

Response from the Northern Ireland Commissioner for Children and Young People to the Play and Leisure Implementation Plan 4 February 2011

1.0 Introduction

The office of Commissioner for Children and Young People (NICCY) was created in accordance with 'The Commissioner for Children and Young People (Northern Ireland) Order' (2003) to safeguard and promote the rights and best interests of children and young people in Northern Ireland.

Under articles 7(2)(3) of this legislation, NICCY has a mandate to keep under review the adequacy and effectiveness of law, practice and services relating to the rights and best interests of children and young people by relevant authorities. The remit of our office is children and young people from birth up to 18 years, or 21 years of age where a young person is care experienced or has a disability.

In determining how to carry out her functions, the Commissioner's paramount consideration is the rights of the child and NICCY is required to base all its work on the United Nations Convention on the Rights of the Child (UNCRC).

2.0 International Law - Children's Rights

The UK Government, including Northern Ireland, is a signatory to the UNCRC and has agreed to uphold the rights of children and young people based on the Convention.

NICCY appreciates that there are often complexities when reconciling the rights of children and young people with their welfare and best interests. NICCY would recommend the proposals are reviewed against the following relevant articles within the UNCRC and that they are incorporated into the Implementation Plan as underlying principles to ensure that the rights and best interests of children and young people are upheld and protected:

- Article 2: Children shall not be discriminated against and shall have equal access to all articles in the UNCRC.
- Article 3: All decisions taken which affect children's lives should be taken in the child's best interests.
- Article 6: All children have the right to life and to the fullest level of development.



- Article 12: Children have the right to have their voices heard in all matters concerning them.

The following article is also relevant and requires special consideration within the Implementation Plan:

- Article 31 of the UNCRC states that children have a right to rest and leisure, to engage in play and recreational activities appropriate to their age and to participate freely in cultural life and the arts.

The United Nations Children's Fund (UNICEF) has highlighted that governments must recognise the importance of play and leisure in supporting children's social, physical and intellectual development.¹ UNICEF also document how play and leisure provide children with opportunities to learn key life skills, such as, co-operation and problem solving.

In its Concluding Observations in its Report on the United Kingdom in October 2008, the United Nations Committee on the Rights of the Child observed that:

- Children with disabilities continue to face barriers in the enjoyment of their rights guaranteed by the Convention including in the right to access health services, leisure and play.
- The right to play and leisure is not fully enjoyed by all children, especially due to poor play infrastructure, notably for those children with disabilities.

3.0 Research

In 2008 NICCY published a major review of children's rights which highlights the gaps, problems and difficulties in the protection, promotion and implementation of children's rights in Northern Ireland.² Children and young people of all ages and from all geographic areas voiced a number of concerns regarding play and leisure. Indeed, this was the top issue raised by both children and parents or carers who participated in the review.

Four keys themes emerged in NICCY's research:

¹ UNICEF (2007) Implementation Handbook for the Convention on the Rights of the Child, (Geneva: UNICEF).

² NICCY (2008) Children's Rights: Rhetoric or Reality, A Review of Children's Rights in Northern Ireland 2007/08, (Belfast: NICCY).



- Safe play and leisure: concern was expressed about the lack of play and leisure spaces and the safety of existing facilities.
- Affordable play and leisure: participants raised the cost of activities, particularly as children become older.
- Accessible play and leisure: participants highlighted the importance of having facilities and spaces close to where they live and that meet their needs.
- Age appropriate play and leisure: concern was expressed about the lack of activities and spaces available to young people as they become teenagers.

The 2008 review also documented that several groups including, children experiencing poverty, children living in rural areas, young carers and children with disabilities, did not have equal access to play and leisure. It must be noted that these groups represent some of the most disadvantaged and marginalised children in our society.

In 2010 NICCY published research based on a 2008 survey of district and borough councils examining how they organised and delivered play and leisure.³ This paper highlighted that while there were some examples of good practice by councils, there was an inconsistent approach in how they delivered their statutory duty to provide play and leisure opportunities. For instance, only 11 councils had a play policy, not all councils defined children as being under 18 years and not all consulted with children and young people.

The research made a number of recommendations including that:

- Councils should use a minimum definition of a child as being up to 18 years old, or 21 years where they are care experienced or have a disability.
- Children should be entitled to price reductions for all council owned, operated and funded facilities at all times.
- Councils should have a play policy which must include reference to the UNCRC, an action plan and a timescale for review and evaluation.
- The obligation to consult with children and young people must be adhered to.

We have included a copy of this paper for information along with our June 2010 policy briefing on Play and Leisure which called for:

³ NICCY (2010) Play and leisure policy and the work of councils in Northern Ireland, (Belfast: NICCY).



- Government to ensure children and young people can access safe, affordable, accessible and age appropriate play and leisure.
- Councils to make sure they fulfill their duty to provide play and leisure opportunities.
- Children and young people to be involved in the development and review of play and leisure policies and procedures.

