

Submission of the Ombudsman for Children

Oireachtas Joint Committee on Health
and Children Consultation on Primary
Medical Care in the Community

November 2008

Introduction

1. The Joint Committee on Health and Children issued an invitation for submissions relevant to primary care in the community on 14 October 2008 in order to assist it with the preparation of its own report on the issue.
2. Further to that invitation and pursuant to my statutory functions under section 7(1) of the Ombudsman for Children Act, 2002 to:
 - promote the rights and welfare of children;
 - advise on the development and coordination of policy relating to children;
 - encourage public bodies to develop policies, practices and procedures designed to promote the rights and welfare of children; and
 - highlight issues relating to the rights and welfare of children that are of concern to children,

I have set out below my recommendations for the Committee's consideration.

3. Primary medical care encompasses a very large variety of services and affects a considerable number of children and young people. In preparing this submission, I have chosen to focus on a limited range of issues that have come directly to the attention of my Office through its work; that were identified in the baseline research undertaken by Dr Ursula Kilkelly on behalf of my Office on the barriers to the realisation of children's rights in Ireland; or which have been the subject of criticism by international human rights monitoring mechanisms. This is not to say that other issues within the area of primary medical care are not equally deserving of attention. My aim is simply to raise with the Committee the questions with which my Office has most experience and I have no doubt that the Committee will have the benefit of a wide range of submissions from individuals and organisations with expertise in other discrete areas.
4. The issues raised in this submission are:
 - I. Child welfare and protection
 - II. Mental health services for children and young people
 - III. Children in care
 - IV. Access to therapeutic services

I. Child welfare and protection

5. I expressed my concern at the difficulties faced by young people and their families in accessing child protection services previously in a report to the Oireachtas Joint Committee on Health and Children regarding complaints about child protection, submitted in January 2006¹.
6. A matter of particular concern in this regard is the absence of a 24 hour nationwide social work service. In its examination of Ireland's most recent report on the implementation of the UN Convention on the Rights of the Child in this jurisdiction, the UN Committee on the Rights of the Child was critical of this lacuna in our child protection system. In its Concluding Observations of September 2006 on Ireland's report, the Committee recommended that social work services be extended to families and children at risk on a 7 day, 24 hour basis². This concern was echoed by the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, following his country visit to Ireland in November 2007³.
7. In addition to raising this issue with both the UN Committee and the Council of Europe Commissioner for Human Rights, I have expressed my concern at this gap in our child protection system in my submissions on the General Scheme of the Criminal Law (Trafficking in Persons and Sexual Offences) Bill and the National Action Plan on Trafficking in Human Beings, as well as in meetings with representatives of the Primary Community and Continuing Care Directorate in the HSE.
8. The practical difficulties and negative consequences for children and young people arising from the absence of such a service have been raised with my Office directly by members of An Garda Síochána and by medical professionals working in Accident and Emergency departments who are left to care for these children temporarily in the absence of a social worker and appropriate accommodation. It is clearly inappropriate for children in need of child protection and family support services to be placed in garda stations or hospitals. It is also a matter of concern that current plans to address the development of a nationwide 24 hour social work service appear to have been put on hold.

¹ Report of the Ombudsman for Children to the Oireachtas Joint Committee on Health and Children on complaints about child protection (2006).

² CRC/C/IRL/CO/2 Concluding Observations of the UN Committee on the Rights of the Child on the second periodic report of Ireland under the UN Convention on the Rights of the Child, (2006), paragraph 29.

³ CommDH(2008)9 Report by the Commissioner for Human Rights on his visit to Ireland 26-30 November 2007, (2008) paragraph 59.

9. Other concerns regarding child protection services have also been raised through the complaints function of my Office, including the difficulty in accessing social workers, the lack of allocated social workers for certain children and concerns about the assessment process when child protection concerns are being investigated.

II. Mental Health Services for Children and Young People

10. There are still significant deficiencies in respect of the services offered to children and young people with mental health difficulties in Ireland. My Office has received complaints regarding the availability of assessments, long waiting lists and delays caused by a lack of clarity about which service providers should assess young people in situations where they may have multiple needs (for example when they have difficulties with their mental health as well as drug abuse).
11. I am also concerned by the lack of progress achieved to date on the establishment of child and adolescent mental health teams. The most recent report of the Independent Monitoring Group on *A Vision for Change* published in June 2008 commented that although the HSE has prioritised child and adolescent mental health and is in the process of recruiting more staff, providing more beds and building purpose built child and adolescent units, the Monitoring Group found the rate of progress to be slow and inconsistent with the resources allocated⁴.
12. Many young people also experience difficulty in accessing services due to the negative attitudes which still surround mental health in Ireland. Innovative approaches to making information and support as accessible as possible should be supported and children and young people themselves should be at the heart of the design of such strategies. Mental health issues are often raised with my Office directly by children and young people and they have consistently conveyed the message that they want to have access to information and assistance locally, and that in times of crisis they would like to have a place to go to that is welcoming and non-threatening. Access to early support for young people is essential, as was pointed out in *A Vision for Change*. I note that steps are being taken by the HSE to improve the involvement of children and young people in the care planning process and would encourage the replication of this practice.
13. The absence of adequate primary care as called for in *A Vision for Change* has contributed to the continuation of the inappropriate practice of admitting children to adult psychiatric units. In the report on his country visit to Ireland in 2007, the Council of Europe Commissioner for Human Rights pointed out that placing children who

⁴ Independent Monitoring Group on *A Vision for Change: Report of the Expert Group on Mental Health Policy*, second report on implementation for the period 1 February 2007 – 31 January 2008, (2008), p. 16.

are in need of psychiatric treatment in adult facilities is in breach of the UN Convention on the Rights of the Child⁵. Indeed, this point was made by the UN Committee on the Rights of the Child itself when it examined Ireland's most recent report on the implementation of the UN Convention⁶. My Office has been contacted by children who have described feelings of distress and fear caused by being treated in adult psychiatric facilities and mental health professionals have also contacted my Office expressing their concern at the absence of dedicated child and adolescent units.

