



Michael McNamara TD  
Chairperson  
Oireachtas Committee on Covid 19 Response

**Sent by email only to:** [michael.mcnamar@oireachtas.ie](mailto:michael.mcnamar@oireachtas.ie)

**NOTE:** Due to the current Covid 19 crisis and working from home there will be no hard copy of this letter issued – email only

28 May 2020

Dear Deputy McNamara,

I am writing to you in my role as Ombudsman for Children and in line with my statutory obligation per the Ombudsman for Children Act (2002) S.7 (1) (b) & (e), to “*encourage public bodies, schools and voluntary hospitals to develop policies and procedures designed to promote the rights and welfare of children*” and to “*highlight issues relating to the rights and welfare of children that are of concern to children*”.

I would like to respectfully request that your Committee consider my enclosed submission and take time to examine how children have been looked after a) during this Covid 19 pandemic and b) how their rights will be protected in the subsequent economic crisis.

In this submission we have outlined a number of issues that we have identified as crucial for children. I would appreciate if you, and your colleagues, would follow up on these as they have been the subject of a consistent influx of concerns and complaints from parents and children to this Office.

The need for measures to ensure that children’s rights are being fulfilled to the maximum extent of the State’s available resources is now particularly acute given the immediate and longer term impact of the pandemic on the State’s finances.

The UN Convention on the Rights of the Child (UNCRC), which Ireland fully ratified in 1992, imposes an immediate obligation on States to take targeted measures to move as expeditiously and effectively as possible towards the realisation of children's economic, social and cultural rights. This obligation involves a prohibition of retrogression without strong justification. As the UN High Commissioner for Human Rights noted several years ago, in times of financial crisis or austerity, any proposed policy change or adjustment must be temporary, covering only the period of the crisis; proportionate, in that the adoption of any other policy or a failure to act would be more detrimental to children's rights; non-discriminatory, in the sense of taking all possible measures to support social transfers and mitigate inequalities that can grow in a time of crisis; and ensure that the rights of disadvantaged and marginalised individuals and groups are not disproportionately affected.

As a Committee set up to look at the State's Covid 19 response, as well as reviewing what has already been decided and carried out, it is vital that you spend an equal measure of time engaging around the Government's future plans too. I am happy for you to distribute this submission to the members of the Committee and my colleagues and I would be very happy to discuss any part of the submission with you and the Committee if that would be helpful.

Due to working at home I can be contacted via email at [niall\\_muldoon@oco.ie](mailto:niall_muldoon@oco.ie) or mobile phone at 087 7549178.

I wish you and the Committee well in your important work over the next period of time.

Yours sincerely,



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Ombudsman for Children

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Submission by the Ombudsman for Children's Office to  
The Special Óireachtas Committee on Covid 19 Response

28 May 2020

The Ombudsman for Children's Office ('OCO') has prepared this submission for the purpose of highlighting issues relating to the rights and welfare of children that are of concern to children, with respect to the current COVID-19 restrictions and the Government Roadmap for Reopening Society and Business.<sup>1</sup>

As members of the Committee are aware, the Ombudsman for Children's Office (OCO) is an independent statutory body, which was established under the Ombudsman for Children Act 2002 (as amended). The OCO has two core statutory functions, namely:

- to promote the rights and welfare of children under 18 years of age
- to examine and investigate complaints made by or on behalf of children about the administrative actions of public bodies, schools or voluntary hospitals that have or may have had an adverse effect on children.

Our young people have been remarkably compliant and resilient while their lives have been turned upside down.

Children's right to be heard and to be taken into account in decision-making processes does not cease in situations of crisis or in their aftermath. While human rights law permits measures restricting the enjoyment of certain rights in order to protect public health, such

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<sup>1</sup> The OCO is an independent statutory body, which was established under the Ombudsman for Children Act 2002 (2002 Act). One of the OCO's core statutory functions under the 2002 Act is to promote the rights and welfare of children up to the age of 18 years. Section 7(1) (a) of the 2002 Act provides for the Ombudsman for Children to advise any Minister of the Government on the development and co-ordination of policy relating to children. Section 7(1) (e) of the 2002 Act provides for the Ombudsman for Children to highlight issues relating to the rights and welfare of children that are of concern to children. Section 7(4) of the 2002 Act provides for the Ombudsman for Children to advise any Minister of the Government on any matter relating to the rights and welfare of children.

restrictions must be imposed only when necessary, be proportionate and be kept to an absolute minimum.

The OCO believes that the issues highlighted below merit careful consideration by Government, in accordance with the State's duty to recognise and affirm the natural and imprescriptible rights of all children.<sup>2</sup> In a time of pandemic, as in normal times, Government's decisions and actions should have appropriate regard to the rights and welfare of the children concerned.

For this reason, the OCO echoes the concerns raised by the UN Committee on the Rights of the Child with regard to the grave physical, emotional and psychological effect of the COVID-19 pandemic on children.

