

**ENOC 15<sup>th</sup> ANNUAL CONFERENCE**

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***“The respect of the rights of children and young people in institutional care”***

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14, 15 and 16<sup>th</sup> September 2011  
Warsaw, Poland

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PRESENTATION OF THE INSTITUTION  
&  
SUMMARY OF ACTIVITIES

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Name of the member institution : Ombudsman for Children’s Office, Ireland

Current Ombudsperson: Emily Logan

**I.Role and structural organization****1.1 Legal framework**

The Ombudsman for Children’s Office (OCO) was established by the Ombudsman for Children Act 2002. The Ombudsman for Children is appointed by the President following a resolution of both Houses of the Oireachtas (Parliament) recommending such an appointment. The Act provides that the Ombudsman for Children shall be independent in the performance of her functions and that the Ombudsman is accountable directly to the Oireachtas.

**1.2 Principal functions as defined by law**

The principal functions of the Ombudsman for Children’s Office as set out in the Ombudsman for Children Act are:

- to provide an independent and impartial complaints handling service regarding actions by public bodies concerning children;

- to promote children’s rights, including through participation and communication activities;
- to monitor and review legislation concerning matters that relate to the rights and welfare of children; and
- to advise any Minister on any matter relating to the rights and welfare of children.

### 1.3 Structural organization

The organisational structure of the Office reflects the different functions set out in the Ombudsman for Children Act and includes the areas of: complaints and investigations; participation and education; communications and new media; policy and legislation review; and corporate services.

## II. Individual complaints (if the institution has a competence to handle individual complaints)

### 2.1 Scope of competences of the Ombudsperson in handling individual complaints

The OCO may examine a complaint regarding the acts or omissions of a public body, school or voluntary hospital where that action has or may have adversely affected a child, and where it was or may have been the result of maladministration. Public bodies within the meaning of the Ombudsman for Children Act 2002 include Government departments, local authorities and statutory authorities/agencies that provide health, social care and other services to children.

The Ombudsman for Children may also initiate an own volition or systemic investigation (i.e. one that is not initiated with respect to an individual child or particular group of children) where it appears in the all the circumstances that such an investigation would be appropriate.

The OCO is excluded from examining complaints regarding the administration of the law to do with asylum, immigration and naturalisation. The Office also cannot examine complaints from children who are detained in a prison rather than a children detention school (in practice, this means 16 and 17 year old boys in Ireland).

### 2.2 Relevant statistics

The OCO dealt with 1,223 complaints in 2010. It is estimated that this figure will rise for 2011 to approximately 1,400.

The profile of those contacting the Office with complaints for the period 2010 is as follows:

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|-----------------------------|-----|
| • Children and young people | 4%  |
| • Parents                   | 69% |
| • Extended family           | 5%  |
| • Professionals             | 10% |
| • Concerned adults          | 8%  |
| • Other                     | 4%  |

The categories of complaint for the period 2010 are as follows:

- Education 38%
- Health 37%
- Other 12%
- Housing/planning 5%
- Justice 8%

### **III. Expressed opinions, statements, policy recommendations and/or proposals for legislative and/or other reforms**

Since the last ENOC meeting Ireland has witnessed significant political change.

The Minister for Children now holds a full Cabinet position accompanied by a new dedicated Ministry for Children, including structural change in the area of child protection, social services and youth justice.

A new Oireachtas (Parliamentary) Committee on Investigations, Oversight and Petitions has been established. This bi-partisan committee will provide a formal channel with which the Ombudsman for Children can engage. While the Ombudsman for Children already engages with other Parliamentary committees, she sees this as a good opportunity to influence and offer guidance to legislators beyond investigations.

Change in the political environment since October last year has meant that certain of the legislation affecting children did not advance before the dissolution of the Dáil. As a result much of the previous work on legislation reported to ENOC remains pertinent for 2011.

