

DÁIL ÉIREANN

AN COISTE UM ACHAINÍOCHA ÓN BPOBAL

COMMITTEE ON PUBLIC PETITIONS

Déardaoin, 10 Márta 2022

Thursday, 10 March 2022

Tháinig an Comhchoiste le chéile ag 1.30 p.m.

The Joint Committee met at 1.30 p.m.

Comhaltaí a bhí i láthair/Members present:

Teachtaí Dála/ Dputies	Seanadóirí/Senators
Pat Buckley,	Jerry Buttimer,
Cormac Devlin,	Eugene Murphy.
Emer Higgins.	

Deputy Martin Browne sa Chathaoir/in the Chair.

Business of Joint Committee

Chairman: I welcome everyone to our public meeting using Microsoft Teams. We have received apologies from Deputy Pádraig O’Sullivan. The Ceann Comhairle, Deputy Seán Ó Fearghaíl, and the Cathaoirleach, Senator Mark Daly, have published a Covid-19 code of conduct for the parliamentary community, January 2022. Face masks should be worn when moving around the campus and during the committee meeting except when speaking. This will help to reduce the risk of Covid-19 spreading among the parliamentary community. I ask for everyone’s full co-operation on this.

I propose that we approve the minutes of the private and public meetings held on 16 and 17 February, which have already been approved at the private meeting. We must do this for procedural reasons. Is that agreed?

Deputy Pat Buckley: Agreed.

Chairman: I remind members of the constitutional requirement that they must be physically present within the confines of the place in which Parliament has chosen to sit, namely, Leinster House, in order to participate in public meetings. I will not permit a member to participate where they are not adhering to this constitutional requirement. Therefore, any member who attempts to participate from outside the precincts will be asked to leave the meeting.

Annual Reports of the Office of the Ombudsman for Children: Ombudsman for Children

Chairman: Before we start, I wish to explain some limitations to parliamentary privilege and the practice of the Houses regarding references witnesses may make to other persons in their evidence. The evidence of witnesses physically present or who give evidence from within the parliamentary precincts is protected pursuant to both the Constitution and statute by absolute privilege. However, the witnesses are giving evidence remotely from a place outside of the parliamentary precincts and, as such, may not benefit from the same level of immunity from legal proceedings as a witness who is physically present does. Witnesses may think it appropriate to take legal advice on this matter. The witnesses are reminded of the long-standing parliamentary practice to the effect that they should not criticise or make charges against any person or entity by name or in such a way as to make him, her or it identifiable, or otherwise engage in speech that might be regarded as damaging to the good name of the person or entity. Therefore, if any of their statements are potentially defamatory with regard to an identifiable person or entity, witnesses will be directed to discontinue their remarks. It is imperative that the witnesses comply with any such direction.

Before we hear from the witness, I propose we publish his opening statement on the committee’s website. Is that agreed? Agreed. On behalf of the committee, I would like to extend a warm welcome to the Ombudsman for Children, Dr. Niall Muldoon. I also welcome witnesses from his office, Dr. Karen McAuley, head of policy, and Mr. Colm Leonard, investigator. I suggest that Dr. Muldoon make his opening statement for approximately ten minutes. We will then have questions and comments from members. Each member will be asked to keep to approximately five minutes, which will allow members to come back in at a later stage of the proceedings. I would now like to invite the Ombudsman for Children, Dr. Muldoon, to make

his opening statement.

Dr. Niall Muldoon: I would like to thank members for the invitation to appear before the Joint Committee on Public Petitions today.

As members will be aware, the Ombudsman for Children's Office, OCO, is an independent statutory body, which was established in 2004 under the Ombudsman for Children Act 2002. We have two core statutory functions, the first of which is to promote the rights and welfare of children under 18 years of age. The second is 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, adversely affected a child.

I will briefly summarise some of the key points from our annual reports over the last three years since 2018. To begin with 2018, as the committee will recall, at that point, 10,000 people, including nearly 4,000 children, were homeless. The housing crisis and child and family homelessness, in particular, was a significant concern for our office in 2018. As in previous years, our team worked directly with families who had difficulty trying to access adequate housing but we also carried out a consultation with children living in family hubs at that time so we could hear directly from them. This took place alongside a review of housing policy, which informed our report on family hubs.

In our 2018 annual report, we called on the Government to recognise housing as a social good and to consider reopening the conversation on the constitutional right to housing. I am delighted to see that is in the 2020 programme for Government. Child and family homelessness remains a huge concern to our office today, with the most recent figures from January 2022 showing that 1,119 families, including more than 2,500 children, are accessing emergency accommodation. That is still far too high.

We believe that the right to housing should be enshrined in Bunreacht na hÉireann and have called for a commitment to eliminate family homelessness within five years as a first step to eradicating homelessness completely across the nation by 2030, in line with Ireland's commitment under the Lisbon declaration.

The year 2018 also saw an increase in the number of children making complaints directly to us, which we largely attributed to the fact that our participation and rights education team gained an additional two members. Education was the most complained about issue to our office in that year.

In 2019, our Progress for Children annual report highlighted how through our independent examination and investigation of complaints, we continued to engage constructively with a wide range of public bodies to secure positive outcomes for children. Developments of note that year included how child protection in schools is monitored through the Department of Education inspectorate, and improvements in how Tusla and the HSE fulfil their responsibilities towards children with disabilities in care.

As the committee may be aware, just yesterday, our office published Jack's Case: One Year On, an update on a previous investigation into how the care of a child with profound disabilities was managed by the two State agencies. While we are satisfied that that child in question is now thriving, we are still concerned that significant gaps remain at policy, funding and operational level to support the rights of children with disabilities to grow up at home with their families. This case clearly highlights the ongoing issues experienced by children with disabilities

and their families, and the outstanding improvements that are needed for State bodies to work better together in their interest.

In 2019, we continued to monitor and advise on a wide range of developments in legislation and public policy affecting children, including engaging on the Education (Admission to Schools) Act 2018. While we were disappointed at the 25% allocation rule with regard to places for children whose parents or grandparents attended a specific school, we believe the enactment of this legislation has removed significant barriers some children had faced in accessing a school place, including on the grounds of religion.

Our 2019 annual report also featured 11 case studies of the children we serve to highlight the reality of the issues our office faces. That year also saw us undertake a significant consultation with children in direct provision to hear specifically from them about their views and experiences, which were published in a report called Direct Division.

Education was again the most complained about issue for our office.

In 2020, we called our report Childhood Paused. The Covid-19 pandemic obviously turned life upside for everyone in 2020, particularly children and young people, with schools closed and their routines and normal lives completely disrupted. I will come back to Covid-19 in a moment as a separate piece but we will briefly focus on some of the other issues that came up for our office in 2020.

Complaints remained high that year despite the pandemic but there were fewer complaints than in 2019 as many services were closed. The year 2020 also saw a small increase in the number complaints made directly from children and, once again, the main area of the public service most complained about was education.

New issues that came up in 2020 included remote learning and the digital divide, lack of clarity about State exams, mental impact of restrictions on young people, calculated grades, children in high-risk households who feared bringing Covid-19 home and the impact on children with special educational needs.

The increase in complaints directly from children in 2020 can largely be attributed to educational issues and was an indication of the level of upset among students. It is worth noting today that all the children who contacted the OCO mentioned the impact of the pandemic on the mental health of children and their peers.

Speculation around the future of the Department of Children and Youth Affairs in the summer of 2020 in the wake of the inconclusive general election earlier that year, and suggestions that it would be subsumed into other Departments, were of enormous concern to our office at the time. As we argued then, and it holds true today, we firmly believe this would have led to an abdication of responsibility and accountability in upholding children's rights, particularly at such an important time. If the pandemic has proven anything, it is that Government needs to mainstream the rights of children and have them at the fore when a crisis hits. There should never again be any doubt about the need for a stand-alone department of children.

Like most organisations, the operations and running of our office was completely changed by Covid-19, with all of our kitchens becoming offices, schoolrooms or both. While it was really disappointing for us not to be able to welcome children into our office during the pandemic, I am extremely proud of how our team adapted to keep our services up and running during that really difficult time.

