

An analysis of the extent to which the Commissioner for Children and Young People (NI) Order 2003 complies with the Paris Principles 1993

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The status of the Paris Principles¹

- 1 The Paris Principles emerged from a process, beginning as early as 1978, which was designed to ensure that the remit of the United Nations' Commission on Human Rights, established in the immediate aftermath of the Second World War, would be mirrored in each of the member states of the United Nations. The vision was of a multitude of 'national human rights institutions' (NHRIs), one for each member state and all of them having the ability to work on any of the human rights listed in the Universal Declaration of Human Rights of 1948.
- 2 By the late 1970s, however, it had already been long apparent that member states of the UN differed dramatically in the way they protected human rights. The UN's dream that each country would have its own Commission on Human Rights helping to ensure that human rights were upheld in a uniform and consistent manner throughout the world had remained just that, a dream. Protection of human rights within international fora was also not as good as it should have been – the UN's Commission on Human Rights was a highly politicised body, the UN's Human Rights Committee (overseeing the implementation of the International Covenant on Civil and Political Rights) was very weak and ineffective and regional judicial mechanisms, such as the European Court of Human Rights and the Inter-

¹ Their full title is: 'Principles relating to the status and functioning of national institutions for protection and promotion of human rights'. In October, 1991, the Center for Human Rights at the UN convened an international workshop to review and update information on existing national human rights institutions. Participants included representatives of national institutions, States, the United Nations, its specialized agencies, intergovernmental and non-governmental organizations. In addition to exchanging views on existing arrangements, the workshop participants drew up a comprehensive series of recommendations on the role, composition, status and functions of national human rights instruments. These recommendations were endorsed by the Commission on Human Rights in March 1992 (resolution 1992/54) and by the General Assembly in its resolution A/RES/48/134 of 20 December 1993.



American Court of Human Rights, were still a long way from realising their potential.

- 3 It was in a bid to help counter these national and international trends that representatives of a few jurisdictions where fairly effective human rights institutions had managed to become established agreed to meet to consider best practice in the field. What resulted from those meetings, over a 15 year period, was a set of principles which bear all the hallmarks of a compromise document drafted by a committee – the Paris Principles. The document is not logically structured, it does not address all the pertinent issues and on some points its wording is ambiguous. But it was an important first step along the road of trying to ensure that oversight of human rights compliance is effective at the national level across all five continents.

- 4 The Paris Principles remain the main touchstone against which to conduct a general assessment of NHRIs. But it is important to note that they have been unofficially interpreted and ‘updated’ since they were agreed by the UN General Assembly in 1993. In particular the UN itself has elucidated them more fully in its *Handbook on the Establishment and Strengthening of National Institutions for the Promotion and Protection of Human Rights* (1995),² the Commonwealth Secretariat has produced a similar booklet entitled *National Human Rights Institutions: Best Practice* (2001),³ the European Network of Ombudsmen for Children (ENOC) has developed its own *Standards for Independent Human Rights Institutions for Children* (2001) and the UN Committee on the Rights of the Child has produced its General Comment No.2 entitled *The role of independent national human rights institutions in the promotion and protection of the rights of the child*.⁴ The present report measures the Commissioner for Children and Young People (NI) 2003 against the Paris Principles as interpreted and ‘upgraded’ by these further documents. By so doing it seeks to ensure that the highest possible standards are applied in Northern Ireland.

The spirit of the Paris Principles

² www.ohchr.org/english/about/publications/docs/NHRI4_en.pdf.

³ Not available on-line but can be ordered from The Commonwealth Secretariat, Marlborough House, Pall Mall, London SW1Y 5 HX.

⁴ www.ombudsnet.org.



5 There is, of course, a degree of artificiality involved in comparing the 2003 Order with the Paris Principles (even as updated) because the Paris Principles were never intended to be used as a set of standards by which to measure institutions that have a remit which is less than 'national' or which deal with the human rights of only one section of the population. But what is important, if the Paris Principles are not to become an anachronistic straitjacket, is to seize upon the values around which they are constructed and not upon the exact wording they employ. The world at large, and each member state within it, have developed enormously even since 1993, when the Principles were agreed by the UN General Assembly. Now, more than ever, it is disingenuous to believe that a 'one size fits all' approach can be adopted to how human rights are best protected throughout the globe. For the purposes of this report, four key values have been identified as permeating the Paris Principles. It is submitted that they embody the 'spirit' of the Principles and should be borne in mind at all times when deciding what is best practice in this arena.

(a) Independence

6 National human rights institutions (NHRIs) should reflect the interests of the social forces of civilian society involved in the promotion and protection of human rights, but they should be officially independent from any other organisation or person and should be accountable in their own name for what they say or do. Strictly speaking, the institution should be a collectivity of persons, but everyone now accepts that organisations headed by individuals can qualify as independent Paris Principle-compliant NHRIs, provided that the plurality of society is reflected in the working methods of the organisation. The International Co-ordinating Committee of NHRIs (through its Credentials Sub-Committee) gives unqualified recognition, for example, to several individual *defensores del pueblo* (i.e. ombudsmen) from Spanish or Portuguese speaking countries.

(b) A broad mandate

7 NHRIs should have a broad mandate, one which covers all the human rights of a significant number, if not the whole, of a country's population. While it would be convenient from an organisational point of view to have just one institution per country exercising such a mandate, it is now generally acknowledged that such a formulaic approach to the Paris



Principles is uncalled for. What is required is that each country should have one or more bodies which, when taken together, fulfil the functions of a Paris Principle-compliant NHRI. Each of them needs to be independent and have adequate powers and resources, but each of them does not need to have a mandate that covers the whole of the country or all categories of rights-holders.