The OCO calls on the Committee to ensure that the Government protects the rights of children by considering the health, social, educational, economic and recreational impacts of its COVID-19 responses on the rights of the child.<sup>3</sup>

Over the last number of weeks children and parents have expressed to us their concerns regarding the impact of the measures introduced to control the COVID-19 pandemic on children's right to health and development, protection and welfare, education and childcare, freedom from poverty and exclusion, and access to leisure, recreation and cultural pursuits.

We would ask that the Government considers what has been expressed to us and our suggestions to alleviate same as part of their ongoing review of the Road Map for Ireland.

#### Health & Development<sup>4</sup>

1. Children and young people are facing high levels of anxiety and emotional distress relating to COVID-19 and social distancing measures. Government should ensure that children who are receiving, or are now in need of, mental health support should be able to access such support through whatever alternative means as necessary e.g. phone/online. Special considerations should be given to children who may have suffered bereavement of a family member from Covid-19.
2. Despite the increasing pressure on health systems and the scarcity of resources, Government should seek to minimise the disruption to children's equitable access to

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<sup>2</sup> Article 42A.1 of the Irish Constitution

<sup>3</sup> See the 'Committee on the Rights of the Child COVID-19 Statement' available at <https://www.ohchr.org/en/hrbodies/crc/pages/crcindex.aspx>

<sup>4</sup> Articles 6, 17, 23, and 24 of the United Nations Convention on the Rights of the Child ('CRC')

health care, including medical treatment unrelated to COVID-19. Every effort should be made to ensure that the health screening system is robust enough to ensure early detection of conditions in children and teenagers.

3. Government should create online resources to provide child-friendly sexual and reproductive health information, including how to access services during the COVID-19 crisis.
4. National vaccinations programmes should continue to be closely monitored to ensure all new born babies and school aged children receive their vaccinations and that immediate steps are taken to rectify any deficits in same.
5. Government should aim to disseminate accurate information about COVID-19 and how to prevent infection in formats that are child-friendly and accessible to all children, including children with disabilities, migrant children, children that are members of the Traveller and Roma community and children with limited access to the Internet.
6. The government should ensure that they continue to identify quickly, and react appropriately to, any clusters of infections within specific groups of people e.g. communal living accommodation and or specific ethnic groups and should target dedicated resources to address same.

#### Child Protection & Welfare<sup>5</sup>

7. While the OCO welcomes the launch of Still Here, the public awareness campaign on domestic abuse during the COVID-19 pandemic<sup>6</sup>, this initiative should be expanded to include public education on child abuse, including ways to identify signs of potential abuse and how a friend or neighbour can assist a child experiencing abuse. It should also include ways for children themselves to contact someone for help such as [www.changingfutures.ie](http://www.changingfutures.ie) (website for children hosted by Tusla, the Child and Family Agency) and ChildLine (ISPCC).
8. Government should seek to expand services for at-risk households, including home visits to families where children are at elevated risk of violence, and ensure that frontline social workers are provided with the requisite PPE to conduct these visits safely. Supports should be in place for children if their parents/carers become ill and

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<sup>5</sup> Articles 19, 20, 25, 32, 33, 34, 35, 36, 37 & 40 of the CRC

<sup>6</sup> See <https://www.stillhere.ie/>

are unable to care for them or if the children themselves become the carers of their parents.

9. Prioritise the full resumption of the activities of the Court Service for the purpose of family law matters which have a significant impact on the welfare of children, including custody and access proceedings and proceedings under the Child Care Act 1991.
10. Within isolation, children will also spend more time online, increasing the risk of online abuse, including child pornography and online bullying. Governments should conduct awareness campaigns regarding the risks of online abuse, including the sexual exploitation of children, and publicise hotlines to report the same (e.g. Webwise.ie and Be Safe Online <https://www.gov.ie/en/campaigns/be-safe-online/>). All children should have access to child-friendly advice and guidance on staying safe online
11. Given the need for continuity and stability, Government should also allow children leaving care to remain in their existing placement, or otherwise identify non-institutional aftercare options for them. Separated children seeking asylum turning 18 years of age during this crisis should not be placed in direct provision living for the duration of this pandemic.
12. Creative ways are needed to ensure children do not remain “invisible” for an extended period of time. Consideration should be given to the partial opening of schools and other community-based services during the traditional summer holidays.<sup>7</sup> This is of particular importance for children with disabilities who are missing out on essential supports and routines. Respite services should be expanded to support families as soon as is appropriate and possible. Every effort must be made to ensure July provision occurs this year for those students.
13. Children living in different households from their parent(s), or in the care of the State, have also seen a disruption to their family life. The OCO submits that access visits to parents and/or siblings in different households should be explicitly deemed to be essential social visiting for the duration of the current COVID-19 restrictions.
14. With respect to the juvenile justice system, children should only be remanded to custody as a last resort. The OCO submits that there should be a temporary moratorium on short remands for children for the duration of the COVID-19 crisis.