Turning to the Covid-19 crisis, it would be remiss of me not to use this opportunity to reflect in more detail on the impact of the pandemic on our children and young people. If we cast our minds back for a moment to the early days of 2020 when the crisis first hit, children were treated almost as pariahs; they were seen as vectors of the disease. Their very presence in public places like supermarkets or shops often caused disdain. Schools were closed, playgrounds were shut, sports and other group activities were cancelled and children's routines and lives were turned upside down. Life became really hard for those children who were already vulnerable or who relied on support services and-or respite and their families. While we were all told to stay at home, the pandemic highlighted clearly how home is not a safe space for every child, something that was clearly illustrated by the increase in domestic violence incidents in 2020. Incidents of possible abuse that may have been missed, in respect of which there may have been a delay in their being identified or that may have gone undetected are of great concern to me.

During 2021, the European Network of Ombudspersons for Children and UNICEF invited ombudspersons and commissioners for children across Europe and Central Asia to conduct a pilot child rights impact assessment, CRIA, about the impact of Covid-19 measures on children's rights. A CRIA examines the potential impacts that laws, policies, budget decisions, programmes and services may have on children as they are being developed and prior to a decision being made or an action being taken. Our CRIA, which we published on 28 January 2022, focused on the impact of school closures on children's rights and it showed that the negative impacts of school closures were particularly felt by children with disabilities, children who are homeless, children with mental health issues, children living in direct provision and Traveller and Roma children. The State needs to consider children's rights more fully when making decisions that affect them and to give more attention to special measures needed to mitigate the disproportionate impact that decisions can have on particular groups of children, particularly in emergency situations. I fear we may never fully grasp the impact of this period on our children and young people and urge in the strongest terms that children's rights are to the forefront of any decisions made about them in any future crisis.

While the Covid-19 pandemic starkly highlighted the ongoing disadvantage experienced by many children in Ireland, it also highlighted the ability of Government and State organisations to adapt, to be innovative and to make decisive change. For the past year, the OCO has been working on A Better Normal, an initiative that seeks a time-limited, cross-departmental Oireachtas joint committee focused on the elimination of child poverty and the eradication of child homelessness within the next five years. There is an opportunity to bring together all the work happening in these areas, to bring a new energy and to put a sharp focus on children. No child in Ireland should live in poverty and no child should be homeless. These problems cannot be divided up across Departments or sections. These are not housing issues, social protection issues or ones for education. These problems have roots in every part of our society and a whole-of-government approach is crucial in solving them.

In October 2020, the OCO published Unmet Needs, a report that highlights our concerns about the serious negative impact that delays in completing assessments of need and providing corresponding services to children, are having on children's current health and well-being as well as their future development. We met with the Oireachtas Joint Committee on Children, Equality, Disability, Integration and Youth in December 2020 to discuss this report. We welcomed the decision of the committee to hold further meetings in relation to this matter, including the Minister of State with special responsibility for disability and the HSE.

In November 2021, the Minister of State with special responsibility for disability indicated

that almost 4,000 children were still waiting for an assessment of their needs. This high number was very concerning to us, particularly given the introduction of several measures that were expected to deal with the waiting lists, the allocation of additional financial resources, the establishment of new therapy posts, the implementation of a revised, but controversial, standard operating procedure, SOP, and the reconfiguration of children's disability network teams. Therefore, in December 2021 we wrote to the Minister of State with special responsibility for disability and the CEO of the HSE to highlight our concerns. We also called for representatives of the HSE to appear before the Joint Committee on Children, Equality, Disability, Integration and Youth to account fully and publicly for ongoing problems with assessments of need and to outline clearly how these problems will be addressed. We expect that this will happen in the coming weeks.

Online safety and digital rights online are important issues for the office and for children in Ireland. During 2021 we engaged with developments regarding the general scheme of the online safety and media regulation Bill 2020. Establishing a regulatory framework for online safety to address the spread and amplification of harmful online content is a significant opportunity to strengthen the protection of children from harmful content online. However, proposals to enumerate categories of harmful content and to establish a systemic complaints scheme rather than to provide for the online safety commissioner to deal with individual complaints is an issue of concern to us. The OCO will continue to monitor and engage with developments relating to this proposed legislation during 2022.

As the committee can see, the OCO is dealing with a wide range of issues ranging from education that affects almost all children, to mental health, poverty and direct provision that impacts smaller, more vulnerable and disadvantaged groups. Our office has grown significantly in recent years, jumping from 12 permanent staff in 2016 to 36 today. The skills and expertise now available mean that we can deal with complaints that come in the door in an urgent and efficient manner, while we are also working strategically to raise awareness of children's rights and to create an Ireland where children can live safe, fulfilling and happy everyday lives.

We are in the process of finalising our report to the United Nations Committee on the Rights of the Child in advance of Ireland's review in October 2022. We will also be submitting a children's report, which includes a survey and consultation with children to the committee. I am in the process of finalising our strategic plan for 2022 to 2024. The priorities for the office over the next three years will be in the areas of mental health, disability and the future of education.

I again thank the committee for the invitation to speak here today. I and my colleagues, Dr. McAuley and Mr. Leonard, will be happy to answer any questions.

Chairman: I thank Dr. Muldoon. I will ask some questions and then I will let in the other members. I will come back in again later.

I read with interest the 2020 report of the OCO on the challenges facing children in Ireland who require assessments of need. It is still an issue, unfortunately, that countless families are being faced with regularly. All the Deputies and Senators on this committee and in the wider Oireachtas have received many representations from families on the issue. It was disheartening to read in the report of the OCO that the statutory timeframes for the completion of assessments of needs were only met 8.8% of the time in 2018 and that it was projected at the time that the rate would be 9% in 2022. Even despite the initial attempts to address these issues through funding, and to deal the backlog that has resulted, it has been noted that progress in clearing the backlog seems to have slowed. I am interested to hear Dr. Muldoon's thoughts on this issue.

Dr. Niall Muldoon: It has been a long-term issue for us. Even before the pandemic, it was a concern for us. The new standard operating procedure involves a 90-minute assessment done by one individual professional, as opposed to a seven- or eight-week assessment of the child being done by a multidisciplinary team. The benefit that was supposed to accrue from that procedure and that type of assessment was that it would free up professionals to carry out service provision and allow children to get access to services. I have had no sense from any of the Departments, the HSE or the Minister of State with special responsibility for disability that that has been the case. Some of the backlog has been cleared, but there is still a long waiting list for children to access assessments of need, even though it is a shorter process.

I have also heard of serious concerns expressed by the healthcare professionals involved with this process regarding its suitability and quality. That is because, essentially, most of those standard operating procedure assessments that are done result in a designation that the child concerned needs a further assessment. The concern right from the start was that this would be a way to avoid the statutory timelines, and that providing a 90-minute assessment would allow for the fulfilling of the statutory obligation but not the fulfilling of the obligation in respect of the rights and best interest of the child. It seems to be coming true in the last year that is what is happening. We are creating another waiting list.

We must remind ourselves that the assessment of need is only the key to the door. A service statement is needed after that and it then puts the child on the waiting list to get the required services. Therefore, what we have done is that we have created another barrier for our children, as opposed to taking away a barrier that was supposed to be slowing things up. I am really concerned about that aspect and I look forward to hearing what the HSE has to say about this matter. Again, there is no point in saying that 4,000 or 5,000 assessments of need have been done, if an opportunity has not been created for those children to move faster into services and to avail of those services.

Chairman: It was reported recently by people living in direct provision that the implementation of the White Paper in this regard is slow. We are now also looking at a scenario in which families will be coming from Ukraine and seeking refuge. Many of those families will have children. Will Dr. Muldoon give us his views on the arrangements being made to help these children to deal with what has happened to them and their families in Ukraine? How can we best serve them and their families and continue to implement the recommendations in the White Paper when they come here?