14. Driving cultural change in how we support young people with mental health problems should go hand-in-hand with the development of new facilities, both in relation to primary and secondary care. Young people must at all times be listened to, and must have a voice in their treatment and in the making of key decisions that affect them.

III. Children in care

15. Children in care are a particularly vulnerable group of children and of the complaints that come to my Office directly from young people, most of them come from children in the care of the State. This may well be due to the support they receive in contacting my Office from professionals working with them.
16. One of the main difficulties children in care experience stems from a lack of involvement in matters which affect them. In particular, complaints have been received by my Office regarding changes in placement that have taken place without consultation with the child and a lack of involvement in the care planning process more generally. Article 12 of the UN Convention on the Rights of the Child requires States to assure that children have the right to express their views freely in all matters affecting them, with due weight being given to those views in accordance with the age and maturity of the child. This article has been identified as one of the general principles of the UN Convention and in my submission to the Oireachtas Joint Committee on the Constitutional Amendment on Children of February 2008, I recommended that it be explicitly protected in the Constitution⁷. In the context of children in care, it is essential that this principle be respected and that their views be sought and taken into account in relation to all decisions affecting them.
17. Children in care have also contacted my Office with concerns arising from the lack of an allocated social worker and from the uneven provision of aftercare services. The issue of effective aftercare was commented on by the UN Committee which stated that follow-up with children leaving care is an integral part of the protection of children

⁵ Report of the Commissioner for Human Rights, paragraph 60.

⁶ Concluding Observations of the UN Committee, paragraph 47.

⁷ Submission of the Ombudsman for Children to the Oireachtas Joint Committee on the Constitutional Amendment on Children (2008), see section 2.1

without parental care⁸. The period leading up to and following a young person leaving care can be very stressful and uncertain, especially when it coincides with state examinations and every effort should be made to provide clarity and support to young people in that situation.

18. Neglect is the primary reason for children being taken into care and most often poverty is the underlying cause.⁹ Families in difficult circumstances often find themselves unable to access support because of educational disadvantage, addiction problems or social exclusion. Due to the lack of emphasis on family-centred early intervention, many children may be denied the right to live in the care of their families because those families cannot cope and do not receive the support they need. In my submission to the Oireachtas Joint Committee on the Constitutional Amendment on Children, I recommended that the Constitution include a provision stating that the State has a duty to support families and act in a proportionate manner¹⁰. This would mean that State agencies would be obliged to provide appropriate and proportionate support to families in need which may, in some cases, obviate the need to take children into care.

19. The situation of separated children seeking asylum in the care of the State is an issue of concern to my Office. These are children under the age of 18 who are separated from both parents, or from their previous or customary primary caregiver, and are in the care of the HSE. Although improvements have been made in the services provided to these young people, it remains the case that they received a lower standard of care than children in the mainstream care system. Many are still accommodated in privately run hostels without adequate care staff and which are not currently subject to inspection by the Social Services Inspectorate. Some hostels contain far more children than a standard residential unit for Irish children in care and over 300 separated children have gone missing from their care placements between 2001 and 2005¹¹. I welcome progress made in establishing an aftercare service, the greater emphasis placed on foster rather than residential care and the improvements made to the residential units in which separated children are being accommodated. However, a great deal still needs to be done in order to ensure that these children received the care and support they need.

IV. Accessing therapeutic services

20. Many of the complaints received by my Office are made by parents who have encountered serious difficulties in accessing health and social services for their children. The specific concerns raised include:

⁸ Ibid., paragraph 33.

⁹ Kilkelly, U. *Barriers to the realisation of children's rights in Ireland* (2007), commissioned by the Ombudsman for Children's Office, p. 21

¹⁰ See section III of the submission.

¹¹ Report of the Commissioner for Human Rights, paragraph 52.

- Speech and language therapy;
- Occupational therapy;
- Physiotherapy;
- Early intervention for children with autism;
- Waiting lists for medical treatment;
- Availability of home support for children with chronic illnesses;
- Transport arrangements for children with chronic illnesses in rural areas; and
- Difficulties in getting medical aids such as wheelchairs, leg braces and hearing aids.

21. While I appreciate that resource issues can arise in the context of providing the services mentioned above, it is the experience of my Office that many of the difficulties experienced by families in this area arise from the fact that the authorities or service providers in question are not duly diligent in having regard to the best interests of children in all circumstances. In addition, inconsistencies in service provision between different areas and services can also be a problem and lead to certain children being disadvantaged vis-à-vis their peers.

22. It is worth noting in the context of diminished resources to provide health and social services that consistency, transparency and sound decision making in the interests of children are not always dependent on financial resources.