Introduction

The United Nations Convention on the Rights of the Child sets out the rights of children and young people in all areas of their lives, and Ireland agreed to implement these rights when it signed the Convention fifteen years ago. In 2006, the Ombudsman for Children commissioned research to examine the barriers to the protection of children’s rights in Ireland. Its aims were to identify the areas in which children’s rights are being ignored or underplayed and more particularly, to identify the barriers to the full realisation of children’s rights in Ireland.

The research was a desk-based study, designed to collate available data and literature on children’s rights in Ireland. It used the Convention on the Rights of the Child and associated literature to develop a set of benchmarks against which progress implementing the Convention could be measured. In line with the advice of the Committee on the Rights of the Child, particular focus was placed on the structural barriers that impede effective protection of children’s rights. These are detailed below. The research also identified children who face multiple barriers to their rights and particular difficulties seeking to have those rights vindicated as follows:

- Children in the care system;
- Children in the criminal justice system;
- Traveller children;
- Immigrant and asylum seeking children;
- Homeless children;
- Children in poverty;
- Children at risk of abuse and neglect.

These children endure barriers to their rights that cut across many areas of their lives, including family, education, health and material deprivation. They have not to date benefited from coherent policy or targeted intervention, supports or services and they suffer marginalisation and, in some cases, discrimination. Many of these children also face the additional obstacle of being isolated from their families and friends, without advocacy or support or anyone to lobby on their behalf.

Notwithstanding existing policy, the situations of these children require an overhaul of how existing services and supports are delivered and to this end, it is recommended that targeted, high level task forces be convened with a view to ensuring that the necessary co-ordinated, intensive, strategic action is taken to mainstream targeted, child focused and rights-based services in these areas. Awareness also needs to be heightened among the public, service providers and Government generally about the problems these children face in the realisation of their rights. The Ombudsman for Children is particularly well placed to advocate on behalf of these children, and to present their concerns from a children’s rights perspective.

The main purpose of the research was to identify the barriers to the realisation of children’s rights in Irish law, policy and practice. In all, six general barriers under the following headings:

1. **Invisibility of Children**: children are largely invisible in law and policy and in decision-making due to the lack of integrated structures to hear children’s
views, the absence of mechanisms to child proof law, policy and budgets, and the absence of effective structures to co-ordinate the implementation of children’s rights which cut across areas of government responsibility. To address this barrier, children’s voices must be integrated into mainstream political and administrative decision-making structures at local and central levels, and consideration given to introducing a legal duty to incorporate children’s views into decisions that affect them. Inter-departmental structures must be established to bring about more effective delivery of services and mechanisms put in place to regularly review law, policy and budgets from a children’s rights perspective.

2. **Law and Policy**: children’s rights are not explicitly protected in the Constitution, in law or in policy with the effect that they are often ignored in decision-making processes that affect them. Fundamental children’s rights principles (non-discrimination, the requirement to take best interests into account and to ensure the voices of children are heard) should be given explicit protection in the Constitution and in law and policy particularly in areas of education, health care, youth justice and family law. Law and policy already in place should be fully implemented without further delay.

3. **Advocacy, Complaints and Monitoring**: The absence of effective advocacy mechanisms to represent children and their rights, and to monitor services designed to meet their needs frustrates the implementation of children’s rights. The establishment of effective, independent complaints mechanisms, and systems to compel the highest children’s rights standards are secured in children’s services are vital, especially to ensure that the rights of children who are very young, sick, in residential care or at risk, are fully protected.

4. **Provision of Services and Supports**: There is an absence of dedicated supports and services for children especially in the areas of mental health, family breakdown and adolescent health including drug treatment and sexual health. The fragmented co-ordination of available services and the failure to mainstream positive initiatives means that children’s rights are ignored in areas of education, health care and family support. Particular problems are experienced with respect to measures designed to target disadvantage, and in areas where children have complex needs that require services to cut across different state agencies or government departments. Awareness needs to be raised about the existence of available services, especially locally-based services, and these need to be mainstreamed.

5. **Lack of Investment**: Lack of sustained and substantial investment in children’s lives has acted as an obstacle to their rights being implemented in areas of education (including early childhood care and education, psychological support and class size), children’s health services, play and leisure services, and housing and family support. These are basic needs in a child’s life and inability to access adequately resourced services in these areas can lead to fundamental rights like survival and development being ignored or underplayed.
6. **Information and Training:** Awareness about children’s rights among children and adults is vital to the implementation of those rights and is a legal duty under the Convention on the Rights of the Child. Greater training is also required for all those working with children including health professionals, teachers, An Garda Síochána, lawyers, judges, service providers and all those working in the delivery of services. Awareness among children and their parents/carers is also integral to the effective protection of children’s rights.

This research makes clear that while some children are particularly vulnerable, the obstacles that frustrate the effective protection of their rights affect all children. In particular, despite many positive initiatives, Ireland lacks the children’s rights infrastructure necessary to underpin effective protection of children’s rights for this and future generations, and to ensure that their childhood is happy and safe.

Successful realisation of children’s rights depends on getting the framework right and establishing a child-focused, rights-based legal platform on which policy, practice and all decision-making can be based. The absence of independent express rights for children in the Constitution, particularly their right to a say in their lives, means that currently, this basis is weak. Overall, it is apparent that the necessary shift away from the paternalistic approach, whereby adults know best, to the recognition that children are rights-holders, with a right to have a say in their lives, has yet to take place fully both in Government and in society.

The research is not intended to be comprehensive, but rather identify key obstacles to the full implementation of the Convention on the Rights of the Child and makes wide-ranging recommendations for both minor and major change to law, policy and practice in a number of areas. It provides a useful snapshot of the progress still to be made to ensure children’s rights are protected and promoted fully in Ireland.

This research is intended to inform the work of the Ombudsman for Children in protecting and promoting children’s rights. The use of a rights and evidence-based approach is key to maximising the potential of the Office to affect change by acting as a champion for the rights of all children in all areas of their lives and influencing Government to affect change.