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State's child death review flawed, claims Ombudsman:

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OMBUDSMAN FOR Children Emily Logan has told the Government there are major flaws with its new child death review group, criticising its lack of statutory powers and independence.

She has called for the establishment of a new “institutionally independent child death review mechanism” to ensure that vulnerable children living in State care get the protection they deserve.

Her criticisms are contained in a report to Government on emergency legislation designed to force the Health Service Executive to hand over its files on child deaths while in State care to a new independent review group. This legislation is to be debated in the Dáil today and is expected to pass into law before the summer recess.

Minister of State for Children Barry Andrews set up the independent review group in March to investigate the deaths of at least 188 children, who were either in care or known to social services between 2000 and 2010.

This followed public concern over the HSE’s inability to provide accurate figures on the number of children in State care who had died, and the publication of a leaked report into the death of 18-year-old Dubliner Tracey Fay.

Last month the HSE informed the Government it was prohibited from passing its files on child deaths to the review group due to privacy provisions in existing Childcare Acts related to children in care. In response the Government drew up emergency legislation – the Health (Amendment) Bill 2010 – designed to compel the HSE to hand over its files.

In her report, Ms Logan criticises the inability of the review group to “directly source information and documents” and says its reliance on the Minister to determine what is relevant is “regrettable and may weaken public confidence in any report” it issues.

Ms Logan says a “properly constituted statutory inquiry should have its own means of compelling documents and information” rather than relying on the power of the Minister. The independent group should also be able to publish its own report, rather than the Minister doing this, she says.

She criticises the emergency legislation for not addressing the difficulties posed by the in-camera rule. She says it needs “root and branch reform” as it is causing considerable confusion among those working with children. Ms Logan also expressed concern regarding a separate HSE panel, which has been set up to review child deaths and serious incidents. “While establishing a group under the auspices of the HSE may be a convenient mechanism to overcome difficulties with the sharing of information, it lacks institutional independence,” she says.