adoption**

34. The Committee remains concerned that the legislation in place does not fully correspond

to international standards, particularly with respect to protection in intercountry adoptions, and does not take the best interests of the child into consideration. The Committee is also concerned that the measures taken to review current legislation are slow.

**35. The Committee recommends that the State party expedite its efforts to enact and implement the legislative reforms, ensure that all relevant legislation is in conformity with international standards, and that the best interests of the child are a primary consideration.**

#### **Violence, abuse and neglect**

36. While welcoming efforts undertaken by the State party to respond to the issue of child abuse and neglect, including the creation of guidelines on reporting child abuse, thorough investigations of all reported cases of child abuse and launching a nationwide awareness-raising campaign on child sexual abuse, the Committee remains concerned that no comprehensive national strategy or measures for the prevention of child abuse are in place and that there are delays in accessing support services.

**37. In the light of article 19 of the Convention, the Committee recommends that the State party:**

- (a) Continue reviewing the Children First: National Guidelines, and consider their establishment on a statutory basis;**
- (b) Ensure that all reported cases of abuse and neglect are adequately investigated and prosecuted and that victims of abuse and neglect have access to counselling and assistance with physical recovery and social reintegration;**
- (c) Develop a comprehensive child abuse prevention strategy, including developing adequate responses to abuse, neglect and domestic violence; facilitating local, national, and regional coordination, and conducting sensitization, awareness-raising and educational activities; and**
- (d) Ensure that evaluation of all employees and volunteers working with children is undertaken prior to recruitment and that adequate support and training is provided for the duration of their employment.**

38. In the context of the Secretary-General's in-depth study on the question of violence against children, the Committee recommends that the State party use the outcome of the Regional Consultation for Europe and Central Asia held in Slovenia from 5 to 7 July 2005 as a tool for taking action, in partnership with civil society, to ensure that every child is protected from all forms of physical, sexual or mental violence, and for gaining momentum for concrete and, where appropriate, time-bound actions to prevent and respond to such violence and abuse. In addition, the Committee would like to draw the States party's attention to the report of the independent expert for the United Nations study on violence against children (A/61/299) and to encourage the State party to take all appropriate measures to implement the overarching recommendations as well as setting-specific recommendations contained in this report.

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#### **Corporal punishment**

39. While noting that the prohibition of corporal punishment within the family is under review and that parental educational programmes have been developed, the Committee is deeply concerned that corporal punishment within the family is still not prohibited by law.

**40. The Committee reiterates its previous recommendation (CRC/C/15/Add.85 para. 39) and urges the State party to:**

- (a) Explicitly prohibit all forms of corporal punishment in the family;**
- (b) Sensitize and educate parents and the general public about the unacceptability of corporal punishment;**
- (c) Promote positive, non-violent forms of discipline as an alternative to corporal punishment; and**

**(d) Take into account the Committee's general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment.**

**5. Basic health and welfare  
(arts. 6; 18, para.3; 23; 24; 26; 27(1-3))**

#### **Children with Disabilities**

41. While welcoming legislative and policy developments such as the Disability Act of 2005 and the National Disability Strategy of 2004, the Committee remains concerned that the legal framework inadequately addresses the specific needs of children with disabilities and their access to necessary health services and educational facilities and that many of the provisions of the Children Act have not been fully enacted.

**42. The Committee recommends that the State party:**

**(a) Adopt an inclusive and rights-based legal framework that addresses the specific needs of children with disabilities and implement all relevant provisions of the existing legislation related to children with disabilities; and**

**(b) Undertake, with the involvement of children, awareness-raising campaigns which focus on prevention and inclusion, available support and services for children with disabilities, and on combating negative societal attitudes towards children with disabilities.**

**43. The Committee also urges the State party to review existing policies and practices in relation to children with disabilities, giving due attention to the United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the recommendations adopted by the Committee on its day of general discussion on the rights of children with disabilities held on 6 October 1997 (see CRC/C/69).  
CRC/C/IRL/CO/2**

#### **Health and health services**

44. The Committee welcomes the commitments undertaken by the State party in a number of policy documents, including Goal No. 3 of the National Children's Strategy and the development of a Primary Care Strategy. The Committee remains concerned, however, about the lack of a comprehensive legal framework in that regard and the absence of statutory guidelines safeguarding the quality of and access to health care services as stipulated in article 24 of the Convention, in particular for children in vulnerable situations.