Dr. Niall Muldoon: We are aware of what the Government has pulled together as quickly as it possibly could. We are aware that it has taken away the need for a visa and that it is treating all Ukrainians who come here as full EU citizens, allowing them the right to work and providing accommodation, medical cards and access to schooling. From our point of view that is a positive way to work and it is important that this is done. We know there will be pressures on each of those services, including medical and mental health services, schools and accommodation. We will be engaging with the Departments to see what they are doing to provide those extra facilities for those children and young people who come from Ukraine. The very nature of them coming to Ireland, even if they are coming to stay with other family members, will be traumatic for them. We expect they would have difficulties that need to be assessed and catered for. The implementation of the White Paper has not been as successful as we would have hoped at this stage. Final completion is set for 2024 but there were pressures on finding accommodation and I expect that this will put that target back. I will be engaging with the Minister for Children, Equality, Disability, Integration and Youth on that as soon as possible.

Chairman: When children or families come from Ukraine we need all the services to be wrapped around them to help them from the word go. Other members wish to get in but I will put a quick question. What has been the experience of people living in family hubs and how has it impacted on children living in such situations? Do we still have many children living in that kind of accommodation in 2022?

Dr. Niall Muldoon: Family hubs are a much better set-up than being in bed and breakfast accommodation or in a hotel because some supports are provided. Families will still end up sleeping about four to a room, which could include a 17-year-old and a two-year-old. When the two-year-old has to be put to sleep everybody has to go quiet and turn off the lights and it is hard to study and read. Visitors are not allowed so if a child's parents are separated, the father might not be able to visit. The child would have to go outside to visit him and grandparents might not be allowed to visit either. That has a real impact on children and they fed back to us that they felt a stigma, which they would hide from their friends in school. They said they would be angry about it and that they felt scared at times because they were living cheek by jowl with others who they did not know and loud words, violence, noise and drunkenness occurred at times. It is a really difficult situation for all those children and families. I visited a hub where a mother was living in a small room with three young boys, one of whom had attention deficit hyperactivity disorder, ADHD. Those sort of things are difficult.

I am not quite sure how many people are in family hubs at the moment but, as I said earlier, there are 2,500 children in emergency accommodation, which is still a scandalous thing for a country like ours at this stage. That is why we pushed for A Better Normal. We did so in order that we could eradicate child homelessness, not just do better or improve. Family homelessness was not an issue before 2012; it came into being as a result of our economic decisions and policies and rent being driven up so high. We should be able to get back to a situation where that is not an issue in the future but we need to drive hard in the coming years to make that happen and I hope we will get to that position as soon as possible.

Chairman: I thank Dr. Muldoon and I will come back in later on if I can.

Deputy Pat Buckley: I am glad Dr. Muldoon said what he did about the standard operating procedures being a box-ticking exercise and that the children are basically being put onto a second waiting list. Ironically, we had a Private Members' motion in the Dáil this week on the assessments of need. The number of children who are being left behind is frightening. In my area of CHO 4 some 5,472 children are waiting for some kind of assessment, whether it is speech and language therapy or whatever. That is a major concern.

I am interested in what Dr. Muldoon said about children with disabilities being a rights-based concern more than anything else. These people are very vulnerable but we have a problem coming into my office regularly. The best example I can give is of a young girl in a mainstream primary school who has autism and who is partially blind. The way the system works places stress on parents, which is even worse. This child was in mainstream education and she was not technically in what they call the special school, which are feeder schools for the next level schools. What happens is that these children are told they cannot go into secondary school because they did not come through the feeder schools. The parents want these children integrated into society and to have what we would call normal friends but there is no system in place to accommodate that. What is Dr. Muldoon's take on it? Should there be a constitutional change? An awful lot of children with disabilities are not getting school places.

I was interested to hear Dr. Muldoon say that we should have a stand-alone department of

children. Dr. Muldoon gave figures from 2018 up to 2022 of more than 10,000 homeless and now 11,000 homeless, many of whom are children. Dr. Muldoon mentioned the mental health difficulties and stress of all that and there seem to be no supports. Covid was a handy excuse for the lack of services but we are now swamped and I see in my office every day that mental health issues are going off the Richter scale. Dr. Muldoon is right that the isolation during Covid was not great for children but now that we have come out of it we seem to be going into a narrow funnel and all these children are getting caught at the pinch point. It is impossible for them to access services. Is there anything that we, as legislators, could immediately do to specifically target children's mental health or children with disability?

There are other issues as well such as the assessments. To me it is disgusting how children are treated in this country and that they cannot be provided with proper clinical assessments. The parents are the experts and they will see things, yet when they go for their first assessment they are told it is not too bad and that they will be put on the other list for the time being. That second assessment may never come. I know of a young girl of 13 who was in child and adolescent mental health services, CAMHS. Somebody in CAMHS decided she might have some bit of a disability and, therefore, CAMHS could not touch her until she got another assessment. That girl did her leaving certificate without getting an assessment. That is how bad the system is. If there was anything we could do as legislators within a week to drive improvement in the system, what would it be? I am giving Dr. Muldoon a magic wand.

Dr. Niall Muldoon: I have never been offered a magic wand before. The one thing that comes to mind is that four or five years ago I attended a meeting of the Oireachtas Sub-Committee on Mental Health and Jim Daly was Minister of State at the Department of Health with responsibility for mental health and older people at the time. One of the things we suggested at that meeting was that we needed to change the legislation so that clinical leads in CAMHS settings do not have to be consultant psychiatrists and that it could be someone else. I am not saying who else could do it but the response from the then Minister of State was that this would take two years, which would be too long. That was four-and-a-half or five years ago. The Deputy will have seen it in Cork and Kerry and it is the same in another areas in that they cannot fill the posts with consultant psychiatrists. Why are we in a situation where we are held to ransom to posts that cannot be filled when we could have other professionals with other expertise fill them? I am not saying what expertise that should be but narrowing it down in the legislation such that only one professional can take up that post seems short-sighted and hugely detrimental to our children because everything else stalls as a result. The Deputy saw it in the situation in Kerry so perhaps that is something that could be looked into. On the other issues the Deputy mentioned, I will ask my colleague Dr. McAuley to talk about the school places. It is something we are seriously concerned about.

Dr. Karen McAuley: The difficulties parents and their children are experiencing in certain circumstances in accessing appropriate school places for the children in their local community is an issue that has been coming to our office for a number of years and is something we are very concerned about. The circumstances of some of the families who have contacted us in this regard are quite serious in terms of challenges faced by their children. We initiated a piece of work last year. It is ongoing. Its purpose is to examine - and this sounds dry but it is important - the forward planning process for identifying school places for children with special educational needs. That is across the system and different types of school placements. It is important to understand how the Department forecasts need and plans in advance for that need. We hope that work is coming to a conclusion at the moment and we will publish it in the coming months.

Deputy Pat Buckley: Dr. McAuley is right. However, on forward planning, which is a bugbear of mine, all of us as elected representatives have access to a constituency database, which is information that is gathered through the census, and, not to be disrespectful, it is not rocket science. I can go into the database for my area in east Cork and I can see how many children have autism or some disability. I can tell the age demographics and the area demographics of it. Surely the Government should be able to use that information to plan where the schools are needed, how many houses will be needed, and work out the whole thing. Is it political will or is it that the Departments are so used to, so to speak, putting the same ingredients into a cake, baking the cake, and every time taking it out and expecting it to taste differently? If you do not change something, you will end up with the same thing again. Is it political will or is it just bad planning?

Dr. Karen McAuley: That is one of the things we are looking into. We share the Deputy's expectation that the Department should be able to plan in advance. We know who these children are and we should be able to anticipate their educational needs into the future. That is the starting point and the reason for us asking why this problem exists. Are there problems in the planning process? Are the right data being worked with? It is all of those kinds of things. We are trying to understand how it is done right now, if how it is done right now is adequate, and what changes might be needed to improve this for children and their families on the basis that children should be able to attend a school that fulfils their educational and other needs in their local community.

Deputy Cormac Devlin: I welcome Dr. Muldoon and his team and it is good to engage with them again. I am sure the Chairman will tell me I do not have as long as I want but I have quite a bit to ask about. In fairness to Dr. Muldoon, his opening statement was very thorough. It gave us many interesting points to ponder and on which to engage with him and his office.

In his opening statement Dr. Muldoon mentioned the 2019 Progress for Children report. From what he said about that, it is so broad and there is so much in it that I suggest we invite Dr. Muldoon and his staff back again to talk about that specifically because I do not think we will do it justice in the few minutes each of us have. That would be my first suggestion.