- 8 Many countries have chosen to divide the responsibility for promoting and protecting human rights amongst a range of human rights institutions (HRIs). In such cases the International Co-ordinating Committee of the NHRIs is still debating how best to allow those countries to be represented at international gatherings of NHRIs, and how to allocate them speaking rights at meetings of the new UN Human Rights Council (which replaced the UN Commission on Human Rights in June 2006). The resolution of those issues is clearly of much less significance than ensuring that human rights are fully promoted and protected for all sectors of society throughout every country. That may be best achieved, especially in large and rich countries, by creating a number of HRIs for different areas, for different rights or for different sectors of the population. Indeed various UN bodies actively encourage the formation of such a range of HRIs. The UN Committee on the Rights of the Child has consistently advocated the establishment of independent human rights institutions for children and the UN Committee on the Elimination of Racial Discrimination has called for the establishment of NHRIs dealing with racial discrimination.
- 9 In the case of Sweden, for example, there are ombudsmen for different issues – for gender issues, for race issues, for disability issues, for children’s issues and for sexual orientation issues. Such a system has helped to ensure that Sweden has one of the best human rights records in the world, measured not only by the punctuality and thoroughness of the reports submitted by the Swedish government to UN treaty-monitoring bodies but also by the assessments conducted by NGOs such as Amnesty International⁵ and World Audit.⁶ The International Co-ordinating Committee of NHRIs allows Sweden to be represented at international gatherings of NHRIs by whichever ombudsman is designated for that meeting by the collection of

⁵ www.amnesty.org

⁶ www.worldaudit.org.



ombudsmen as being the most appropriate national representative.

(c) Adequate powers

- 10 NRHIs should have adequate powers to promote and protect human rights. In particular, they should be able to 'hear any person and obtain any information and any documents necessary for assessing situations falling within [their] competence' (Paris Principle C.2). Beyond this the Paris Principles are somewhat vague on *precisely* what powers need to be available to an NHRI, but it is implicit in the document that each institution should be effective in promoting and protecting human rights. Self-evidently, the more powers an institution has, the more effective it can be.

(d) Adequate resources

- 11 NHRI should have adequate resources to protect human rights. Clearly, if NHRI are not adequately resourced their effectiveness will be reduced. If they do not have enough funding to employ their own staff and occupy their own premises they will either be able to conduct very little work or be at risk of becoming dependent on, or unduly influenced by, whichever organisation is able to provide their funding. Of course there needs to be full accountability for the use of public resources which are allocated to the NHRI, but this should not mean that the NHRI must do the bidding of those to whom it is accountable.

An analysis of the 2003 Order

- 12 The pages which follow take account of the points made in paragraphs 1 to 11 above. Under each separate Paris Principle (numbered and reproduced in full in bold type) comments are provided on the extent to which the provisions of the Commissioner for Children and Young People (NI) Order 2003 comply with the requirements of the Principles, as interpreted and 'upgraded' in the ways described above (especially at para.4). Where there is a lack of compliance, recommendations are made in underlined type as to how this lack of compliance should be rectified.
- 13 It should be borne in mind throughout that, following the ruling of the House of Lords in *Re Northern Ireland Human Rights*



Commission,⁷ a body such as the Commissioner for Children and Young People for Northern Ireland must be taken as having all the powers which are reasonably incidental to those which have been expressly conferred upon it by the 2003 Order. That said, because the 2003 Order is quite detailed in the powers that it does confer, the room for implying powers is correspondingly smaller. In the event that the precise powers of the Commissioner were ever to be analysed by a judge during court proceedings, it is likely that the judge would apply the legal maxim that the express mention of one thing in a piece of legislation means that other things were intended to be excluded (*expressio unius exclusio alterius*). This makes it all the more important to be explicit in the Order about which powers the Commissioner is entitled to exercise.

- 14 It is also worth bearing in mind that an overly-legalistic approach to the remit of a human rights institution may make it more difficult for that institution to be effective. An institution probably works best when it has no need to cite its powers but can rely instead on the voluntary cooperation of those individuals and organisations with which it wishes to engage. There is much common sense in the adage, 'if it ain't broke don't fix it'. However, even though a human rights institution may be able to operate perfectly well 99% of the time, there may come a moment when some difficulty arises which requires the institution to fall back on the letter of the law under which it has been established. To cater for such rare eventualities it is important that that law be drafted as comprehensively as possible. That is the cautionary principle which has informed the whole of the following analysis of how the Commissioner for Children and Young People (NI) Order 2003 compares with the requirements of the Paris Principles. To the extent that there is doubt as to the scope of the Commissioner's express powers, it would be wise to amend the Order to avoid such doubt hampering the future effectiveness of the Commissioner.

Paris Principles A. 1: A national institution shall be vested with competence to protect and promote human rights.

- 15 The Commissioner is not and never will be a 'national' institution, because his or her remit is limited to Northern Ireland and does not extend to the whole of the United

⁷ [2002] NI 236.



Kingdom. But in so far as the Paris Principle A.1 seems to presuppose that in every country there should be a single 'national' institution for the protection and promotion of human rights, this is not in fact how organs of the United Nations interpret it today. It is enough if there is a group of institutions which, taken collectively, have national competence, provided that each of them otherwise meets the requirements of the Paris Principles. These institutions can then agree among themselves on which of them should represent the nation at any international gathering where only one institution can speak on behalf of the nation in question. As mentioned in paragraph 9 above, this is the case for institutions in Sweden. It is beyond the scope of this report to make an assessment as to whether there is already a group of institutions within the UK which, taken collectively, constitute a national institution for the purposes of the Paris Principles, but pending the establishment of the Commission for Equality and Human Rights under the Equality Act 2006 (and perhaps even after that Commission has been established), that is unlikely to be the case.

Paris Principles A.2: A national institution shall be given as broad a mandate as possible, which shall be clearly set forth in a constitutional or legislative text, specifying its composition and its sphere of competence.

- 16 Paris Principle A.2 seems to presuppose that in every country there should be a single 'national' institution with a mandate to promote and protect *all* human rights, even though no definition is provided as to what 'human rights' actually means in this context. But, again, this is not in fact how organs of the United Nations interpret this Principle today. It is enough if there is a group of institutions which, taken collectively, have a broad mandate, provided that each of them otherwise meets the requirements of the Paris Principles. Thus it is perfectly acceptable for a nation to have separate institutions dealing with, for example, children and young people, women, members of ethnic minorities, etc., provided only that no person is excluded from the collective mandate.
- 17 The mandate of the Commissioner for Children and Young People for Northern Ireland, taking the word 'mandate' to mean not just what the institution *must* do but also what it *may* do, is clearly set out in the 2003 Order, so to that extent Paris Principle A.2 is clearly complied with.



