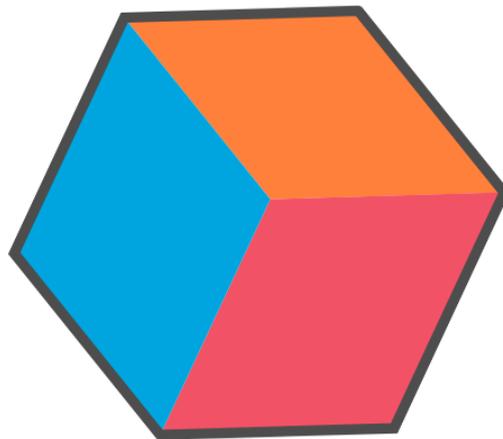
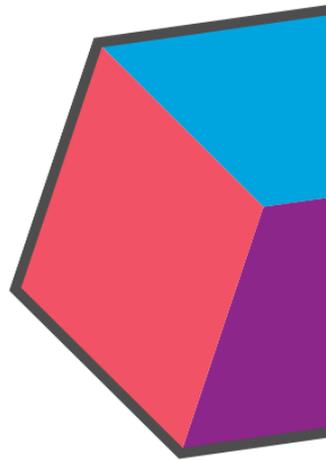
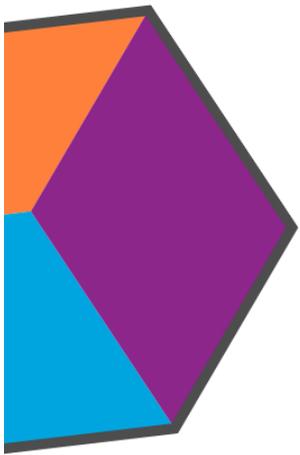


Submission on the Draft General Scheme, Inspection of Places of Detention Bill 2022

Epic, Empowering People in care

August 2022



empowering people in care

Introduction

Head 14 - Interpretation for Part 3 Provide that:

In this Part—

(f) A children detention school within the meaning assigned to it by section 3(1) of the Children Act 2001 (as amended by section 122 of the Criminal Justice Act 2006).

Following the publication of the Commission to Inquire into Child Abuse Report in 2009 (the “Ryan Report”) a detailed implementation plan was published, with 99 recommended actions. One action stated that: “The HSE and Irish Youth Justice System will ensure that all young people in care and detention are made aware of the work of IAYPIC (now EPIC) and will support children should they wish to contact or become involved with the service.”¹

EPIC, Empowering People in Care, has an annual contract with Oberstown Children’s Detention Campus which provides for the monthly delivery by EPIC of an on-site independent advocacy service to the children on campus. This service has been in place since 2008 and was initially agreed with Trinity House. In 2013, the service was extended to include all three children’s detention schools (Trinity House, Oberstown Boy’s School, and Oberstown Girls School.) In 2015 the service continued to operate throughout the transition to the new campus when all three children’s detention schools amalgamated to become a single entity as Oberstown Children’s Detention Campus.

Independent advocacy, as provided through EPIC’s service, is a process of helping children and young people to ensure their views and concerns are heard and considered, in line with Article 12 of the UN Convention on the Rights of the Child. An independent Advocate is a qualified, experienced, professional who provides children and young people with information, advocacy, and representation to ensure their views, opinions and concerns are heard, understood, and taken seriously by agencies making important decisions about their lives.

¹ Office of the Minister for Children and Youth Affairs, Report of the Commission to Inquire into Child Abuse, 2009, Implementation Plan. 2009, p.463.

Independent Advocates are focused solely on the child or young person and are empowered to take all necessary lawful action to assist them, including supporting them to seek legal advice and representation. Advocates always act exclusively for the child or young person and must be free of any conflicts of interest. Independent Advocates also play a vital role in ensuring a child or young person has appropriate information and support to communicate their views in formal settings, such as child protection case conferences, care reviews and in legal proceedings.