On the very timely publication of Jack's Case: One Year On, which Dr. Muldoon said was published just yesterday, having read it, and it too is exceptionally thorough, I want to ask a few things about it. Dr. Muldoon might speak to it because he will be able to give more background. I am conscious of people who are viewing the committee and might not be aware of the full facts. The report states Jack is now nine, having first come to the attention of the HSE disability services when he was four. What struck me most is that, when Dr. Muldoon investigated Jack's case, he found the administrative actions of both the HSE and Tusla had a negative impact on his life. That line in the report stood out for me. I was just at the Committee of Public Accounts and the HSE was before us discussing CAMHS. Dr. Muldoon a moment ago mentioned the issue in Kerry. We are very aware of the failings of that particular service, but here we are and Jack is only one individual on whom the ombudsman has completed a report. I am sure there have been others. For us, as public representatives, it is quite scary to read that line. On top of that, the report also said Jack was deemed medically ready for discharge from hospital in August 2017, which begs the question, if the Office for Ombudsman for Children was only alerted in January 2018, and he was discharged eventually the previous August, how long was he actually in the care?

The positive news is that Jack was thriving when Dr. Muldoon last met him. That is fantastic and I commend Dr. Muldoon and the team on the work they have done. It must be excep-

tionally satisfying, having come across such a failing of the system, of all different parts of the system, which is quite unnerving, to see he is now doing so well. I will let Dr. Muldoon speak to the recommendations and the various conclusions. There is a positive side to Jack's case but I raise it, and I ask Dr. Muldoon to speak to it, because I am sure there are other cases similar to Jack's of which we are not aware. I will hand over to Dr. Muldoon. I have other questions as well.

Dr. Niall Muldoon: I thank the Deputy for the kind words. If he needs us to come back in, we will certainly be happy to do that at a later stage. I will talk briefly about the Jack case and then hand over to my colleague, Colm Leonard, who is directly involved in it. Essentially, we have had a serious concern for a number of years about how Tusla and the HSE work together. We had a previous case called Molly, a child in foster care with a severe disability, where the two agencies did not work well together until we got involved. It took us three years to get them to start co-operating on her case and to identify the number of children who were both with disability and in foster care. It took three years to get the number of 400 kids in that situation.

In this situation, young Jack was injured. He had a severe brain injury. He was a fine child until he had a severe brain injury as a result of a car accident. He ended up in hospital and was in hospital for a period of time until the surgeons and the medical people decided it was time for him to go home. They tried to liaise with the parents to assist him in going home. Between the jigs and the reels, he stayed within the hospital or care setting for two and a half years past the time in which a medical necessity for him to stay there was identified. He was essentially capable of discharge but nobody would take him. That is where we ended up. As the Deputy said, there was satisfaction because, at the time we originally wrote the report, there was fear for his life, he was deteriorating so badly. However, there was a really positive stepping up by the two agencies for this individual in this case by creating a host family. I will hand over to Mr. Leonard shortly.

From our point of view, he is the thin end of the wedge. He is the individual we have identified and helped, but we know there is a large number of children in a similar situation on whom Tusla and the HSE have to work. They also have to work on the legislation that supports host families and the co-funding of these children. Again, these should not be insurmountable issues to share 50% funding between Tusla and the HSE, given the amount of work that Departments have done in the past two years to change the way things are funded. We think this should be an easy thing in the best interests of children. My colleague Colm Leonard will give the Deputy a little more detail on the recommendations and the update.

Mr. Colm Leonard: Jack's case illustrates a number of the issues that have already been raised and that the ombudsman raised in his opening address, namely, the need for a co-ordinated, integrated approach across and between services and even within services that is reflected in the realities of funding, resourcing and reviewing to check whether we are getting it right. That could be seen as rhetoric in the broadest sense, but Jack and the unfortunate aspect of his case in having to come to us made an opportunity to highlight some of the issues. Dr. Muldoon already raised some of the background to Jack's circumstances. This was a four-year-old child who, prior to a road traffic accident, was an ordinary four-year-old child interacting with life. He had a younger sibling and parents, as children typically have. A road traffic accident changed all that. The unfortunate pivotal moment that could quite easily have got lost in the investigation we conducted and the review we recently published is the responsibility for us, as a society, to determine whether a child can be reared within a family context and supported in that environment, whether it be through assessments of need or the interventions that come as

a consequence of that. Unfortunately, Jack was let down. The services individually, including the HSE, did not come in with a care package that would mean he could be moved from the hospital setting when he was fit for discharge, as he was within a number of months in 2017 when he was first brought to the attention of the hospital. He was not discharged at that stage. Services did not roll in at that time. The hospital in question brought to our attention that there may have been child protection issues in terms of the welfare of a child in the context of a child being cared for out of the home, across and between services. It is not a reflection on the care that was being provided for him by those services but clearly it was not within the family context and it was contrary to what we all know was appropriate.

Our investigation revealed individual failings on behalf of the HSE because it did not come up with a sufficient package for his needs but, equally, the HSE had been notifying Tusla, as had other services, and querying what it might offer in a circumstance such as this. As the Deputy noted, Tusla stated it was not a matter for it. It stated it was a disability issue rather than a protection and welfare issue. That siloing of need is really where things broke down for Jack. Individually, neither service saw itself as having what this child needed. They did not have sufficient mechanisms in place to work collaboratively in his best interests. When attention was brought through the hospital sector and several other professionals, as well as our office, we were delighted that both CEOs came back robustly at the end of the investigation and stated that individually and collaboratively, they did not get this right and had failed this young man.

Thankfully, things have moved on. We are now one year into reviewing our investigation. The fact is that this child is still not being reared in a family setting. That moment was lost along the way. Although the efforts that have been made by both services and the host family who are currently caring for the child are admirable, it is still concerning that it got to this stage. There are still outstanding pieces for our office in terms of the ongoing phenomenon of a child being reared in an unregulated context, outside any legal framework. That is of concern to us. Again, that is not a reflection on the care that is being provided by the host family. It is a matter that still has not been pursued, however.

Deputy Cormac Devlin: I thank Mr. Leonard. Dr. Muldoon mentioned the case of Molly. Through the Chair, I request that when the ombudsman produces this type of report, he consider sending copies to the committee for our consideration and engagement with him and his colleagues if time permits and it is suitable. When did the case of Molly take place? I am not familiar with that report. What year was it?

Dr. Niall Muldoon: Molly's case was probably three years ago.

Deputy Cormac Devlin: It was in 2018 or 2019.

Dr. Niall Muldoon: Around that time, yes.

Deputy Cormac Devlin: Tusla is not an old organisation. In large part, it came from the HSE. Mr. Leonard used the word "siloing". Unfortunately, I have come across examples of it myself. Things can fall between two stools and nobody takes responsibility. That was not the aim of the Child and Family Agency. As Dr. Muldoon is well aware, we had a referendum on children that was meant to try to put their needs and priorities first.

If I heard it correctly, it was stated that there are 400 children in a situation similar to that in Molly's case which, in itself, is frightening. I hear what Mr. Leonard is saying. There are ten recommendations that are quite interesting in themselves. I note that Jack made his first Holy

Communion recently, which is positive news. He does seem to be thriving, which is excellent. I may come back in as I have other questions. I will let Deputy Higgins come in first. To conclude on this issue, it is stated on page 12 of the report:

The HSE told us that, informed by the learning of the needs of children with complex disability who were, and currently are, in acute hospitals beyond medical need, a HSE/Tusla 'Jack Report Working Group' are working on a national review of the current need for alternative care for this cohort of children.

Are those the 400 children to whom reference was made or is it a separate cohort? Obviously, Molly's case is different. It relates more to foster families.

Dr. Niall Muldoon: That is right. Molly's case relates to foster families and a child with disability in foster care. This is slightly different but, again, the numbers are in the hundreds. I do not have the exact number in front of me. It is a very important review to ensure we get to know and identify these kids so we can do something for them. One of the concerns we have always had is that the lack of data-gathering allows services off the hook or to make an excuse. We need to get past that soon.

Deputy Cormac Devlin: It reminds me of the situation for adults who have complex needs as a result of a change-of-life experience and are effectively hostages in a hospital because there is no alternative placement for them. The difference for them is they may have siblings or next of kin who can speak on their behalf, whereas in the case instanced, we are talking about a vulnerable child effectively left to his or her own devices in a hospital without anyone looking at his or her needs. I will follow up on the working group. When was it established?