- 18 However the mandate of the Commissioner is not 'as broad as possible' because it does not in every respect extend to the actions, or inactions, of bodies which are not within the definition of a 'relevant authority' as set out in article 4 of, and Schedule 1 to, the Order. No such restriction exists in relation to the duties imposed on the Commissioner by articles 7(1), 7(2), 7(4) and 7(5) of the 2003 Order, nor in relation to the general powers conferred on the Commissioner by article 8 of the 2003 Order. But it does exist in relation to the duty imposed by article 7(3), which states that 'The Commissioner shall keep under review the adequacy and effectiveness of services provided for children and young persons *by relevant authorities*' (emphasis added). And it exists too in relation to the powers conferred by articles 9 to 13 of the Order, which relate to reviews of the advocacy, complaint, inspection and whistle-blowing arrangements *of relevant authorities* (arts 9 and 10), to assistance with complaints against *relevant authorities* (art 11) and investigation of complaints against *relevant authorities* (arts 12 and 13) (again, emphasis added). These gaps in the Commissioner's powers are not filled by the general powers conferred by article 7(1)⁸ or 8(1)⁹ of the Order. The phrase 'research or educational activities' in article 8(1) covers a multitude of actions, but it would not cover the sorts of actions authorized in subsequent articles of the Order such as reviewing complaint arrangements, assisting with complaints or investigating complaints – why else would these be specifically mentioned?
- 19 The definition of 'relevant authority' in article 4 of, and Schedule 1 to, the 2003 Order is quite wide-ranging, embracing, for instance, providers of services of any kind under arrangements with a health and social services body or a general health services body (e.g. foster parents), any person running a children's home or voluntary home, or a residential care home, nursing home or private hospital in which children are accommodated, and any person providing day care for children under the age of twelve on premises other than

⁸ 'The Commissioner shall promote (a) an understanding of the rights of children and young persons; (b) an awareness of the importance of those rights and a respect among children and young persons for the rights of others; and (c) an awareness of matters relating to the best interests of children and young persons.'

⁹ 'The Commissioner may undertake, commission or provide financial or other assistance for research or educational activities concerning the rights or best interests of children and young persons or the exercise of his functions.'



domestic premises (e.g. nursery schools). But the definition excludes, for instance, providers of services not under arrangements with a health and social services body or a general health services provider. These providers may be commercial organizations, community organizations or voluntary organizations, including churches and charities. Or the service providers may be individuals. The services provided could cover such things as advice, recreational facilities or work experience. Persons who act as registered child minders on *domestic* premises are also excluded from the definition. In addition, the definition excludes some public bodies which are neither subject to oversight by the Commissioner for Complaints or the Assembly Ombudsman in Northern Ireland nor specifically listed in Schedule 1 to the 2003 Order. Examples of excluded public bodies would be the Northern Ireland Prison Service and the Northern Ireland Human Rights Commission.

- 20 People concerned about violations of human rights still differ among themselves as to whether it is correct to label actions carried out by individuals or organizations with no connection to the state as violations of human rights. The Paris Principles are silent on this point, although it is likely that at the time of their formulation the intention was that NHRIs should focus on human rights violations perpetrated by organs of the state. However the current trend in international human rights law is undoubtedly towards recognizing that private bodies – including companies, media organizations, churches, trades unions and private paramilitary organizations – can also be considered to be responsible for human rights violations. As far as children are concerned, the European Network of Ombudsmen for Children (ENOC) explicitly states in its *Standards for Independent Human Rights Institutions for Children* (agreed in 2001) that legislation establishing human rights institutions for children should include provisions setting out ‘powers to have regard to the situation of children in the family, in schools and in all other institutions; powers to consider the promotion and protection of children’s rights in relation not only to government but also to private bodies; [and] the right to have access to children in all forms of alternative care and all institutions which include children’.
- 21 It would appear that the 2003 Order fails to meet these standards. The remit of the Commissioner for Children and Young People for Northern Ireland should therefore be extended accordingly. In that way the mandate of the



Commissioner will be made as broad as possible, as Paris Principle A.2 requires. At the very least the Commissioner's remit should be extended to embrace all 'public authorities', which is the term used in the Human Rights Act 1998 to indicate the organizations which must comply with the requirements of the European Convention on Human Rights, but that limitation in the Human Rights Act has itself been widely criticized, including by Parliament's Joint Committee on Human Rights, so it would therefore be much wiser to extend the remit of the Commissioner in the way suggested by ENOC's standards. Less anyone fear that such an extension of the remit would allow the Commissioner to interfere unduly with the privacy of families, it should be noted that ENOC's standards are very carefully worded so as to avoid that danger. Thus, there is no requirement that human rights institutions for children should have the power to promote and protect children's rights within families or as against parents.

- 22 By article 6(1) of the 2003 Order the 'principal aim' of the Commissioner is 'to safeguard and promote the rights and best interests of children and young persons'. But this is stated as applying only when the Commissioner 'is exercising his functions' and the Order goes on to group the 'functions' of the Commissioner within articles 7 to 15 of the Order. On a strict reading of article 6(1), therefore, the Commissioner's principal aim when conducting formal investigations under articles 16 to 23 of the Order is not to safeguard and promote the rights and best interests of children and young persons. This may be an accident of drafting, but it should be remedied. Article 6(1) should be amended so that the Commissioner's principal aim applies when he or she is 'exercising any of his [or her] duties or powers under this Order'.

Paris Principle A.3: A national institution shall, inter alia, have the following responsibilities: (a) To submit to the government, parliament and any other competent body, on an advisory basis either at the request of the authorities concerned or through the exercise of its power to hear a matter without higher referral, opinions, recommendations, proposals and reports on any matters concerning the protection and promotion of human rights. The national institution may decide to publicize them.

- 23 By using the word 'responsibilities' in Principle A.3 the Paris Principles leave it unclear whether what follows are duties or merely powers. Even if they are taken to be duties, however,



the Principles do not insist that they be fulfilled on every possible occasion. Implicit in the Principles is an acknowledgement that NHRIs must be allowed some discretion in this regard. If the Principles are so interpreted, the 2003 Order complies with them because by article 7(4) the Commissioner is obliged to 'advise the Secretary of State, the Executive Committee of the [Northern Ireland] Assembly and a relevant authority on matters concerning the rights or best interests of children and young persons – (a) as soon as reasonably practicable after receipt of a request for advice; and (b) on such other occasions as the Commissioner thinks appropriate'. Article 8(5)(b) then empowers the Commissioner to publish any advice he or she provides. Nothing turns on the fact that the Order does not specifically refer to the Commissioner's 'opinions, recommendations, proposals and reports', since article 8(5)(c) empowers the Commissioner to 'publish any matter concerning the rights or best interests of children and young persons' and for good measure article 8(6) empowers him or her to 'make representations or recommendations to any body or person about any matter concerning the rights or best interests of children and young persons'.

