

**Submission by the
Children's Rights Alliance (Ireland)
to the
Office of the First Minister and Deputy First Minister
in relation to the
Commissioner for Children for Northern Ireland**

7 November 2001

Introduction

The Children's Rights Alliance welcomes the commitment on behalf of the Office of the First Minister and Deputy First Minister to establish a Commissioner for Children for Northern Ireland. The Alliance also appreciates the opportunity to comment on the Consultative Paper on a Commissioner for Children for Northern Ireland.

The Children's Rights Alliance is a coalition of non-governmental organisations concerned with meeting the needs and safeguarding the rights of children in Ireland¹. Our purpose is to secure the implementation in Ireland of the UN Convention on the Rights of the Child, to which Ireland is a State party.

The Alliance believes that independent children's rights institutions are needed to ensure that children's rights not only be respected in theory, but realised in practice. Since its inception in 1995, the Alliance has campaigned for the establishment of an Ombudsman for Children in Ireland.

In recent years there has been a growing movement at national and international level to recognise children's rights and to work towards the implementation of the UN Convention on the Rights of the Child. This movement has provided an impetus for the development of independent children's rights institutions, such as Offices of Ombudsman for Children or Commissioners for Children. Over 25 States worldwide have now established such institutions.

These human rights institutions play a central role in monitoring, promoting and protecting children's rights, and thereby in furthering the implementation of the UN Convention. When given a broad remit these institutions may aid States to fulfil their obligations under the UN Convention.

The UN Committee on the Rights of the Child, the UN body monitoring the implementation of the Convention, has strongly advocated for the establishment of independent monitoring mechanisms in each State. The Committee has encouraged the establishment of these bodies through its reporting guidelines and through its *Concluding Observations* reports.

Office of Ombudsman for Children

In Ireland, a Bill to create an Office of Ombudsman for Children is currently listed in the Government's Legislation Programme for the autumn 2001 session of the Dáil. The proposed Office of Ombudsman for Children will be established by legislation as an independent office

¹ Although the Alliance's remit is Ireland, some of its member organisations work on a cross border basis and one of its associate member organisations is based in Northern Ireland.

and will have the following responsibilities, as outlined in the government's policy document *National Children's Strategy (2000)*:

- To promote the welfare and rights of children generally
- To investigate complaints from children on issues which affect them
- To consult with children on issues of importance to them
- To advise government on issues of importance to children

The Ombudsman for Children will promote awareness of the UN Convention on the Rights of the Child. An annual report will be published. The Office will provide children with a significant new voice at national level.

Commissioner for Children for Northern Ireland

The Commissioner for Children for Northern Ireland should have the full range of responsibilities and powers required to ensure that children's rights are safeguarded and promoted. As human rights institutions, both the Commissioner for Children and the Office of Ombudsman for Children should be structured and empowered in a manner designed to secure an equivalent level of rights protection for children living throughout the island of Ireland, in keeping with the principles and provisions of the Good Friday Agreement.

Responsibilities of the Commissioner for Children

The Commissioner for Children should have the responsibility to:

1. Promote the welfare and rights of all children.
2. Promote awareness of the principles and provisions of the UN Convention on the Rights of the Child.
3. Monitor and promote the implementation of the UN Convention and comment on government reports to the UN Committee on the Rights of the Child.
4. Advise government departments and other public bodies, including the courts, on legislation, policies and procedures to ensure that children's rights are respected, and where necessary make recommendations and issue advisory codes of practice.
5. Comment on legislative and administrative proposals with regard to their likely impact on children, and where appropriate make submissions to parliamentary committees.
6. Receive individual queries and complaints from children and their parents or guardians in relation to the provision of public or private services and other aspects of children's rights. Make a preliminary examination of the complaint and as appropriate conciliate, mediate and adjudicate in relation to the complaint.
7. Undertake investigations in situations where it appears that a denial of children's rights has taken place.
8. Recommend change where a service provider is found to be operating in a manner contrary to the rights of the child.
9. Consult with children and organisations working on their behalf in relation to all aspects of its work.

10. Submit an annual report to the Assembly.
11. Encourage, commission and publish research into children's rights and compile information and statistics on children.
12. Provide information and advice to children, their families and the wider public.

Powers of the Commissioner for Children

The Commissioner for Children should have the power to:

1. Act on behalf of all children under 18 years of age.
2. Address matters which are currently reserved and excepted under the Northern Ireland Act 1998, in order to include all public authorities involved in children's lives in Northern Ireland.
3. Require the provision of any information and the attendance at investigations of any person deemed to have information relevant to the investigation being undertaken.
4. Enter and inspect institutions in connection with investigations being undertaken.
5. Send a special report to the Assembly if the Commissioner considers the response to one of its recommendations to be unsatisfactory.
6. Take legal action in its own name or assist an individual in taking a case to a national or European court in relation to general issues of concern to children.
7. Intervene in legal proceedings as a third party or as an *amicus curiae* from a children's rights perspective.

Features of the Commissioner for Children

The Commissioner for Children should have the following features:

1. Be established on a statutory basis to ensure stability and independence.
2. Be independent of all government departments and public bodies, and accountable to the Assembly.
3. Have sufficient resources in terms of staff and finance to enable it to carry out its functions effectively.

Sources

Children's Rights Alliance (1996) Cousins, M., *Promoting and Protecting Children's Rights: Seen and Heard*, Dublin.

Children's Rights Alliance (1997) Kilkelly, U., *Small Voices: Vital Rights, Submission to the United Nations Committee on the Rights of the Child*, Dublin.

Children's Rights Alliance (1998) *Promoting and Protecting Children's Rights – An Office of Ombudsman for Children*, Dublin.

National Children's Strategy: Our Children – Their Lives (2000), Dublin: Stationery Office.

Office of the First Minister and Deputy First Minister (2001) *Protecting our Children's Rights: A Consultation Paper on A Commissioner for Children in Northern Ireland*, Belfast: Office of the First Minister and Deputy First Minister.

Office of the Ombudsman (2001) *Open Fair Accountable: Annual Report of the Ombudsman 2000*, Dublin: Stationery Office.

Ombudsman Act, 1980, Dublin: Stationery Office.

Putting Children First Project Reference Group (April 2001) *Commissioner for Children: Briefing Paper*, Northern Ireland: Putting Children First.

UNICEF (June 2001) *Independent Institutions: Protecting Children's Rights*, Italy: UNICEF Innocenti Research Centre.

United Nations Convention on the Rights of the Child (1989), United Nations.