Oberstown Children's Detention Campus

Situated within the youth justice system, Oberstown Children Detention Campus is a national service that provides a secure environment for children between the ages of 12 and 18. These children are either remanded in custody while awaiting trial or sentencing or have been sentenced by the courts for a period of detention following conviction for criminal offences.²

At present, HIQA is responsible for monitoring and inspecting Oberstown and measuring its implementation of the [Children First Guidance](#) (2017) and its compliance with its own [Children's Rights Framework](#) (2021.) The Draft General Scheme does not propose extending the potential remit of the Chief Inspector of Places of Detention and Inspectorate for Places of Detention to cover Oberstown. Rather, HIQA will remain the official inspectorate in this regard.

The role of HIQA

It is EPIC's view that this is the correct approach given a) HIQA's independence by virtue of the fact the agency reports to the Minister of Health rather than the Minister for Justice, b) HIQA's standing as an independent inspectorate which produces child-centred reports using inclusive and participatory approaches, and c) HIQA's remit in relation to inspection of wider children's social care services.

Children in detention are amongst the most marginalised and vulnerable groups within the justice system and in wider society. Independence of the inspecting body is essential to ensure accountability, compliance with national standards, and the implementation of best practice in line with the provisions of the UN OPCAT. Given HIQA's functional and financial independence from the Department of Justice, it is best placed to provide a non-biased, accountable monitoring and

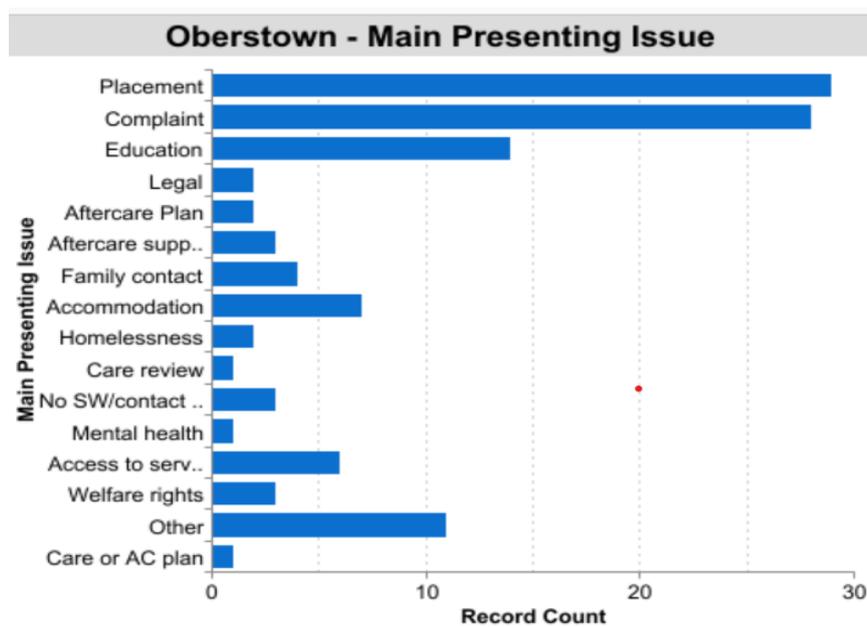
² HIQA, *Oberstown Children's Detention Campus*, 1 November 2021, Published 14 March 2022. p. 2. [OberstownChildrenDetentionCampusReport Template \(hiqa.ie\)](#) [accessed: 28 July 2022].

assessment service. Further, the open publication of its reports and their availability to the Government, civil society, children and families, and other stakeholders is critical.

HIQA’s monitoring and reporting model places significant value on the use of a participative and inclusive model which is child-friendly and accessible to children and families. As part of the inspection process, HIQA Inspectors speak directly to children remanded and detained in Oberstown, as well as to their parents or guardians, families, Guardians ad Litem, Social Workers and other professionals³. From HIQA’s reports it is demonstrated that Inspectors meet a significant proportion of the population of Oberstown and use mixed methods for canvassing the views of children. As part of their inspections, HIQA examine the use of physical restraints, restrictive practices, and single separation in line with the obligations of Member States who have ratified OPCAT.