Paris Principle A.3(a): [The opinions, recommendations, proposals and reports, as well as any prerogative of the national institution, shall relate to the following areas:] (i) Any legislative or administrative provisions, as well as provisions relating to judicial organization, intended to preserve and extend the protection of human rights. In that connection, the national institution shall examine the legislation and administrative provisions in force, as well as bills and proposals, and shall make such recommendations as it deems appropriate in order to ensure that these provisions conform to the fundamental principles of human rights. It shall, if necessary, recommend the adoption of new legislation, the amendment of legislation in force and the adoption or amendment of administrative measures.

- 24 The duty imposed on the Commissioner by article 7(4) of the 2003 Order (see para.23 above) allows him or her to issue opinions, recommendations, proposals and reports on all of the different types of provisions mentioned in Principle A.3(a)(i). Even if there were doubt about this, it is removed by article 7(2) of the Order, which places the Commissioner under a duty to 'keep under review the adequacy and effectiveness of law and practice relating to the rights and welfare of children and



young persons', coupled with article 8(5), which as noted in paragraph 23 above, empowers the Commissioner to 'publish any matter concerning the rights or best interests of children and young persons'.

- 25 The Order does not expressly impose on the Commissioner a duty to recommend the adoption of new legislation or administrative measures if this is necessary, but such a duty can perhaps be inferred not only from article 6(1), which says that in exercising his or her functions the principal aim of the Commissioner is to 'safeguard and promote' the rights and best interests of children and young persons, but also from article 7(1)(a), which requires the Commissioner to 'promote an understanding' of the rights of children and young persons. To avoid doubt, however, careful consideration should be given to amending the 2003 Order in order to impose an express duty on the Commissioner along the lines of what is required by the final sentence of Paris Principle A.3(a)(i).

Paris Principle A.3(a): [The opinions, recommendations, proposals and reports, as well as any prerogative of the national institution, shall relate to the following areas:] (ii) Any situation of violation of human rights which it decides to take up.

- 26 This Principle seems to require the Commissioner to submit advice to the government, Parliament and any other competent body on 'any situation of violation of human rights which [he or she] decides to take up', although again this depends on whether the word 'responsibility' in the opening words of Principle A.3 is to be taken as meaning 'duty' and/or 'power'. The phrase 'take up' is ambiguous and could range from conducting a detailed formal investigation into a situation to making discrete inquiries about the facts of a situation. The 2003 Order does not impose such a duty on the Commissioner but it does *empower* him or her to do so. By article 8(5) the Commissioner may compile information concerning the rights or best interests of children and young persons, provide advice or information on any matter concerning those rights or interests, and publish any matter concerning those rights or interests. It is arguable that a power is more sensible than a duty in this context, since otherwise the resources of the Commissioner might be consumed in producing unnecessary advice. No



amendment of the 2003 Order is therefore required on this point.

Paris Principle A.3(a): [The opinions, recommendations, proposals and reports, as well as any prerogative of the national institution, shall relate to the following areas:] (iii) The preparation of reports on the national situation with regard to human rights in general, and on more specific matters.

27 As already noted, the Commissioner cannot, and never should be able to, prepare reports on a 'national' situation. His or her jurisdiction should remain confined to Northern Ireland. But he or she should be able to contribute to the preparation of national reports and there is nothing in the 2003 Order to prevent this occurring. There is no duty to do so, but this is again a context in which interpreting the word 'responsibilities' at the start of Paris Principle A.3 to mean 'duties' is perhaps inappropriate.

Paris Principle A.3(a): [The opinions, recommendations, proposals and reports, as well as any prerogative of the national institution, shall relate to the following areas:] (iv) Drawing the attention of the government to situations in any part of the country where human rights are violated and making proposals to it for initiatives to put an end to such situations and, where necessary, expressing an opinion on the positions and reactions of the government.

28 Again, the Commissioner's jurisdiction does not, and should not, extend to 'any part of the country', if by 'country' is meant the whole of the United Kingdom. However, there is nothing in the 2003 Order to stop the Commissioner from doing what Principle A.3(a)(iv) requires in relation to any part of Northern Ireland. Once more, as with the previous Principle, there is no duty to do so, since, for example, article 7(4) obliges the Commissioner to submit advice on matters concerning the rights or best interests of children and young persons (if not requested to do so) only on such occasions 'as the Commissioner thinks appropriate'. A conscientious and well-supported Commissioner would doubtless want to comply with Principle A.3(a)(iv) on every occasion where the human rights of children and young persons are being violated in Northern Ireland. To cater for the hypothetical situation where the Commissioner turns a blind eye to such violations it may be better if the 2003 Order were amended so as to impose on him



or her a duty to submit advice in such a situation. The creation of such a duty might leave the Commissioner open to being judicially reviewed in situations where he or she decides there is no need to fulfil the duty in a particular instance, but that is a risk which every public authority has to run when it takes decisions not to fulfil a duty and it should not unduly impede the Commissioner.

Paris Principle A.3: (b) To promote and ensure the harmonization of national legislation, regulations and practices with the international human rights instruments to which the State is a party, and their effective implementation.

- 29 This is an example of a Principle which it is very difficult, if not impossible, for even the most powerful NHRI in the world to satisfy fully. This is because NHRIs do not have executive powers – nor should they have, as they are unelected bodies. They therefore cannot ‘ensure the harmonization’ and ‘effective implementation’ of national legislation. Only the responsibility to ‘promote’ such harmonization and implementation can be completely fulfilled.
- 30 The 2003 Order does contain provisions (in article 19 and in para.4 of Schedule 3) empowering the Commissioner to take further action following an investigation report he or she has made which contains one or more recommendations as to action to be taken by or in respect of a relevant authority. If the Commissioner considers the response to the recommendation(s) to be inadequate, he or she can require the authority to reconsider the matter and respond within one month. A further failure to provide a satisfactory response can be noted in a register which the Commissioner can make available for public inspection. Such powers are to be welcomed, but they fall far short of powers to ‘ensure...effective implementation’ of international human rights instruments to which the UK is a party.
- 31 In short, Principle A.3(b) does not seem to be reflected in the 2003 Order. This is mainly because the Order does not contain a definition of ‘the rights and best interests of children and young persons’ to which it frequently refers. Indeed the Order does not at any point use the phrase ‘human rights’, let alone ‘international human rights instruments’. The closest it comes to doing so is in article 6(3)(b), where the Commissioner is placed under an obligation, when determining how to exercise



his or her functions under the Order, to have regard to any relevant provisions of the United Nations Convention on the Rights of the Child. This is complemented by article 6(2)(a), which places the Commissioner under an obligation, again when determining whether and, if so, how to exercise his or her functions under the Order in relation to any particular child or young person, to make the rights of the child or young person the Commissioner's 'paramount consideration'. But again these provisions do not, together, 'ensure...effective implementation' of international human rights instruments to which the UK is a party, as Principle A.3(b) requires. As already stated, though, it is questionable whether ensuring full compliance with this Principle is possible or even desirable within a democratic system where law-making is given to elected politicians and judges, not to quangos.