**45. The Committee recommends that the State party:**

**(a) Adopt an all-inclusive legislation that addresses the health needs of children;**

**(b) Ensure that availability and quality of health care services are maintained throughout the country by providing targeted resources and establishing statutory guidelines for the quality of these services;**

**(c) Ensure that the resources allocated to existing health care services for children are used in a strategic and coordinated manner benefiting all, i.e. the public, the community and the voluntary sectors; and**

**(d) Pay special attention to needs of refugee and asylum-seeking children, and children belonging to the Traveller community, inter alia, by implementing the existing National Strategy for Traveller Health.**

46. While welcoming the Mental Health Act of 2001 and noting that the State party has recognized the lack of adequate programmes and services related to the mental health of children and their families, the Committee is concerned that children with mental health difficulties still do not access existing programmes and services for fear of stigmatization, and that some children up to 18 years of age are treated with adults in psychiatric facilities.

**47. The Committee reiterates its previous recommendation (CRC/C/15/Add.85 para. 20 and 38), and recommends that the State party:**

**(a) Make full use of the findings and implement the recommendations of the Expert Group on Mental Health Policy appointed by the Minister of State at the**

Department of Health in 2003;

- (b) Undertake awareness-raising and sensitization campaigns to prevent stigmatization and ensure that focus is given to early intervention programmes; and
- (c) Continue its efforts to ensure that children with mental health difficulties benefit from specific services designed for children under 18 years of age.

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#### Adolescent health

48. While noting a number of policy measures taken to address alcohol consumption by children, including the National Alcohol Policy, the Strategic Task Force on Alcohol, and the attention paid to the issue by the Parliamentary Committee on Children and Young People, the Committee remains concerned about the high level of alcohol consumption by adolescents.

**49. The Committee recommends that the State party strengthen its efforts to address alcohol consumption by children, by, inter alia, developing and implementing a comprehensive strategy which should include awareness-raising activities, the prohibition of alcohol consumption by children and advertising that targets children. In this regard the Committee also draws the State party's attention to the Committee's general comment No. 4 (2003) on adolescent health.**

50. While welcoming the creation of a Strategic Task Force on Alcohol, the Committee is concerned about the reported increase in suicide rates among boys and adolescent males. The Committee is also concerned about the apparent link between underage substance abuse and the suicide rate.

**51. The Committee urges the State party to implement the new ten-year National Strategy for Action on Suicide Prevention and the recommendations from the second report of the Strategic Task Force on Alcohol.**

52. While noting that social, personal and health education is incorporated into the curricula of secondary schools, the Committee is concerned that adolescents have insufficient access to necessary information on reproductive health. The education is optional and parents can exempt their children from such education. The Committee is also concerned that sexually transmitted infections are reported to have increased noticeably during the last 10 years and young girls are in particular risk.

**53. The Committee recommends that the State party strengthen its efforts to enhance access to adolescent-specific reproductive and sexual health information and services, and that these are not limited to school curricula but can also be accessed within the adolescent daily living environment, in addition to information and awareness-raising campaigns.**

#### Harmful traditional practices

54. The Committee notes with concern that some immigrant communities continue to practice female genital mutilation (FGM) in Ireland. The Committee strongly emphasizes that FGM is a violation of the Convention.