Dr. Niall Muldoon: Mr. Leonard may know.

Deputy Cormac Devlin: Are our guests going to tell me it was yesterday, like the report?

Dr. Niall Muldoon: It was established a year ago at least. It is a recommendation we put forward a year ago. It was set up last year.

Deputy Cormac Devlin: That is fine. I appreciate that. I will come back in as I have other questions. I thank our guests.

Chairman: I thank Deputy Devlin. I agree with him. We need to get Mr. Tyndall and his team back in. That is something we should put on our work programme.

Deputy Emer Higgins: I thank Dr. Muldoon and his team for what has been a really detailed and interesting, although at times depressing, conversation. It is one we absolutely need to have. He spoke eloquently in respect of mental health, the mental health impact of Covid and what is coming down the tracks, if one likes, in that regard. I understand CAMHS is currently proposing the development of an app for clinicians to use to monitor, with consent, the social media exposure of the teenagers with whom they are dealing. That will be an interesting project. While there is a lot of research happening in the area of social media and the impact it has on the mental health of teenagers, everything is very much in its infancy. It is all new. The research is happening but it is not happening at the rate at which we know the impacts are occurring. We need the studies to take place and we need statistics to be able to back up what we fear is already the case in order to inform policy and decision-making. Dr. Muldoon referred to the online safety aspect. Is a digital age of consent warranted? What are his views in respect of anonymous and unverified accounts?

There was a detailed discussion regarding school places. In Lucan, which I represent, school places, particularly at second level, are a major issue. School places at primary school level for children with special needs is a significant issue. I am a member of the Oireachtas Joint Committee on Disability Matters so I am quite *au fait* with the cases of Jack and Molly. Like Deputy Devlin, I commend Dr. Muldoon on the transformative work he did to intervene in those situations. Unfortunately, that has to happen in more than just those two cases. To pick up on remarks made earlier regarding forecasting and planning from a schooling perspective, it is a no-brainer. Every workplace manages from a forecasting perspective by looking ahead, looking at what the needs will be and then acting accordingly. As a public service, we absolutely need to do that as well.

However, things are changing rapidly. In the coming weeks and months, we will be welcoming 100,000 new people to our shores from Ukraine, which will have an impact on school places, services in our disability sector and access to housing and healthcare. People in that situation will probably require a lot of additional support that we have not thought through at this stage. I would be interested in Dr. Muldoon's view as to what we as a Government should at this point be preparing for, because we will have to be supporting those people through, potentially, much grief, as well as change.

Dr. Niall Muldoon: I appreciate the Deputy's kind words on the work we have been doing. On Ukraine, I have touched on it earlier. We are very much aware of what the Government has promoted already, and it is absolutely appropriate, given the traumatic circumstances these people will be coming from to Ireland. We are giving them access to the workplace as if they were EU citizens – we are making no visa considerations. We are providing accommodation, a medical card, a personal public service number, PPSN, and allowing child benefits to be available. We are moving very rapidly in that regard. It is hugely important.

As the Deputy said, we need to prepare ourselves for the deluge, which is probably the wrong word because it has a negative connotation, but just the increase in activity that will be required running the country. We do not know where they will settle. Some will have family already and some will be moved to wherever the State provides accommodation. Again, we will put some of them into hotels, which we need to be very careful with. We have done that before. Direct provision started from hotels, the thinking being it would last six months. These families could be with us for years but some may go back home very quickly. However, we must be careful that we do not create another direct provision-type scenario for these families. Therefore, we need to ensure the access to work is something that is real. We need to give them English-language education where necessary, but many of them probably will be okay with the language.

From a children's point of view, we will be linking with the Departments of Children, Equality, Disability, Integration and Youth, Justice, Education and Health to see if the rights of children are being protected. As soon as they come here, they become our citizens in regard to children's rights. They do not have to be Irish citizens; once they are on the island, it is our job to protect their rights. We need to make sure we do that. If a child comes traumatised, having suffered death and seen horrific sights of war that they should have not have seen, having had to travel perhaps 1,000 miles on foot, those children will mental health support and other backups. We need to make sure that is available to them. We will be working with the Departments to see what can be done to improve those systems as quickly as possible.

Dr. Karen McAuley: I would like to come in briefly to build on one thing Dr. Muldoon said. The Ombudsman for Children's Office is part of the European Network of Ombudspersons for

Children. We had the opportunity to have a meeting earlier this week with our colleagues from other jurisdictions, including Ukraine. One of the strong messages our Ukrainian colleagues sent out was very stark and challenging. They said what they want to see happen by the time this crisis ends is that no child who has left Ukraine has gone missing. They have huge concerns about child trafficking. For all the goodwill that is out there and all the enormous work people are doing, there are bad faith actors - we know that - even in times of crisis and war. They are very concerned about trafficking and that even in circumstances where trafficking is not involved, that families will become separated. One of the things they really want to make sure is that when this conflict comes to conclusion they are in a position to be able to reunite families, that is, children and parents who may become separated on their journeys. One of the things they are very concerned about is that people register. It is not about surveying people or intruding on their privacy. They just want to make sure that, as this unfolds, they know where people are and are able to reunify people. We thought that was a very stark message coming, that the big thing they want to make sure in terms of children is that no child goes missing. Therefore, we have a responsibility there as well.

Deputy Emer Higgins: It is very encouraging to hear that the office is in such close contact with its counterparts over there. I thank Dr. McAuley for representing Ireland and our sense of céad míle fáilte. I thank her for all she is doing in that regard.

Deputy Cormac Devlin: In his opening remarks Dr. Muldoon mentioned, and Deputy Higgins just touched on, the Education (Admission to Schools) Act 2018. I noticed Dr. Muldoon also stated later on that there was an increase in referrals to his office directly from children themselves. Has he had any kind of dealings with the Department of Education? I believe it is section 28 where if a child is refused entry an appeal then has to be made directly to the Department. Perhaps it is section 38 or something like that. Has Dr. Muldoon had any dealings with the Department directly on those kind of cases?

Dr. Niall Muldoon: The Deputy is referring to section 29. He was very close. It is an independent appeal. We cannot engage with that one because it is an independently set up appeal system. We have looked at it once or twice, just to see if they followed the administrative procedures. However, we cannot overturn the decision, so we tend to stay out of it. We have worked with the Department of Education and other actors to try to ensure admission is as fair and as rights-based as possible. That is why we were positive on that and why we have spoken up in favour of the eradication of the 25% past pupils option within the admissions Bill as well. That is part of the reason we are doing that, because there are so many children disadvantaged in those circumstances when their parents have not gone to that particular school for so many different reasons. That is the engagement we would have had, around those areas.

Deputy Cormac Devlin: Dr. Muldoon would be aware that, obviously, every action has a consequence, because by that being removed, depending on how established an area is, that has an knock-on effect for people who may have thought that their children were going to go to X school and now realising that, depending on population growth or whatever in that area, that has a knock-on effect. I understand the rationale behind it absolutely.

I would like to comment on Dr. Muldoon's report on direct provision and his latest report, Childhood Paused. I believe his report on direct provision was titled Direct Division. I compliment him on the titling of his reports because it is important to speak to the content and tone of the report. We have spoken before about direct provision. I am also delighted he has increased his staff because if I recall correctly, that was one of the issues and challenges he was facing at the time, although it has not increased that much since we last spoke.

Dr. Niall Muldoon: Yes.

Deputy Cormac Devlin: That is very positive news. When Dr. Muldoon said in 2020 he saw a small increase in numbers of direct referrals, he touched on schooling, concern about calculated grades and all that, but also the mental health impact and the restrictions. I think I speak for all of my colleagues here when I say that we have all seen it in our respective constituency offices. Unfortunately, that will be seen for quite some time yet. What kind of issues were presenting? When Dr. Muldoon said he was concerned about mental health and the impact the restrictions were having, what kind of issues can he outline?