- 32 There is no impediment in the 2003 Order to the Commissioner *promoting* the harmonization of legislation, regulations and practices in Northern Ireland with the international human rights instruments to which the United Kingdom is a party: this could be done, for example, in exercise of the duties imposed by articles 7(1) to 7(4) and of the powers conferred by articles 8 to 10. In any future debate about possible amendments to the 2003 Order careful consideration should be given to whether this *power* of the Commissioner should be expressly listed as a *duty*.

Paris Principle A.3: (c) To encourage ratification of the above-mentioned instruments or accession to those instruments, and to ensure their implementation.

- 33 What has been said in the commentary on Principle A.3(b) applies here too. The 2003 Order does not make what is said in Principle A.3(c) a responsibility of the Commissioner, but he or she is free to encourage ratification of or accession to the instruments if he or she so wishes. Again, in any future debate about possible amendments to the 2003 Order careful consideration should be given to whether this implied *power* of the Commissioner should be expressly listed as a *duty*. It would give a boost to the status of these instruments if it were listed as a duty, and the Commissioner's office would then be more justified in calling itself a human rights institution (albeit a sub-national one) because, since the approval of the Paris Principles by the UN General Assembly in 1993, one of the universally accepted hallmarks of an NHRI has been the encouragement it gives to its national government to ratify, or accede to,



international human rights instruments to which the state is a party.

Paris Principle A.3: (d) To contribute to the reports which States are required to submit to United Nations bodies and committees, and to regional institutions, pursuant to their treaty obligations, and, where necessary, to express an opinion on the subject, with due respect for their independence.

34 See the commentary to Principle A.3(c) in para.33 above. UN treaty-monitoring bodies, and the office of the UN High Commissioner for Human Rights, now acknowledge that it is better if NHRIs do not actually contribute to States' reports to treaty-monitoring bodies and committees. If they do so they risk being perceived as part of the government, when in fact they are meant to be completely independent from the government. But NHRIs should comment on their States' reports and should, if possible, produce shadow reports. Given the more generally worded powers of the Commissioner for Children and Young People for Northern Ireland, there is no need to amend the 2003 Order so as to make it reflect more precisely the wording of Principle A.3(d).

Paris Principle A.3: (e) To cooperate with the United Nations and any other agency in the United Nations system, the regional institutions and the national institutions of other countries which are competent in the areas of the protection and promotion of human rights.

35 See the commentary to Principle A.3(c) in para.33 above. The reference to the United Nations Convention on the Rights of the Child in article 6(3)(b) of the 2003 Order implies that the Commissioner will need to keep him- or herself well informed about United Nations agencies working with that Convention, in particular the UN Committee on the Rights of the Child. Given the more generally worded powers of the Commissioner for Children and Young People for Northern Ireland, there is no need to amend the 2003 Order so as to make it reflect more precisely the wording of Principle A.3(e).

Paris Principle A.3: (f) To assist in the formulation of programmes for the teaching of, and research into, human rights and to take part in their execution in schools, universities and professional circles.



- 36 The 2003 Order does not specifically confer on the Commissioner a responsibility to take part in the execution of human rights programmes in schools, universities and professional circles. But it does require the Commissioner, in article 7(1), to promote '(a) an understanding of the rights of children and young persons and (b) an awareness of the importance of those rights and a respect among children and young persons for the rights of others'. Article 7(5) goes on to require the Commissioner to take reasonable steps to ensure that children and young persons are made aware of the functions of the Commissioner, that they are encouraged to communicate with the Commissioner and that the services of the Commissioner are, so far as practicable, made available to children and young persons in the locality in which they live. Article 8(1) empowers the Commissioner to 'undertake, commission or provide financial or other assistance for research or educational activities concerning the rights or best interests of children and young persons' and article 8 (5)(b) empowers the Commissioner to provide advice or information on any matter concerning the rights of children and young persons. Unless Principle A.3 as a whole is interpreted as imposing duties as opposed to conferring powers (see para.23 above), there is no need to amend the 2003 Order to make it compliant with Principle A.3(f).

Paris Principle A.3: (g) To publicize human rights and efforts to combat all forms of discrimination, in particular racial discrimination, by increasing public awareness, especially through information and education and by making use of all press organs.

- 37 This Principle seems to be complied with (unless it is interpreted as imposing a duty as opposed to conferring a power) because article 8(5)(c) of the 2003 Order confers on the Commissioner a power to 'publish any matter concerning the rights or best interests of children and young persons'. The promotional duties imposed by article 7(1) – see the commentary on Principle A.3(f) in para.36 above – are obviously relevant here too.

Paris Principle B.1: The composition of the national institution and the appointment of its members, whether by means of an election or otherwise, shall be established in accordance with a procedure which affords all necessary guarantees to ensure the pluralist representation of the social forces (of civilian



society) involved in the protection and promotion of human rights, particularly by powers which will enable effective cooperation to be established with, or through the presence of, representatives of: non-governmental organizations responsible for human rights and efforts to combat racial discrimination, trade unions, concerned social and professional organizations, for example, associations of lawyers, doctors, journalists and eminent scientists; trends in philosophical or religious thought; universities and qualified experts; Parliament; Government departments (if they are included, these representatives should participate in the deliberations only in an advisory capacity).

38 The Paris Principles presuppose that an NHRI shall comprise several 'members' who will represent the plurality of the social forces of civilian society involved in the protection and promotion of human rights. But, as noted in paras.6, 9 and 15 above, organs of the United Nations have since recognized that NHRIs can be headed by a single individual, such as a *defensor del pueblo* in a Spanish or Portuguese speaking country.