**55. The Committee urges the State party to continue its efforts to end the practice of FGM, for example, through prohibiting FGM by law, including the possibility of extra-territorial jurisdiction, and implementing targeted programmes which sensitize all segments of the population about its extremely harmful effects. The Committee recommends that the State party involve and mobilize all relevant partners at the local level, including teachers, midwives, traditional health practitioners and religious and community leaders to prevent the practice of FGM. It also draws the attention of the State party to the recommendations adopted on the day of general discussion on the girl child held on 21 January 1995 (see CRC/C/38).**

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## **Standard of living**

56. The Committee recognizes that the favourable economic development has contributed to the reduction of the overall poverty level. The Committee remains however concerned that a number of children in particularly vulnerable situations are living in households where the income remains significantly lower than the national median income.

**57. The Committee recommends that the State party:**

- (a) Effectively implement its National Anti-Poverty Strategy and strengthen its support to families living in economic hardship in order to ensure that poverty is reduced and children are protected against the negative impact of economic hardship on their development;**
- (b) Introduce a supplement to the existing universal child benefit payments as an additional and targeted allowance to assist the families which experience highest levels of poverty;**
- (c) Implement fully existing policies and strategies and increase budgetary allocations for and subsidization of services, including childcare, healthcare and housing, for families with children who are particularly vulnerable; and**
- (d) Increase investments in social and affordable housing for low-income families.**

**6. Education, leisure and cultural activities  
(arts. 28, 29 and 31)**

### **Education, including vocational training and guidance**

58. The Committee welcomes the State party's efforts to develop and strengthen the legal and policy framework for the right to education. The Committee is, however, concerned that the "de facto" cost of education and materials in public primary schools is in some instances the responsibility of parents; the views and specific needs of children are not always adequately taken into account; and that particularly high dropout rates exist among children belonging to the Traveller community and children with disabilities.

**59. The Committee recommends that the State party:**

- (a) Continue taking measures to create an educational environment where the special needs of the child are taken into consideration, inter alia, by undertaking appropriate professional assessment of the specific needs of children, providing technical and material support for children with special needs, ensuring children in schools have the right to be heard in all matters concerning their well-being, and by continuing efforts to reduce overall class sizes to provide education to all children on an equal footing;**
- (b) Ensure that budgetary allocations are also directed at improving and upgrading school buildings, recreational equipment and facilities, and the sanitary conditions in schools;**
- (c) Ensure that necessary measures are taken to combat the phenomenon of bullying and that its consequences are dealt with in a responsive and child-sensitive manner; and**
- (d) Publish and disseminate the prepared Traveller Education Strategy and undertake training activities for teachers in order to sensitize them to Traveller issues and inter-cultural approaches.**

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60. The Committee reiterates the concern raised by the Committee on the Elimination of Racial Discrimination in its concluding observations on the initial and second periodic reports of the State party (CERD/C/IRL/CO/2) that non-denominational or multid denominational schools represent less than 1 % of the total number of primary education facilities.

**61. The Committee encourages the State party to take fully into consideration the recommendations made by the Committee on the Elimination of Racial Discrimination (CERD/C/IRL/CO/2, para. 18) which encourages the promotion of the establishment of non-denominational or multid denominational schools and to amend the existing legislative**

**framework to eliminate discrimination in school admissions.**

#### **Leisure, recreation and cultural activities**

62. While welcoming initiatives such as the National Play Policy which contains several activities and responsibilities for a number of government departments, local authorities and health boards and enhances the opportunities for children to enjoy leisure, recreation and cultural activities, the Committee is concerned that little political and financial importance is given to the creation of recreational facilities and that increasing housing demands may further hamper the developments of play grounds and public space.

