

Submission to the Joint Committee on Education and Skills

Tuesday 7 March 2017

Thank you for giving me the opportunity to address you this afternoon.

At the outset, I would like to say that I share the concerns of Deputy Daly regarding the complaint procedures relating to schools. All users of public services, including school pupils and their parents, should have access to a fully independent redress mechanism when things go wrong. An Ombudsman offers free, independent and objective consideration of complaints with the aim of facilitating this redress. They also strive to improve services through learning from complaints.

However, in saying that, any proposal to provide access to redress and recourse to an Ombudsman in areas where it is not currently fully available should first consider whether an existing Ombudsman can undertake the work instead. The decision to create a specialist Ombudsman scheme should only be taken where a strong case can be made that, having regard to the additional resources required, value will be added for complainants.

In this instance, I believe that this issue could be very effectively addressed by extending the powers of both my Office and the Office of the Ombudsman for Children rather than the creation of a separate Education Ombudsman.

My Office is a well-established institution (now over 30 years old) which is very experienced in examining complaints about the public service. Since 1984 we have examined well over 80,000 complaints. My Office has very knowledgeable investigators and caseworkers, detailed procedures for examining complaints and the infrastructure required to support that process. In

recent years, we have also built up considerable expertise in examining complaints about the education sector.

Following the passing of the Ombudsman (Amendment) Act 2012, my remit was extended to include entities established by or under any enactment or statutory instrument. The Education Act 1998 put the school management system on a statutory footing (including the functions of boards of management (sections 14 and 15)). Complaints in relation to these functions are therefore already within the remit of my Office.

In practice, however, as my remit extends to persons aged 18 and over, complaints to my Office from or on behalf of school pupils are, at the moment, relatively small in number. Any such complaints I do receive frequently concern the State Examinations Commission and, in particular, the application of the Reasonable Accommodation for Certificate Examinations or RACE Scheme in respect of the Leaving Certificate. In fact, my Office received 57 complaints in 2016 on this issue. Over the past number of years, my Office has dealt very effectively with these complaints and has built up considerable knowledge and experience on the issues involved. With this in mind, and in view of the fact that many, if not most, pupils in their final year of school are now aged 18 or over, I would welcome an assurance that any changes in respect of the Ombudsman of Children as a result of these discussions should also be reflected in the powers of my Office.

One of my great concerns about the proposed creation of an Education Ombudsman is that it will serve to create confusion amongst students in further and higher education. My Office currently deals with a significant number of complaints about further and higher education institutions (including the universities, Institutes of Technology and the Education and Training Boards

(formerly known as VECs) as well as the student grant-awarding authority Student Universal Support Ireland (SUSI). In 2016 my Office received 82 complaints about higher education institutions and 87 complaints about SUSI.

These complaints range from funding issues to examinations procedures. Most of these responsibilities came to my Office as a consequence of the Ombudsman (Amendment) Act 2012 when my remit was extended to include all higher education institutions in receipt of public funding. Since then we have sought to raise the profile of our work in this sector and have had extensive engagements with providers and student representative bodies. My Office has, by this stage, developed good liaison and working relations with the education sector bodies under my remit. This has enabled my staff to engage with these bodies at a senior level where appropriate and, as a result, we have agreed some significant systemic changes arising from individual complaint as well as getting redress for many complainants.

In my view, the creation of an Education Ombudsman would only leave students in higher education understandably very unclear as to where to make a complaint.

Finally, I would like to mention that the term “Ombudsman” is a protected term under our legislation. This means that a person cannot use the title of “Ombudsman” without being authorised to do so by the Oireachtas or by prior consent of the Minister for Public Expenditure and Reform. This jurisdiction was one of the first in the world to introduce such a provision. One of the main reasons for this was to avoid a proliferation of Ombudsman Offices. To create an Education Ombudsman would run counter to this and against the trend internationally towards consolidation of Ombudsman functions which this jurisdiction has always favoured - with my Office having remit over all public

services including Government Departments, the health services and local authorities as well as of course higher education.

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Ombudsman