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<sup>7</sup> See also the Child Care Law Reporting Project (CCLRP), Observations on Concerns for Vulnerable Children Arising from the Covid-19 Pandemic, 3 April 2020

### Poverty & Exclusion<sup>8</sup>

15. The COVID-19 related economic downturn could last for several years. Therefore, Government should be prepared to scale up social protection schemes to protect the most vulnerable families and to minimise any possible increase in child poverty.
16. Many children live with their families in communal accommodation where social distancing and self isolation is difficult such as direct provision, homeless accommodation and Traveller halting sites. Government should continue to endeavour, where possible, to transfer children in communal accommodation to more suitable family-based settings or family-friendly environments. Contingency plans should be in place to ensure adequate safeguards for children if their parent(s) or care giver becomes ill and/or needs to self-isolate and is unable to care for their child/children.
17. According to the Irish Traveller Movement, over 2,000 families and upwards of 3,000 children are living in inadequate, unsafe and impermanent conditions. While guidance to reduce the spread of COVID-19 and lessen the risk of infection in the Traveller community was introduced on the 18th March by the Department of Housing, Planning and Local Government, the Government must audit actions by local authorities to implement same. This would include examining social distancing between individual family units, access to sanitation, suitability to self-isolate in the event of a suspected / confirmed case of Covid-19 and facilities to provide for cocooning for individuals over 70 or with underlying medical conditions. Immediate action should be taken to mitigate risks identified including the provision of alternative housing / mobile homes on a temporary basis as required.
18. Government should also consider the equitable expansion of the COVID-19 emergency payment to young people aged 16 and 17 years of age who were in full employment prior to the pandemic and had sufficient PRSI payments to qualify for this payment, if they were an adult.

### Leisure, Recreation and Cultural Activities<sup>9</sup>

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<sup>8</sup> Article 26, 27 & 30 of the CRC

19. Whilst restrictions to congregated leisure, recreation, cultural and sport activities are necessary to prevent viral spread, Government should endeavour to explore and promote creative solutions for children to enjoy their right to play safely including early and safe opening of playgrounds, pitches and sports facilities...
20. Places of business such as grocery shops and hardware stores should not be allowed to discriminate against children entering their premises as this can be a significant obstacle for some parents.

#### Education & Childcare<sup>10</sup>

21. Children with special educational needs have been impacted particularly by the loss of in-school supports. The OCO understands that the Department of Education and Skills is trying to mitigate this impact through the temporary assignment of special needs assistants ('SNAs') to the HSE in order to ensure the continuation of support to families via their Children Disability Network Team. This scheme needs to be monitored for its efficacy, and additional supports introduced as necessary.
22. School disruption has impacted children's learning and daily routines and increased their sense of isolation and despair. Many children are missing out on important and meaningful rites of passage, such as their primary school graduation. The Government should take steps to encourage all schools to mark these important rites of passage for children before the end of the formal school year.
23. The re-opening of schools for the new academic year is vitally important for all students in primary and post primary level. However, it will be more so for the cohort of children who are moving into their examination years (3<sup>rd</sup> and 6<sup>th</sup> Years). Therefore it is crucial that certainty is given to all of those students as early as possible about the start date, manner of their schooling and the nature of the examination/assessment process for 2021.
24. Online learning poses challenges for children who have limited or no access to technology or the Internet, or who do not have adequate parental support. Inequity in the provision of online learning by individual schools places some students at a significant disadvantage. Government should ensure that distance learning does not exacerbate existing societal inequalities and should provide for free and/or discounted access to high quality Internet and computer equipment for both families

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<sup>9</sup> Article 15 & 31 of the CRC

<sup>10</sup> Article 28 & 29 of the CRC

and schools in poor and marginalised populations.<sup>11</sup> This issue will continue to be as important for the start of the new academic year in September.

25. Government should consider innovative ways to address the needs of the most vulnerable children and youth who will miss out on vital services while schools are closed. Many children receive their only nutritious meal through school meal schemes; therefore, Government needs to ensure that there is a consistent approach throughout the country for the distribution of this food to families in need. The Government should also consider if this might be continued over the summer holidays while the crisis is ongoing and many parents may be losing their jobs.
26. While the 'Roadmap for Reopening Society & Business' envisages the opening of crèches, childminders and pre-schools for children of essential workers in phase 3, and the opening of crèches, childminders and pre-schools for children of all other workers on a gradually increasing phased basis in phase 4, many families are struggling without this additional support, routine and structure. Government should consider permitting children with disabilities or additional needs, such as those availing of the Access and Inclusion Model ('AIM') scheme, to return to crèche at an earlier date with appropriate safety measures.

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<sup>11</sup> See also the Child Care Law Reporting Project (CCLRP), Observations on Concerns for Vulnerable Children Arising from the Covid-19 Pandemic, 3 April 2020