**63. The Committee recommends that the State party place more emphasis on the creation of facilities for children to enjoy leisure, recreation and cultural activities.**

#### **7. Special protection measures (arts. 22; 30; 38; 39; 40; 37 b-d; 32-36)**

##### **Refugee and asylum-seeking children**

64. While noting the recent developments regarding asylum-seeking processes through the 2006 Immigration, Residency and Protection Bill, the Committee is concerned that unaccompanied children or children separated from their parents might still not receive adequate guidance, support and protection during the asylum process, in particular with respect to access to services and an independent representation.  
CRC/C/IRL/CO/2

**65. The Committee recommends that the State party take necessary measures to bring the policy, procedures and practice into line with its international obligations, as well as principles outlined in other documents, including the Statement of Good Practices produced by the United Nations High Commissioner for Refugees and Save the Children. The Committee further encourages the State party to ensure that the same standards of and access to support services applies whether the child is in the care of the authorities or their parents. The Committee also draws the attention of the State party to its general comment No. 6 (2005) on treatment of unaccompanied and separated children outside their country of origin.**

##### **Administration of juvenile justice**

66. The Committee welcomes the fact that in the Children Act 2001, the age of criminal responsibility was raised from 7 to 12 years with a rebuttable presumption that the minimum age of responsibility is 14, however, it regrets that this part of the Act did not enter into force. Furthermore, the Committee is very disappointed that this part of the Children Act was transferred to the Criminal Justice Act 2006 in which the age of criminal responsibility was lowered to 10 years for serious crimes.

**67. The Committee recommends that the State party reinstate the provisions regarding the age of criminal responsibility as established in the Children Act 2001.**

68. The Committee welcomes the establishment of the Irish Youth Justice Service under the Department of Justice, Equality and Law Reform, yet regrets that it is not established on a statutory basis. The Committee is also concerned that the Anti-Social Behaviour Orders provided for in the Criminal Justice Act 2006 will have the effect of bringing "at risk" children closer to the criminal justice system, especially as a breach of an Order is considered a crime. Furthermore, the Committee is concerned that the wide discretion of the judges as to the type and content of an Order may lead to measures that are disproportionate to the impugned behaviour.

**69. The Committee recommends that:**

**(a) The State party provide a statutory basis for the Irish Justice Service and that the Justice Service give high priority to the drafting and implementation of a child-**

oriented, rights-based Youth Justice Policy based on the Convention; and  
**(b) The Anti-Social Behaviour Orders be closely monitored and only used as a last resort after preventive measures (including a diversion scheme and family conferences) have been exhausted.**

70. The Committee notes with appreciation the establishment of the Garda Diversion Programme provided for by law in the Children Act 2001, brought into force in 2002. However, the Committee is concerned that the 2006 Act extends the programme to children from the age of 10 years who have committed “anti-social behaviour.” The Committee is further concerned that admission to the programme can be considered as a sentence in future criminal proceedings.  
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**71. The Committee recommends that children who have committed “anti-social behaviour” cannot be diverted to the Garda Diversion Programme, and that admission to the programme can never be considered as a sentence in future criminal proceedings. The Committee further urges the State party to implement a set of alternative measures as a matter of priority to ensure that the deprivation of liberty is used only as a last resort and for the shortest possible time.**

72. While noting with appreciation the intention of the State party to provide for all detained children up to the age of 18 to be held in separate detention facilities – so-called Children Detention Schools – the Committee is deeply concerned that children aged 16 and 17 years are detained in St. Patrick Institution which is a closed, medium security detention centre for males aged 18 to 21 years, with no facilities for education. In addition, the Committee is concerned that the Ombudsman for Children is excluded from investigating complaints emerging from that institution and undertaking inspections of police stations.

**73. The Committee recommends that the State party make every effort to use detention as a last resort. Where detention is deemed unavoidable, the Committee recommends that the State party provide children under the age of 18 with separate detention facilities. The Committee encourages the State party to make every effort in order to include in the investigation and inspection mandate of the Ombudsman for Children all places of detention where children are currently held.**

#### **Sexual exploitation and sexual abuse**

74. While noting the Sex Offenders Act of 2001 that provides with a comprehensive protection of the public against sex offenders, the Committee is concerned about the lack of information concerning children victims of prostitution and on child pornography.