Dr. Niall Muldoon: If the Deputy remembers, in 2020 at the start of the Covid crisis, the Department of Education was very committed to following up on the leaving certificate as it always was. From March to May, there were consistent arguments. Indeed, the Taoiseach at the time would have said that by hook or by crook, we will have a leaving certificate exam involving the sitting down of 70,000 people at one time. It was clear to us - and we had this argument with the then Minister at the time - that this would not be feasible and that if it was feasible, there should still be an alternative option available. The children were absolutely petrified. Some of them were afraid to go into school. We were not even allowed to travel 2 km, but yet they were going to put 300 people into a gym. It did not make sense.

That left many children hugely upset, anxious and very concerned. We do not get an awful lot of direct conversations with the children; it is usually their parent or an advocate. That is why it stood out for us. In one weekend, we got 50 complaints from children and every one of them talked about how they knew somebody who was suicidal or self-harming and they were very concerned. It was real. I am still getting that today. The leaving certificate and senior cycle system is not healthy for our children and young people. We still have children who have got alopecia, children who are self-harming and children who are threatening suicide as a result of the way we run our education system at senior cycle level. Those are the sorts of issues that came forward and that was only from the children. The parents were just as vocal coming forward but we were very much aware that children felt they had to reach out to us separately as independent agents.

Deputy Cormac Devlin: The children themselves were very involved and engaged with us as public representatives on that, which was good to see. It allowed them to vent a little too and articulate their concerns about what was facing them. It was not an easy time at all, but it is nice to see normality returning.

Speaking of school, Dr. Muldoon mentioned the impact of school closures. He specifically referenced children with disabilities, which is correct because online learning was not something some of them could engage with for long periods, if at all, as well as children who are homeless, children with mental health issues, children living in direct provision and Traveller and Roma children. I argue there is a cohort who may not have fitted into any of those categories, namely, children from low-income families who did not have the ability to engage properly with technology. They may have had an iPhone. I had experience of this, where there was an iPhone in the house but that is not sufficient for looking at documents and so forth on screens, as we know. There is a gap in that regard.

I will not touch on assessments of need because that was addressed by Deputy Buckley. Deputy Higgins referred to the online safety commissioner in the context of her experience with the other committee of which she is a member. I was taken with what Dr. Muldoon said about the online safety commissioner being of concern to him. Will he elaborate a little further

on that?

Dr. Niall Muldoon: I will defer to my colleague, Dr. McAuley, who has been directly involved with the National Advisory Council for Online Safety.

Dr. Karen McAuley: The Deputy will be familiar with the Online Safety and Media Regulation Bill and its publication at the beginning of this year, which we very much welcome. Our engagement to date with this has been primarily around the work on the general scheme that preceded the Bill. As the Deputy may be aware, we participated in meetings held by the joint committee on media as part of its pre-legislative scrutiny. It is important to say we very much welcome the legislation, although it is in draft form and possibly needs more work as it makes its way through the Houses of the Oireachtas. It is very important legislation in respect of trying to put in place a regulatory framework for the regulation of online safety and issues relating to that. We also very much welcome the proposal to establish an online safety commissioner within a new media commission. It is a very welcome development overall, as is the aim of online safety, which is to reduce the spread and amplification of harmful content online. One of the reasons we think that is very positive, and it is important to acknowledge it, is it is aiming for a preventative approach. For all that there are difficulties, and I will come to those in a minute, the overall aim of trying to reduce the spread and amplification of harmful online content is a good one.

We have had an opportunity to briefly look at the Bill and its provisions as they relate to the proposals around online safety. Again, there are many positives in there but one of our outstanding concerns, which has been with us for some time now and that we have spoken about previously in some detail with the joint committee on media, is around the absence of a provision for an individual complaints mechanism. We know and we welcome that the Minister has established an expert group, which is currently working over a period of three months to examine this matter. We hope that the direction of travel is to seek and find a workable solution. We understand that the concerns the Department had about putting in place an individual complaints mechanism were practical and pragmatic ones about the commission being potentially overwhelmed with complaints and so on. The group will have to come to its own conclusions but we hope that it will be able to identify a workable solution.

The key issue for us, from a children's rights perspective, is that children have the right to an effective remedy. For all that very good tools are being placed in the hands of the future regulator in respect of online safety, it is not clear to us that together they will provide an adequate response to children's right to an effective remedy. In plain English, we are concerned that where a parent on behalf on his or her child or a child himself or herself may make a complaint to an online provider in due course, whatever that complaint is about - let us say it falls within the scope of harmful content - we want to see providers being equipped, including through the work of the proposed commission, to deal effectively and appropriately with complaints so that issues can be resolved quickly by the providers themselves. That is about developing capacity and good practice. We have to be hopeful about that and the work of the commission will be good there. At the end of the day, there is always the risk of a scenario where a complaint is not resolved by a provider and our concern is about what happens next. Where does a complainant go next? It is not that there are no pathways. It is just we are not convinced at this juncture that they are adequate.

Deputy Cormac Devlin: Is it fair to say that more work needs to be done in order to satisfy the concerns of the ombudsman?

Dr. Karen McAuley: That is true, but we very much welcome the work of the expert group and look forward to seeing what it says.

Deputy Cormac Devlin: I thank all the representatives for those very comprehensive answers. This is ever so slightly outside the remit of today's discussion because the reports are from 2018 to 2020, although the 2018 report would be sufficient to cover my question. I notice that for some reason there is a spike in the number of complaints listed on the ombudsman's website for May 2017. They are head and shoulders above everything else and there was no pandemic at that time. Does anybody have any reason for such an increase?

Dr. Niall Muldoon: I am not 100% sure but it was a time during which there was a lot of media engagement with us. It was at the time when we got the change of remit from the Minister for Justice clarifying that we could take on direct provision centres. That was in early April 2017 and it led to an increase in awareness of our office.

Deputy Cormac Devlin: Okay. I very much thank everybody for their engagement. Unfortunately, I will have to switch off my camera. I look forward to further engaging with the representatives in detail on that report and to talking with them again.

Chairman: Before I call Deputy Higgins again, I apologise for addressing Dr. Muldoon as Mr. Tyndall earlier.

Dr. Niall Muldoon: That is okay. I am glad to be associated with Mr. Tyndall. There is no problem.

Deputy Emer Higgins: I will make a brief comment in response to what Dr. McAuley said about the Online Safety and Media Regulation Bill and the individual complaints mechanism. Like her, I believed that mechanism was missing from the Bill. I do a lot of work with NGOs which work in this field and they believed it was a gap so I welcome the establishment of the task force. Ms Frances Haugen appeared before one of the committees I am on, about two weeks ago at this stage, regarding her experience as a whistleblower with a background in Facebook and Instagram. She was asked that very question regarding an individual complaints mechanism and her answer to it was "No". She did not feel that was workable, which was interesting. Since we hear this time and again from the legal experts, I was expecting her to say the opposite. Her view was that what she referred to as a "class action" complaint, which is a very American term, where there are systemic failures of an organisation to act, becomes a kind of super-complaint and that is the point where it should be escalated to the commission, which is definitely an interesting way of looking at it.

From Ms Haugen's perspective and probably from the commission's perspective so far, from what we have heard from the people involved in establishing it, they are just fearful that if an individual complaints mechanism is in place, the commission will get utterly flooded and become paralysed in doing the work. Ms Haugen's advice to Ireland was to be less focused on the content and more focused on the systems behind it. From that perspective, she was talking about the fact that the likes of the Facebook algorithm needs to go back to the pre-2018 version so that reactions and engagements are not what are driving Facebook metrics. In addition, investment is needed in artificial intelligence, AI, around moderating content so there is not a human cost in respect of censorship, the moderators and the people at the end of the abuse. If we had the right AI, this could be cut off at its knees. How do we achieve mandatory risk assessment and enforcement of transparency? I am slightly off topic and thank the Chair for giving me leeway but I thought it would be interesting for people to hear that perspective, in case

they did not that day.

Chairman: We are in the process of finalising the report to the United Nations Committee on the Rights of the Child. In advance of Ireland's review in October, is there anything in the findings the witnesses could tell us about?

Dr. Niall Muldoon: I will hand over to Dr. McAuley, who is finalising that report.