39 It is nevertheless important that even a single-member institution should take account of the plurality of the society he or she serves. This can be achieved through the establishment of bodies such as advisory councils, reference groups or taskforces. The Commissioner for Children and Young People in Northern Ireland has established a Northern Ireland Youth Panel, consisting of 42 members aged between 12 and 21 and drawn from all over Northern Ireland. This Panel serves as a consultation committee for the Commissioner and helps the Commissioner at public events and meetings. This goes some way towards satisfying the requirements of Principle B.1, as do the regular meetings which the Commissioner has with non-governmental organizations working on children's issues and the presence of a parent on the steering group for research projects. Nevertheless, thought should be given to how sectors of society in Northern Ireland other than children and young people can have their views taken into account more generally by the Commissioner.

Paris Principle B.2: The national institution shall have an infrastructure which is suited to the smooth conduct of its activities, in particular adequate funding. The purpose of this funding should be to enable it to have its own staff and premises, in order to be independent of the government and



not be subject to financial control which might affect this independence.

- 40 Schedule 2 to the 2003 Order contains provisions which largely but not entirely ensure compliance with this Paris Principle. Para.10(1) empowers the Office of the First Minister and deputy First Minister (OFMDFM) to 'make grants to the Commissioner of such amounts as it may determine' and para.10(3) allows the OFMDFM, with the approval of the Department of Finance and Personnel of the Northern Ireland government, to direct that the Commissioner can retain certain sums of money which may be received by the Commissioner in the course of, or in connection with, the carrying out of his or her functions.
- 41 To date, as the memorandum prepared by the Welsh, Scottish and Northern Irish Commissioners for the House of Commons' Education and Skills Committee in January 2005 makes clear (at page 4), the Commissioner in Northern Ireland, compared with his or her colleagues elsewhere in the United Kingdom, has been relatively well funded since the inception of the office (£1.9 million in 2004-05), although this may well reflect the fact that the Commissioner in Northern Ireland has greater duties and powers than the Commissioners elsewhere. The funding also compares favourably with that accorded by the Northern Ireland Office to the Northern Ireland Human Rights Commission (£1.35 million in 2005-06).
- 42 But the fact remains that, in different times, the OFMDFM may decide not to be so generous to the Commissioner. A savage cut in funding may be challengeable through judicial review proceedings, but that is no guarantee that 'adequate' funding will be restored. Although there can be advantages in an NHRl having a 'sponsorship body' within government, a better solution, one strongly supported by the Parliamentary Joint Committee on Human Rights in one of its reports on the proposed Commission for Equality and Human Rights in Great Britain,¹⁰ would be to make the Commissioner for Children and Young People in Northern Ireland into a 'parliamentary' institution, with funding awarded to it out of the Consolidated Fund and not as part of a block grant to the Northern Ireland

¹⁰ 11th Report, Session 2003-04, at paras. 126-137 (www.publications.parliament.

uk/pa/jt200304/jtselect/jtright/78/7807.htm#a23), further endorsed in the 16th Report, Session 2003-04, at para.50: www.publications.parliament.uk/pa/jt200304/jtselect/jtright/156/15607.htm#a20).



Office. This is how the salaries of judges and the grant for the Parliamentary Commissioner for Administration are awarded: it helps to prevent party political interference in the budget of such important watchdog institutions. It is also the model which the Northern Ireland Human Rights Commission has advocated should be put in place for itself, although the government has rejected that proposal.

Paris Principle B.3: In order to ensure a stable mandate for the members of the institution, without which there can be no real independence, their appointment shall be effected by an official act which shall establish the specific duration of the mandate. This mandate may be renewable, provided that the pluralism of the institution's membership is ensured.

43 By article 5(2) of the 2003 Order the Commissioner for Children and Young People for Northern Ireland is appointed by the First Minister and deputy First Minister acting jointly (or, under the Northern Ireland Act 2000, by the Secretary of State for Northern Ireland during the suspension of the Assembly and Executive). By paras.3(2) and (3) of Schedule 2 to the 2003 Order the appointment is for four years, and is renewable once. To this extent Paris Principle B.3 is complied with, although the view of Professor Brian Gran in the United States, who has conducted a comparative analysis of childrens' commissioners, is that the appointment system for the Commissioner in Northern Ireland means that the person appointed is not as independent as he or she should be. There remains the difficulty concerning the pluralism of the institution's membership, which is addressed in the commentary on Paris Principle B.1 in paras.38-39 above.

44 This is also the Principle which stresses that the NHRI must have 'real independence' (Principle B.2 deals only with financial independence). This means, for example, that there must be no interference by a government department, or anyone else, in the decision-making processes of the NHRI. In the case of the Commissioner for Children and Young People for Northern Ireland, it means, for example, that the Office of the First Minister and deputy First Minister must not try to put pressure on the Commissioner to change the line he or she has chosen to adopt on a particular issue. This Office must in no way act as if it is 'a court of appeal' against decisions taken by the Commissioner. If a person is dissatisfied with how the Commissioner has dealt with an issue, he or she can take the matter to the Commissioner for Complaints, who has power to



investigate whether the Commissioner has been guilty of maladministration.

Paris Principle C.1: Within the framework of its operation, the national institution shall freely consider any questions falling within its competence, whether they are submitted by the government or taken up by it without referral to a higher authority, on the proposal of its members or of any petitioner.

- 45 In addition to the difficulty concerning the fact that the Commissioner occupies a single-member institution, there are several restrictions in the 2003 Order on the freedom of the Commissioner to consider any question falling within his or her competence. The effect of these is to make the Commissioner a residual player with regard to some of his or her competences. Thus, for example, by articles 9(4), 10(3), 11(4), 11(5), 12(2)(b), 13(3) and 15(3), the Commissioner shall not exercise certain of his or functions, such as reviewing the operation of the inspection arrangements made by a relevant authority or investigating a complaint made by a child or young person that his or her rights have been infringed by an action taken by a relevant authority, if there is an existing statutory system for exercising those functions.
- 46 The existing statutory systems for exercising those functions seem to be quite extensive. For example, the Social Services Inspectorate of the Department of Health, Social Services and Public Safety in Northern Ireland has the power to conduct inspections under powers contained in the following legislation: the Health and Personal Social Services (NI) Order 1972, the Adoption (NI) Order 1987, the Probation Board (NI) Order 1982, the Registered Homes (NI) Order 1992 and the Children (NI) Order 1995. These Orders confer quite extensive powers of inspection, research and inquiry. Taken together they would appear to leave little residual room for the exercise of investigative powers by the Commissioner for Children and Young People. Moreover the 2003 Order sets different tests for the applicability of the Commissioner's residual powers. Articles 9(4) and 10(3) allow the Commissioner to review inspection arrangements of relevant authorities if he or she is 'satisfied'



that no other body or person has the power to do so.¹¹ But articles 11(4) and 15(3) allow the Commissioner to assist a complaint to a relevant authority, or assist other legal proceedings, if it appears to the Commissioner that no other person or body is 'likely' to take such action (even if the power to do so is available). And articles 11(5) and 12(2)(b) appear to completely preclude the Commissioner from making a complaint to a relevant authority or investigating a complaint made to such an authority if that matter is regulated by an existing statutory provision. Article 13(3) completely precludes an investigation by the Commissioner in respect of any action which is, or has been, the subject of a local or public inquiry.