EPIC believes that every child detained in Oberstown must be considered a child first and foremost. Therefore, the approach laid out in Oberstown’s Children’s Rights Framework which focuses on care rather than detention was welcomed by EPIC on its publication last year. HIQA have adopted a common approach to their inspection and judgements, meaning that the care of children in Oberstown is monitored in line with the care of children in residential social care services. This is eminently preferable to a model whereby conditions in Oberstown would be inspected in line with those in adult prisons as it recognises the fundamental difference in children’s detention.

EPIC’s caseload in Oberstown 2015-2022



³ [OberstownChildrenDetentionCampusReport_Template \(hiqa.ie\)](https://www.hiqa.ie/OberstownChildrenDetentionCampusReport_Template), page 4

While complaints and welfare rights are amongst the issues addressed by EPIC's Advocacy Service, most of these cases do not relate to physical restraints, single separation, or restrictive practices. Nonetheless, EPIC has worked on cases where children in Oberstown required advocacy in this regard. When addressing these issues with Management at Oberstown, EPIC's data demonstrates that the response was largely positive, and the individual children were content with the outcome. The appointment by Oberstown of a full-time on-site Advocate has also resulted in children having the opportunity to address issues as they arise directly on campus. This has likely reduced the number of complaints and welfare rights cases brought to EPIC's attention. In both categories, the number of cases has declined since 2015. In 2018, the last year pre-COVID, EPIC recorded two cases which were complaints, and none related to welfare rights.

HIQA reporting on use of restrictive practices

Oberstown Children's Rights Policy Framework was adopted by the Board with the consent of the Minister in 2020 and began its implementation in September 2021. The Framework states that it provides "a comprehensive and holistic policy base for all aspects of Campus operations, setting down 12 Rules and associated Policies in relation to the care of young people and the various roles of staff and management on the Campus."⁴

Within this framework and listed within Oberstown's model of care, are restrictive practices. The policy states that "[R]estrictive practices (handcuffs, single separation, restraints, searches) will only be used in exceptional circumstances and for the shortest time possible."⁵ Exceptional circumstances meeting the threshold for restrictive practices are when a young person's behaviour poses a risk to themselves, others or the Campus."⁶ The framework reiterates that this "use of restrictive practices must interfere as little as possible with the rights of young people."⁷

HIQA's most recent report has stated that these practices are "used regularly on campus in responding to behaviours that challenged, [and] found to be effective in minimising incidents of violence and

⁴ Oberstown Child Detention Campus, *Annual Report 2021*. 2022. p.5. [Oberstown-Annual-Report-2021-Final-Rev.pdf](#) [accessed: 28 July 2022]. p.2.

⁵ Oberstown Child Detention Campus, *Annual Report 2021*. 2022. p.5. [Oberstown-Annual-Report-2021-Final-Rev.pdf](#) [accessed: 28 July 2022]. p.6.

⁶ *Ibid.*

⁷ *Ibid.*

reducing risks posed to staff and young people.”⁸ Although records of physical restrained were of good standard, the “quality of managerial oversight of physical interventions, required improvement.”⁹

Another area that HIQA identified for improvement was in “the monitoring and oversight of the use of single separation. The quality of records for some incidents of single separation were poor as rationale for authorisation as well as continuation of restrictive practices was often absent.”¹⁰

In summary HIQA asserted that “improvements were required to ensure that programmes in place were the least restrictive option and in place for the shortest duration.”¹¹ Their overall judgment was moderate non-compliance.¹²

Conclusion

Children in detention are specifically vulnerable and the highest standards of oversight must be upheld in relation to their care. Throughout Ireland’s history, generations of children were ignored, abused, and silenced by those charged with their care and protection. EPIC welcomes the Joint Oireachtas Committee on Justice focus on children in detention in relation to the General Scheme on the Inspection of Places of Detention, and we hope the context and analysis we submit is useful as consultations continue and a report is prepared and transmitted to the Minister.

⁸ HIQA, *Oberstown Children’s Detention Campus*, 1 November 2021, Published 14 March 2022. p. 33. [OberstownChildrenDetentionCampusReport Template \(hiqa.ie\)](https://www.hiqa.ie/OberstownChildrenDetentionCampusReportTemplate) [accessed: 28 July 2022].

⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ *Ibid.*

¹² *Ibid.*