Dr. Karen McAuley: The State submitted its report to the Committee on the Rights of the Child in mid-February of this year. I am sure members will have access to that report. The next step for us and other organisations, including State bodies like the Irish Human Rights and Equality Commission, NGOs like the Children Rights Alliance and many others, will be working to prepare what used to be called alternative reports. Really, it is our perspective on issues raised by the UN Committee on the Rights of the Child and addressed by the State in its response. We offer our independent perspective on those issues. It will cover a wide range of issues. In terms of measures, there will be issues to do with legislation, delays, shortfalls in legislation and developments in policy. There will be issues like, as we talked about earlier, deficits in interagency co-ordination and collaboration and their impact on children, data and specific issues around education, health, child protection and welfare and alternative care. Our report, like the State report, will be wide-ranging. We will work over the coming months to bring it to a conclusion.

If it is helpful, we can send the Chair a link to the report we submitted to the UN Committee on the Rights of the Child in July 2020. That was to help inform the committee's work and to develop the list of questions or requests for information it made to the State and which form the basis for the State's report. While some of the information in our report of July 2020 is necessarily out of date, many of the issues are still live and we return to them in the current report.

Dr. Niall Muldoon: We have been engaging with children and young people on this for the past year. We have done a big consultation through a survey. About 5,000 children returned that. We have also done about 20 focus groups with specific groups such as Traveller and Roma, LGBTQ+, wheelchair users, children from lower socioeconomic backgrounds and a range of other groups. We will make sure we get the children's voice out there to Geneva. It is hugely important that we do that.

Senator Jerry Buttimer: In regard to the issue with CAMHS highlighted recently, has there been any engagement between the Ombudsman for Children's Office and the HSE or any of the families in the Cork-Kerry area?

Dr. Niall Muldoon: In regard to the Kerry CAMHS and the two areas in the report, I have not engaged directly with the HSE. I have linked in with the Mental Health Commission and kept a watching brief on what has been set out. It would have been in our remit to consider an investigation but we felt it was best to let the HSE and Mental Health Commission do their piece first and then we will see where we might best address it. We have highlighted a number of issues previously.

Senator Jerry Buttimer: I would have thought the Ombudsman for Children would have initiated an investigation.

Dr. Niall Muldoon: We have to consider duplication. It is crucial that we do not overwork the system with three different people asking the same question. We felt we should wait to see what comes out of that and then follow through.

Senator Jerry Buttimer: On overarching CAMHS policy, has the Ombudsman for Children had any proactive engagement with the HSE on rectifying the situation and making it more friendly and responsive to the needs of children and their parents?

Dr. Niall Muldoon: As far back as 2017, I think, we did a report with children and young people who were inpatients in five out of the six mental health units across the country. We brought their voices to the children's committee at that stage to highlight the improvements they wanted in CAMHS services. We have pushed those issues since then. They include the idea that there would be some mental health support in the education system, that CAMHS would listen to the children as opposed to the parents, that it would engage children as equals and make them autonomous in their treatment in some way and that there would be a reduction of stigma around that. We have been engaging with the Department of Health and the Minister of State with responsibility for mental health around those issues for a long time.

I am on record as being concerned that the CAMHS system comprises individual units run by individual psychiatrists, which makes it difficult to get standard operating procedures working. The Kerry issue is an example and may not be an outlier at all, particularly when there was no psychiatrist leading. A number of areas, including Wexford, Donegal and, I think, Cork, had difficulty recruiting for a number of years. When you have nobody at the head and are blocked from having another professional taking up that role, you will have serious difficulties at all times, no matter what system you are working. The oversight seems concerning so I am looking with a strong eye as to what we will do when the report comes out.

Mr. Colm Leonard: In terms of our statistics, in 2020 more than 1,100 complaints were made to us and 14% of those related to health. Without getting into particular cases, a number of those relate to CAMHS and its linkage to other services. It is an area we engage with on a day-to-day basis, complaint by complaint. A lot of liaisons take place and much work is done at our early resolution stage with the HSE in its complaints mechanism, Your service your say, which we engage in case by case. We continuously watch that space to see if there are areas warranting further examination up to a full statutory investigation. That area comes up frequently for us and though the statistics are lower than some other issues, the issues in it are live. They are life and death issues. They are serious, immediate concerns involving children's safety and intactness. Often we redirect back to services in the immediacy of need, but we are engaging with the HSE on these issues daily.

Senator Jerry Buttimer: Like previous speakers, I have a number of difficult cases involving parents and their children. In one case, they await an urgent appointment with CAMHS in the South Lee 1 team. Another case concerns the lack of appropriate school places for children with disabilities. It cannot be all about funding and obfuscation regarding filling places. These people are desperate. For us public representatives making representations, it is like being on a roundabout. I do not know if there is any joined-up thinking between anybody on the issue of CAMHS. I am frustrated by it.

Dr. Niall Muldoon: I understand exactly where the Senator is coming from. As I said in my statement, mental health will be a focus of our strategic plan for the next three years and has been for the last two strategic plans. I feel very limited progress has been made on CAMHS and mental health in general. We have increased our openness to it and discussions around it. We invite children to come forward and speak about their mental health but we do not then provide them with a service. That is a bigger concern. The liaison with and oversight of CAMHS are poor, and the resourcing of the teams across the country has been consistently poor for many years. We are well past the time when that needs to be called out and changed. I hope that will

be the positive - if the only one - that comes out of the Kerry CAMHS report.

Senator Jerry Buttimer: We all agree with that last sentiment but it seems to be a bit like Groundhog Day. To be fair to former Minister of State Jim Daly, and, before him, the current Minister for Justice, Deputy McEntee, there has been significant investment in mental health services. There has also been significant investment in mental health services under the current Minister of State, Deputy Mary Butler, but it seems we are in Groundhog Day. I keep using the phrase, “We are on a roundabout.” It is like a recurring nightmare. We seem to be getting no resolution for the parents and children. I could read an email showing the desperation of a mother and her child. Dr. Muldoon is frustrated also, which I acknowledge, but I am frustrated because, while getting from A to B is fine, getting to C is the problem. The latter involves getting to see someone and having access and a roadmap or pathway to a school place, an assessment or service provision. Talking to the service providers is a different day’s work.

I acknowledge we have the Education for Persons with Special Educational Needs Act, arrangements to remove barriers to progress for people with disabilities and the UN Convention on the Rights of Persons with Disabilities. We have done all the right things, made all the right sounds and have all the right accommodations and movements, but little or nothing seems to be making life better for the parents and children. The children are more important because they are the ones who need intervention and the roadmap to a service, an assessment and a better quality of life. What is happening is frustrating.

I speak about this today because I have heard this week from several friends of mine whose children are affected and who are really frustrated. We have an opportunity here, in a public forum, to address and expand on the issues. It is not just about highlighting the issues; it is about finding the roadmap to avail of the services. The latter seems to be missing. We can talk and publish reports, Members can make speeches in the Dáil and Seanad, and the Ombudsman for Children can appear before committees and publish his reports - I am not trying to be confrontational - but there seems to be no progress. Dr. Muldoon and his staff do wonderful work but they comprise one silo while the HSE and the Department of Health are operating differently. Then we end up with Kerry CAMHS or parents contacting Mr. Muldoon or us.

Dr. Niall Muldoon: My frustration over the lack of progress matches that of the Senator. As a former Chairman of the health committee, Senator Buttimer will be aware of the Youth Mental Health Pathfinder Project.

Senator Jerry Buttimer: Yes

Dr. Niall Muldoon: It was agreed politically in 2017. Funding was put aside for it and it was signed off by the Secretaries General of the Departments of Education, the Health, and Children, Equality, Disability, Integration and Youth, the objective being to create a single office to smooth over the cracks between the various Departments that engage with children and their mental health services. It has been ignored time and again. The last letter I got about it, which I got recently, was to say there were legal issues over setting something up. I do not believe that. I do not believe that had there been a will to make it happen, those legal issues would not have been sorted within the past five years. That is a political and Civil Service decision. It would necessarily be the absolute silver bullet but it would provide a set of civil servants working in the same office together with funding that would make it smooth, such that one office would look after a child referred to CAMHS by a principal and one office would look after a child going from CAMHS back to a hospital.