- 47 Given the range of limitations on the Commissioner's powers under these 'residual' provisions it is clear that the 2003 Order does not comply with Paris Principle C.1. The limitations on the Commissioner's powers should be repealed. Any overlap with existing powers of other bodies should be dealt with through memoranda of understanding reached between the Commissioner and each of those bodies. (See too para.62 below, commenting on the opening words of Paris Principle D).

Paris Principle C.2: Within the framework of its operation, the national institution shall hear any person and obtain any information and any documents necessary for assessing situations falling within its competence.

- 48 The 2003 Order adopts a rather complicated approach to the Commissioner's powers to hear any person and obtain any information and documents. In fact it provides for three different levels of power in this context. These can be referred to as level 1, level 2 and level 3 investigations.
- 49 Firstly, the Order states in article 8(3) that, for the purposes of any of his or her functions, the Commissioner may conduct such investigations as he or she considers necessary or expedient. These can be called level 1 investigations. The Order does not go on to specify what precisely the Commissioner can do during such an investigation to make sure it is effective.
- 50 Secondly, the Order states in articles 8(4) and 9(7) that, in relation to investigations conducted by the Commissioner for

¹¹ It is not clear why this should be the case for reviews of inspection arrangements under articles 9 and 10, but not for reviews of advocacy, complaint or whistle-blowing arrangements under the same articles.



the purposes of three of his or her functions, the Commissioner can decide that the provisions of Schedule 3 shall apply. These can be called level 2 investigations. Paragraph 6 of Schedule 3 provides that for the purposes of any such investigation the Commissioner may 'obtain information from such persons and in such manner, and make such enquiries, as he [or she] thinks fit'. The express mention of this power in this context suggests that it is not intended to exist in relation to level 1 investigations. The three functions to which articles 8(4) and 9(7) refer are: (a) to keep under review the adequacy and effectiveness of law and practice relating to the rights and welfare of children and young persons; (b) to keep under review the adequacy and effectiveness of services provided for children and young persons by relevant authorities; and (c) to review generally the advocacy, complaint, inspection or whistle-blowing arrangements of relevant authorities listed in Part II of Schedule 1 to the Order.

51 Thirdly, the Commissioner may decide to conduct a formal investigation under article 16 of the Order. These can be called level 3 investigations. Article 16 allows such a formal investigation in only three situations: (a) to review generally the advocacy, complaint, inspection or whistle-blowing arrangements of relevant authorities, *except* those listed in Part II of Schedule 1 to the Order (which lists mainly authorities operating in the field of justice and policing); (b) to review the advocacy, complaint, inspection or whistle-blowing arrangements of all relevant authorities in the cases of particular children or young people; and (c) to investigate a complaint made by a child or young person that his or her rights have been infringed, or interests adversely affected, by any relevant authority.

52 Articles 16 to 23 go on to impose various duties and confer various powers on the Commissioner in relation to formal investigations.¹² In identical wording to that of paragraph 6 of Schedule 3 (referred to in para.50 above), article 16(7) provides that the Commissioner has power to 'obtain information from such persons and in such manner, and make such enquiries, as he [or she] thinks fit'. But this power is supplemented by provisions which do not apply to either level 1 or level 2 investigations. In particular, the investigative duties and powers conferred by articles 16 to 23 in relation to formal

¹² It seems that to date no such formal investigation has been instigated by the Northern Ireland Commissioner.



investigations are more extensive than those conferred by Schedule 3 in three important respects: (1) article 16(10) requires the Commissioner in a formal investigation to give to the child or young person involved the same opportunities regarding the giving and cross-examining of evidence as may have been given to the relevant authority or other person involved; (2) article 20 gives the Commissioner in a formal investigation all the powers of the High Court in respect of the attendance and examination of witnesses and the production of documents; and (3) article 21 authorizes the Commissioner in a formal investigation to enter premises (except those used wholly or mainly as a private dwelling) and to inspect and take copies of documents required by statute to be kept there.

- 53 It is hard to understand why the 2003 Order created three different levels of investigation. While there is some justification for creating special rules for particularly large or otherwise important investigations, as is the case for the Equality Commission for Northern Ireland (but not for the Northern Ireland Human Rights Commission), it would appear that under the 2003 Order lesser powers are made available for level 2 investigations in order to prevent bodies listed in Part II of Schedule 1 (mainly policing and justice organizations operating under powers reserved to the Northern Ireland Office) from being subjected to the compulsion to supply information (article 20) or to allow entry to premises (article 21) during investigations into their advocacy, complaint, inspection or whistle-blowing arrangements. There is no justification for this exemption for Part II bodies.
- 54 Nor is the gap between level 2 and level 3 investigation powers filled by the Children Act 2004, which creates a Children's Commissioner with UK-wide jurisdiction. Section 7 of that Act confers on the UK Commissioner promotional and inquiry powers in relation to 'excepted matters' in Northern Ireland. But 'excepted matters' means (by s.7(10)) the matters listed in Schedule 2 to the Northern Ireland Act 1998 and they do not include the activities of bodies listed in Part II of Schedule 1 to the 2003 Order. Indeed it is hard to imagine what activities relevant to children *are* embraced by 'excepted matters'. And the UK Commissioner's inquiry powers do not in any event appear to be as extensive as those conferred for level 3 investigations under the 2003 Order. The Children Act 2004 does not seem to confer powers on the UK Commissioner with regard to 'reserved matters' in Northern Ireland (listed in Schedule 3 to the Northern Ireland Act 1998), which do include



matters such as the treatment of offenders (including children and young persons) and data protection.

- 55 The distinction between the three sets of investigative powers should be abolished and those conferred by articles 16 to 23 should be extended across the board. At present the existence of more limited sets of powers in relation to some matters means that the Commissioner's office does not comply with Paris Principle C.2.