**75. The Committee recommends that the State party collect information and undertake research on child prostitution, pornography and other forms of sexual exploitation and sexual abuse of children with a view to developing targeted measures, and requests the State party to provide detailed information in that respect in its next report.**

#### **Sale and trafficking**

76. While noting the Child Trafficking and Pornography Act of 1998 and the 2006 Trafficking in Persons and Sexual Offences Bill, the Committee regrets the lack of specific information on the situation of children victims of abduction and sale or traffic for any purpose or in any form.

77. In line with articles 34 and 35 of the Convention, the Committee reiterates the recommendation by the Committee on the Elimination of Discrimination against Women (CEDAW/C/IRL/CO/4-5) on, inter alia, the adoption and implementation of a comprehensive strategy to combat trafficking, and the measures to be put in place for the physical and psychological recovery and social reintegration of victims of trafficking, including the provision of shelter, counselling and medical care. The Committee requests the State party to provide in its next report further information and data on trafficking in

particular with respect to children.

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### **Children belonging to minorities**

78. The Committee notes the information provided in the State party's report, in particular in Chapter III under non-discrimination and child welfare, and in the written replies to the list of issues, in particular with respect to the report of the High Level Group on Traveller Issues. However, the Committee remains concerned that adequate recognition, action and positive measures have not yet been taken to enhance the enjoyment of the rights of children belonging to the Traveller community and, in particular, to facilitate their access to education, housing and health services.

**79. The Committee recommends that the State party:**

- (a) Work more concretely towards the recognition of the Traveller community as an ethnic group as called for by the Committee on the Elimination of Racial Discrimination (CERC/C/IRL/CO/2 para.20);**
- (b) Undertake or use existing research or comprehensive needs assessment with a particular focus on children belonging to the Traveller community in the fields of health, housing and education to further serve as a basis for policies and strategies and concrete measures for the improvement of the well-being of the children;**
- (c) Implement the recommendations of the Task Force on the Traveller community; and**
- (d) Provide in its next report detailed information on measures taken in order to enhance the enjoyment of the rights of children belonging to the Traveller community, in particular with regard to enjoyment and access to education, health services and housing facilities.**

80. The Committee regrets the lack of specific information in the State party's report on efforts to promote Irish language and culture among children and young people, and efforts made to prevent marginalization and social exclusion of Roma children.

**81. The Committee requests the State party to provide further detailed information in its next report.**

### **8. Optional Protocols to the Convention on the Rights of the Child**

82. The Committee looks forward to receiving, as indicated by the State party, the initial report on the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts which was due in December 2004.

83. The Committee welcomes the signature of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child pornography and prostitution in 2000 and recommends the ratification of this Optional Protocol in accordance with the intention of the State party.

### **9. Follow-up and dissemination**

#### **Follow-up**

84. The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to relevant Departments, Oireachtas (National Parliament), and to relevant local authorities, for appropriate consideration and further action.

#### **Dissemination**

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85. The Committee further recommends that the second periodic report and written replies submitted by the State party and related recommendations (concluding

observations) adopted by the Committee be made widely available, including through Internet (but not exclusively), to the public at large, civil society organizations, youth groups, and children in order to generate debate and awareness of the Convention, its implementation and monitoring.

**10. Next report**

86. The Committee invites the State party to submit a consolidated third and fourth report by 27 April 2009 (that is, the due date of the fourth report). This is an exceptional measure due to the large number of reports received by the Committee every year. This report should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report every five years thereafter, as foreseen by the Convention.

# List of Children and Young People the OCO has met with

**From April 2005 to December 2006 the OCO met with thousands of children and young people from all over Ireland at different events, some organised by the OCO, others attended by the Ombudsman or her staff. Many of the children and young people we met were involved in or connected with the following organisations:**