As the Senator suggested, we write very good reports. We know exactly what should be done. The implementation is a problem. That is something I would love the legislators to take up. I would like them to challenge their Ministers on this to make implementation happen as soon as possible because what is required is already in being. I have been told it could be done administratively without changing legislation. It is just about who is going to take the funding. It is about the fight over the silo and who funds what. What is required is in being and has been prepared; it just needs to be made happen.

Senator Jerry Buttimer: Could I mention an email from a parent that encapsulates what we should be about? I will not name the child, so the Chairman should not worry. The email states that the child, because of her condition, has complex challenges and that if she is to thrive, she needs the support of a special educational setting. She cannot get the required place in the school in question. This is a young girl who has potential. If we are to reach self-actualisation according to Maslow's hierarchy of needs, we should all be treated equally. What is happening is frustrating. I have no solution. CAMHS, which I have dealt with, is doing great work, but I just hope that, from today, Dr. Muldoon will ignite a fuse somewhere to ensure the young people we represent and speak about will have a better future and a better service than they are getting. I accept the difficulties they have but it cannot be about funding alone. We have thrown money into the Department of Health and mental health services have the highest budget ever. I do not know but it seems we are doing something radically wrong.

Dr. Niall Muldoon: I would hope it is a matter of a spark because we need a spark to change it.

Senator Jerry Buttimer: I thank Dr. Muldoon and his team for their work and courtesy. Dr. Muldoon has always been very professional and courteous to us, including me.

Chairman: I agree with Senator Buttimer. Following on from what the Senator said, can I take it that the Office of the Ombudsman for Children does not feel that CAMHS, in its present form, is fit for purpose? I will not put Dr. Muldoon on the spot.

Dr. Niall Muldoon: I certainly think it needs to be looked at. It is a question of a series of CAMHS teams around the county that are not joined up properly. Individual decisions are made. It is not standard or clear. A child moving from one area to another has no guarantee that he or she will gain access to services. If a child has access in area 1, he or she might not have access in area 2. The service needs to be examined in its totality.

Chairman: I have noted from my own interaction with families how regular delays affecting children of three and a half or four are impacting parents' ability to arrange for appropriate preschooling and schooling itself. The delays are affecting the education and development prospects of the young children. Could Dr. Muldoon comment on any engagement he has had relating to various issues? What is his view on how matters have progressed since his report of 2020, especially considering that attempts to deal with the backlog seem to have slowed down again? What would his advice be to the many households in unique circumstances? The Department of Social Protection has told the parents of a child I am dealing with that while it does not dispute that the child may have a disability, the family still cannot qualify for the domiciliary care allowance until a further assessment is carried out. It is a case of autism spectrum disorder. This is how parents are being affected. Children's prospects are being affected and other arms of the State are being held back in providing the supports needed in the circumstances.

Dr. Niall Muldoon: That is the sort of difficulty we encounter regularly also. It is not good

enough that we find ourselves in circumstances in which children are waiting so long to gain an understanding of their needs. Whether there is a diagnosis or not, we should not be tying all our supports to diagnosis all the time. The Department of Education is trying to move away from that. The disability and education Acts, including the Education for Persons with Special Educational Needs Act, need to start talking to each other much better. These Acts are supposed to be reviewed as soon as possible - this year, I believe. This aim is to smooth the way within the education system, but there should be a speeding up in respect of social protection and care allowances related to diagnosis. We should accept the options of private psychologists if necessary. We have created a system that addresses a statutory requirement alone without necessarily fulfilling the needs of our children. That is far from being in the best interest of our children. We need to create a system that works for our children, not ourselves. The problem is that the focus has been on protecting the system through ensuring we honour the statutory timeline but it has not provided any extra help to our children or families.

Chairman: I have two more questions. The National Traveller Community Survey of 2017 indicated that four out of ten Travellers said they or their children were being bullied at school because of their identity as Travellers. The traumatic history of Traveller parents in the Irish schooling system is well documented. I do not know whether Dr. Muldoon has had a chance to read the report the Joint Committee on Key Issues affecting the Traveller Community published recently. It made a number of recommendations, including the development of school structures that are trauma-informed and trauma-responsive and the full restoration of dedicated funding to Traveller education, which was cut between 2011 and 2020. There was a cut of 85%, which is crazy. Will Dr. Muldoon make a comment on this?

Dr. Niall Muldoon: I am 100% behind the recommendations. It is probably the last bastion of legitimate racism in our system that Traveller and Roma children do not get the full support they need in the education system. We need to fix that as quickly as possible. Returning the extra teaching supports that were cut in 2011 is the least we can do. Those need to be increased. Travellers are probably the last group for whom full service has not been returned in the way it should have been.

We know the impacts. The impacts are constant. We saw it in the report we did on Traveller sites and accommodation. Children were afraid to go to school because of the way they were dressed and how they were teased. Different things were impacting on their ability to focus in school. We need to support them as quickly as possible. The Traveller population in the country is only 30,000. It should not be that difficult or beyond our ways of doing things. As far as I am concerned, the recommendations are fully justifiable.

Chairman: Dr. Muldoon has raised concerns about children in high-risk households during Covid. Had he been able to assess the impacts this has had on the children? Has that assessment become any easier since restrictions were lifted? What would he like to see done to address the consequences at this stage?

Dr. Niall Muldoon: That was a particular group of children who were living at home during Covid with a family member who was at high risk medically, such as a parent with cancer or leukaemia or perhaps a sibling with cystic fibrosis. These children were afraid to go into school and were not getting any support for home schooling. We engaged with the Department of Education on this at the time of the closures and the reopening of schools during the Covid pandemic. A child at high risk who had a medical condition was provided with online support and homework and all the support the school could give. A child living in a house where somebody else was at risk was encouraged to go to school rather than get online support. At

the same time, the medical advice was always to be careful and not to bring home any disease, the flu or anything else that could harm their brother or sister, mother or father. However, we did not provide the same level of support to them. I am very disappointed this did not come to fruition. As far as I am aware, the number of children was very small as only 200 to 300 were affected in this way. They were very scared to go to school but they were not given supports to stay at home in the same way as other children who themselves had medical vulnerabilities.

Chairman: I thank Dr. Muldoon, Dr. McAuley and Mr. Leonard. Do the witnesses wish to make final comments?

Dr. Niall Muldoon: We are delighted to have had this opportunity. The committee has liaised with many of our ombudsman colleagues. If there is anything else we can do in future that can be of assistance, I ask the committee to let us know.

Chairman: I thank the Ombudsman, Dr. Muldoon, and his team for coming before the committee even if it was only virtually. I recommend that the committee reflect on the information he has provided today, including the need to focus on the elimination of child poverty and the eradication of child homelessness. This is one of the most informative meetings we have had with an ombudsman. I hope Dr. Muldoon will be able to visit us again in person, as Deputy Devlin asked earlier. I hope it is in the not-too-distant future because there is an awful lot more information in the Ombudsman's reports that other members may wish to discuss. I thank the witnesses for coming before the committee today. Stay safe and have a good summer.

Decisions on Public Petitions Received

Chairman: We have three petitions for consideration today. Petition 36/21, "Reform of Insurance for Thatched Heritage Buildings", is from Ms Katie McNelis. The recommendation from the private session yesterday was that the correspondence from the Central Bank be forward to Ms McNelis for comment and that a copy of the petition and the correspondence be forwarded to the Financial Services and Pensions Ombudsman for comment. Is that agreed? Agreed.

Petition 4/22, "Revise Employment Conditions for Stamp 3 Residence Permit Holders", is from Mrs. Tracey Milledge. The recommendation from private session was that the correspondence from the Department of Enterprise, Trade and Employment be sent to the petitioner for comment. Is that agreed? Agreed.

Petition 6/22, "Bye/By Elections in Ireland may comply with legislation however they do not comply with the Constitution", is from Mr. John O'Malley. The recommendation from the private session was that the correspondence from the Department of Housing, Local Government and Heritage be sent to the petitioner for comment. Is that agreed? Agreed.

That concludes our consideration of public petitions. I invite members of the public to submit petitions via our online portal. A petition may be addressed to the Houses of the Oireachtas on a matter of general public concern or interest or an issue of public policy.

The joint committee adjourned at 3.27 p.m. until 1.30 p.m. on Thursday, 31 March 2022.