Paris Principle C.3: Address public opinion directly or through any press organ, particularly in order to publicize its opinions and recommendations.

- 56 The Commissioner's publishing powers under article 8(5) of the 2003 Order ensure compliance with this Paris Principle.

Paris Principle C.4: Meet on a regular basis and whenever necessary in the presence of all its members after they have been duly consulted.

- 57 The fact that the Commissioner is a single-member institution makes it impossible to comply with this Principle, although regular meetings between the Commissioner and the Northern Ireland Youth Panel would go some way towards compliance. Article 7(5)(d) of the 2003 Order requires the Commissioner to take reasonable steps to ensure that the views of children and young persons and their parents are sought concerning the exercise by the Commissioner of his or her functions, and article 8(2) requires the Commissioner to consult with such bodies or persons as he or she thinks appropriate if he or she is issuing guidance on best practice in relation to any matter concerning the rights or best interests of children or young people. But no wider duty to consult is imposed on the Commissioner. This deficit should be remedied by amending legislation.

Paris Principle C.5: Establish working groups from among its members as necessary, and set up local or regional sections to assist it in discharging its functions.

- 58 The office of the Commissioner does not have 'members' but there is nothing to stop the Commissioner from establishing



working groups or setting up local or regional sections to help the Commissioner to discharge his or her functions.

Paris Principle C.6: Maintain consultation with the other bodies, whether jurisdictional or otherwise, responsible for the protection and promotion of human rights (in particular, ombudsmen, mediators and similar institutions).

59 There are no consultation responsibilities mentioned in the 2003 Order other than those referred to in the commentary on Paris Principle C.4 in para.57 above. This deficit should be remedied by amending legislation

Paris Principle C.7: In view of the fundamental role played by the non-governmental organizations in expanding the work of the national institutions, develop relations with the non-governmental organizations devoted to protecting and promoting human rights, to economic and social development, to combating racism, to protecting particularly vulnerable groups (especially children, migrant workers, refugees, physically and mentally disabled persons) or to specialized areas.

60 The 2003 Order does not require the development of such relations with the non-governmental organizations mentioned in Paris Principle C.7, but the Commissioner is free to do so if he or she so wishes. This deficit should be remedied by amending legislation.

Paris Principle D: A national institution may be authorized to hear and consider complaints and petitions concerning individual situations. Cases may be brought before it by individuals, their representatives, third parties, non-governmental organizations, associations of trade unions or any other representative organizations.

61 Given that this part of the Paris Principles is headed 'Additional principles concerning the status of commissions with quasi-judicial competence', Paris Principle D seems to be targeted at NHRIs which have been given the power to *adjudicate* upon complaints and petitions concerning individual situations. The 2003 Order does not confer this particular role on the Commissioner but it does entitle him or her to



investigate individual complaints and to issue reports on those investigations.

- 62 The Commissioner is authorized by article 12(1) of the 2003 Order to conduct an investigation into a complaint made by a child or young person that his or her rights have been infringed, or interests adversely affected, by any action taken by a relevant authority. But as already noted (see paras.45-46 above), this power cannot be exercised unless the Commissioner is satisfied that the complaint does not fall within an existing statutory complaints system (article 12(2)(b)). Moreover there can be no investigation unless the Commissioner is satisfied that the complaint raises a question of principle (article 12(2)(a)) and he or she cannot conduct an investigation concerning any action in respect of which the complainant has or had a right to take the matter to a tribunal or to a court (article 13(1)). These two further limitations may seem reasonable, but they are not expressly permitted by Paris Principle D and it is therefore possible to argue that that Principle (like Principle C.1) is not fully complied with by the 2003 Order.
- 63 The 2003 Order requires, again in article 12(1), that the complaint to be investigated must be 'made by a child or young person', but article 3(4) of the Order stipulates that 'Anything which is required or authorized by this Order to be done by a child or young person may be done by his [or her] parent or any other person acting on his [or her] behalf'. The representative organizations referred to in the second sentence of Paris Principle D would therefore be able to bring cases before the Commissioner, but only when acting 'on behalf of' a child or young person. That restriction should be removed from the 2003 Order. While it may be difficult to envisage a case being brought to the Commissioner without the express or implied consent of the child or young person in question, it should not be necessary to require the case to be brought on his or her 'behalf'.

Paris Principle D (continued): In such circumstances, and without prejudice to the principles stated above concerning the other powers of the commissions, the functions entrusted to them may be based on the following principles: 1. Seeking an amicable settlement through conciliation or, within the limits prescribed by the law, through binding decisions or, where necessary, on the basis of confidentiality.



- 64 The Commissioner is not expressly empowered to seek an amicable settlement of an individual complaint, but, if his or her intervention facilitates this, that would not breach any law.

Paris Principle D (continued): In such circumstances, and without prejudice to the principles stated above concerning the other powers of the commissions, the functions entrusted to them may be based on the following principles: 2. Informing the party who filed the petition of his rights, in particular the remedies available to him, and promoting his access to them.

- 65 The Commissioner has a general duty under article 7(1)(a) of the Order to promote an understanding of the rights of children and young persons and a general power under article 8(5)(b) to provide advice or information on any matter concerning the rights or best interests of children and young persons.

Paris Principle D (continued): In such circumstances, and without prejudice to the principles stated above concerning the other powers of the commissions, the functions entrusted to them may be based on the following principles: 3. Hearing any complaints or petitions or transmitting them to any other competent authority within the limits prescribed by the law.

- 66 The Commissioner cannot 'hear' complaints or petitions in the sense of adjudicating upon them, but, subject to what is said in paras.62-63 above, he or she can investigate complaints or petitions. Neither the 2003 Order nor any other legal provisions prevent the Commissioner from transmitting such complaints or petitions to any other competent authority.

Paris Principle D (continued): In such circumstances, and without prejudice to the principles stated above concerning the other powers of the commissions, the functions entrusted to them may be based on the following principles: 4. Making recommendations to the competent authorities, especially by proposing amendments or reforms of the laws, regulations or administrative practices, especially if they have created the difficulties encountered by the persons filing the petitions in order to assert their rights.



- 67 Under article 7(2) of the 2003 Order the Commissioner has a duty to keep under review the adequacy and effectiveness of law and practice relating to the rights and welfare of children and young persons, and under article 8(5)(b) the Commissioner may provide advice or information on any matter concerning the rights or best interests of children and young people. Paris Principle D.4 is therefore complied with.