The 2010 systemic report on child protection remains in the media following the recent publication of the Commission of Investigation Report into the Catholic Diocese of Cloyne.

### **IV. Research, investigation, studies**

#### **Young people in detention**

In February 2011 the OCO published a report on its work with young people in detention. The participatory project with 35 young people in St. Patrick's Institution, a medium secure prison for 16 to 21 year olds, was a challenging piece of work, one which the Office has continued to follow since its publication.

There were two publications, the report itself and a DVD.

The report measures the experience of the young people in detention against the human rights instruments to which Ireland is a State party. The methodologies employed included face-to-face meetings, art and animation.

The medium of animation allowed OCO to use the language through which the young people most authentically express themselves.

The DVD illustrated their experiences by animating their own artwork and using their own language to describe their experiences.

A public launch included the Director of the Irish Prison Service responding to the Ombudsman for Children's recommendations.

At the publication of her annual report the Ombudsman for Children criticised a senior civil servant for misrepresenting this work to the UNCAT. She expressed her concern regarding the undermining of the young people's experience by inferring that their perceptions did not reflect reality.

Further work continues with the prison in advancing one of the recommendations that the young people said was a priority for them – information for young people and families.

The outcome of this project includes a contribution to the momentum for the move of young people from a custodial into a care environment. The government has agreed to achieving this aim and has published their intent to move young people to a care environment.

### **Audit of Investigations**

A review was undertaken by Dr Ursula Kilkelly, Senior Law Lecturer of University College Cork on behalf of the Ombudsman for Children's Office (OCO). The review provides an analysis of 10 pivotal cases that represent a broad spectrum of the OCO's experience with civil and public administration – from attempts by professionals to advocate for children up to and including occasions when our work has been deliberately obstructed.

It is a dominant feature of these investigations that with few exceptions they highlight a lack of awareness about the impact of public administrative decision-making on the lives and rights of children and families.

### **Education of young people in care**

Research on the education of young people in care is underway and will be completed in the Autumn. This piece of work is being carried out by Trinity College Dublin and the Economic Social Research Institute in Dublin.

The overall aim of this research project is to identify how the education system can best support attendance, participation and attainment in education by children and young people in care. In addressing this overall question, the research will examine policies, protocols, procedures, practices and any special initiatives that need to be in place within the education system, as well as between the education and health/social care systems, to support professionals to contribute effectively to meeting the educational needs of and improving educational outcomes for children in care.

### **Children's Rights in Healthcare Settings**

Research is soon to be completed on the subject of children's rights in healthcare settings. Strategically the OCO has very deliberately chosen a subject that will encourage the mainstreaming of children's rights into the future. The overall aim of the research project is to assist the OCO in setting a standard of good practice in fostering a culture of respect for children's rights in healthcare settings. This research

will provide the foundation to a larger project in 2012 that will include a nationwide consultation with children and young people.

## **V. Communication, Promotion and Publications**

- Public Affairs engagement

The OCO has a direct reporting relationship with the Irish Parliament. In order to ensure ongoing support for the OCO's work and a full understanding of and genuine commitment to advancing children's rights, the Ombudsman for Children and her team have invested significant resources and energy into building a constructive relationship with the new parliament, relevant Government Ministers and key legislators.

- Visits programme

The OCO continues to welcome children and young people to the Office through its visits programme. Open to school groups, children's projects and youth services nationwide, this programme facilitates face-to-face work with children and young people at the Office. It involves taking an activity-oriented approach to developing children's understanding of the OCO's work and children's rights, and also helps build our awareness of children's concerns and perspectives.

In 2010 and the first half of 2011, hundreds of children and young people between 5 and 18 years of age living in different parts of the country visited the OCO and shared their concerns with us. Taken together, the issues they raised and viewpoints they shared with us indicate the diversity of experience among children and young people living in Ireland today. Among the issues children and young people shared their views and concerns about were health, education, media consumption, the use of social media, play and leisure, safety and protection, and having their voices heard.