Salesian's Secondary School, Limerick  
Scoil Mhuire, Ballyboden, Dublin 16  
Francis Street C.B.S. Dublin 8  
St. Paul's Senior National School, Drogheda, Co. Louth  
Kildare Town Youth Project, Co. Kildare  
St. Aidan's Comprehensive School, Cootehill, Co. Cavan  
Firhouse Community School, Dublin 24  
Ógra Chorcaí, Cork City  
The Crib Youth Café, Co. Sligo  
Rutland Street National School  
Rutland Street Pre-school, Dublin  
Larkin Street College, Dublin  
Larkin Pre-school, Dublin 3  
SPARK project, Galway City  
Letterkenny Youth Conference  
CSPE at Mercy College, Coolock  
Common Purpose  
Irish Association of Young People in Care  
Irish Wheelchair Association  
Scoil an Chroí Ró Naofa Íosa, Mulhuddart  
Scoil Mochua, Clondalkin, Dublin  
Cootehill Youth Service, Co Cavan  
Loreto College, Crumlin  
BeLonG To, Dublin  
Dublin Northside Partnership,  
Donegal Youth Council  
ISPCC  
Irish Wheelchair Association  
Monaghan Comhairle na nÓg  
School Completion Programme  
St Mary's Youth and Community Centre  
Youth Participation in Policy and Planning Project, HSE North West Area  
Dublin South City Action Group (part of Dublin City Comhairle na nÓg)  
Irish Association of Spina Bifida and Hydrocephalus  
St. Paul's C.B.S., North Brunswick Street  
HSE Summer School, Sligo

Children's Rights Alliance Young People's Reference Group  
Scouting Ireland  
Enable Ireland  
Dun Laoghaire Youth Service  
Midlands Regional Youth Services  
Monaghan Neighbourhood Youth Project  
Barnardos  
Pavee Point  
Notre Dame Secondary School, Dundrum, Dublin  
Rockford Manor, Blackrock, Co Dublin  
Pobalscoil Iosolde, Palmerstown, Dublin  
Colaiste de hIde, Tallaght, Dublin  
St Paul's Secondary School, Greenhills, Dublin  
Colaiste Bride, Clondalkin, Dublin  
St Joseph's Stanhope St, Stoneybatter, Dublin  
Trinity Comprehensive Ballymun, Ballymun, Dublin  
St David's, Artane, Dublin  
Irish Foster Care Association  
Northside Partnership, Dublin  
Community Creations/Spunout.ie  
RTE Cór na nÓg  
No name club  
Whiz kids, Ma Samba  
ISPCC Youth Council, Tipperary  
Programme of Action for Children, Sligo  
Educate Together, Cork  
Mental Health Ireland, Dublin & Donegal  
Young Pioneers, Gormanstown  
PWDI, Armagh  
Young people seeking asylum  
-Brehon House, Dublin  
Manor House School, Dublin  
National Association for Deaf People  
Draíocht, Dublin  
Foróige  
School Council, St Munchin's College, Corbally, Limerick

## **Children detention schools:**

Trinity House  
Oberstown Girls  
Oberstown Boys  
Finglas Child & Adolescent Centre

## Key events at the OCO in this reporting period

Moved to a new space June 2005

Office Launch in September 2005 – Launched by President McAleese

Report submitted to the Oireachas Joint Committee on Health and Children on Complaints Received about Child Protection in Ireland January 2006

Took part in the Brighter Futures Transition Year Project, St Patrick's parade March 2006

Published Advice on proposed changes to the Children Act, 2001 concerning juvenile justice matters, April 2006

UN Committee Members visited the OCO in April 2006

Published our report to the UN Committee on the Rights of the Child, April 2006

European Network & Ombudspersons for Children meeting, Farmleigh, May 2006

Met the UN Committee on the Rights of the Child at a preparatory meeting for the examination of Ireland's Second Report to the Committee, June 2006

Published Advice on the legislation enacted after the CC case on statutory rape, June 2006

Made a written submission to and met with the Oireachtas Joint Committee on Child Protection, August/September 2006

UN Committee on the Rights of the Child publishes its report on Ireland, September 2006

Lab pilot from October 2006 to November 2006

Participated at the first staff Conference for the BINOCC Network (British and Irish Network of Ombudsmen and Commissioners for Children), November 2006

Published Advice on the proposed referendum on children's rights, December 2006