This briefing also highlighted that factors, such as, the legacy of the conflict which can be seen in the segregated nature of school and community based provision have restricted children's access to play. This was one of a series of papers released during our 'Make It Right' campaign to celebrate the anniversary of the UNCRC. As part of this, briefings and workshops for children and young people were developed and messages NICCY received from children for government in relation to play and leisure are included in appendix 1.

4.0 Consultation with Children and Young People

NICCY has regularly expressed concern that the Section 75 statutory duty to consult on and equality impact assess policies has not been adequately enforced in respect of the age criterion. This has meant public authorities are consistently failing in their duty to meaningfully consult with children and young people on issues that have direct relevance to their lives. Article 12 of the UNCRC also states that children have the right to express their opinion in matters directly impacting upon them and to have those views given due weight in accordance with their age and maturity.

NICCY welcomes the consultation that OFMDFM has facilitated on the Play and Leisure Implementation Plan. We would like further information on how the process has sought to engage the specific groups of children and young people that the UN Committee on the Rights of the Child and NICCY's research have identified as not having equal access to play and leisure.

5.0 Comments on the Policy

Recent developments in play and leisure policy, such as the 2009 Play and Leisure Policy Statement from the Northern Ireland Executive and the formation of Implementation Plan groups by OFMDFM are to be welcomed. We acknowledge the commitment that OFMDFM has made to play and leisure and recognise the investment made of all participants, whether from statutory or voluntary sectors, in the Implementation Plan group process.



NICCY was an observer during this process and provided reflections on the draft Implementation Plan to OFMDFM in June 2010 (see appendix 2). This consultation response repeats many of the themes of those comments as we remain concerned that they must be more robustly articulated in the Play and Leisure Implementation Plan.

5.1 Foreword

NICCY is pleased that direct reference is made to the UNCRC and article 31. We would further welcome an acknowledgement in the foreword which details how the right to play and leisure directly relates to children's ability to enjoy other UNCRC rights, such as, the right to health (article 24), the right to freedom of assembly (article 15) and the right to inclusion for children with disabilities (article 23). This indivisibility of children's rights is at the heart of the UNCRC.

The foreword should clearly set out the age definition of a child and this should reflect the definition given in the Play and Leisure Policy Statement of being up to 18 years old, or 21 years where they are care experienced or have a disability.

We welcome the clear acknowledgement of the benefits that are enjoyed by children and young people in accessing play and leisure opportunities. We are also pleased to note the reference made to a lack of tolerance and respect for children and young people as a barrier to play. Both these points were emphasised by the NICCY Youth Panel who we consulted in developing this response.

In considering the particular barriers faced by young people in contact with justice agencies, NICCY recognises that access to play and leisure will be beneficial. However, we are of the view that effective prevention and diversion from the justice system is best achieved by ensuring children have access to high quality, universal services from the earliest stages of their lives, whether this relates to health care, education or play, in order to ensure they can enjoy all of their UNCRC rights. We have enclosed our November 2010 Youth Justice policy paper which sets this out in more detail.

While we welcome the highlighting of barriers to play and leisure we recommend that this section should more clearly identify where factors relating to inequality and disadvantage are a barrier. We also recommend that the



legacy of the conflict in segregating play and leisure opportunities is documented as a barrier.

It would be helpful to have a clearer definition of the barrier “conflicting pressures and constraints associated with modern living”. The NICCY Youth Panel raised the difficulty of balancing school work and pressure with leisure and recreation time and this may be a more accurate reflection of this barrier.

In considering the underlying principles of the Play and Leisure Implementation Plan it may be more useful to consider issues relating to accessibility, including transport and affordability, within one principle relating to equality of access.

It would be helpful to have more detail on the mechanisms for partnership working and on action that will be taken if Play and Leisure Partnerships are not developed across all council areas, as is currently the case. We recommend that this section includes a clear commitment to involving children and young people in partnership working.

In relation to monitoring and evaluation NICCY must make clear that we are not of the view that it is appropriate for the document to state we will “have a role to play in monitoring progress of the plan and working with government departments and local government to ensure its successful implementation.” As noted in our introduction, NICCY has a mandate to keep under review the adequacy and effectiveness of law, practice and services relating to the rights and best interests of children and the Play and Leisure Implementation Plan will be one aspect of government policy which we will continue to monitor. However, it is the Northern Ireland Executive who is responsible for ensuring children are able to enjoy their right to play and leisure. NICCY’s role is to monitor how effectively government delivers on this through its development of an appropriate Plan which is successfully implemented across both central and local government.

We would recommend that the Implementation Plan provides more detail on the structures for monitoring and evaluation at both central and local government levels, including the mechanisms that will be in place to ensure children and young people’s participation in this.

While we appreciate that the foreword seeks to provide a wide breadth of information, it may be helpful if this is presented in a more concise manner, for example, by integrating the importance of play and leisure and the case for play and leisure into one section.



5.2 The Play and Leisure Implementation Plan

We welcome the structuring of the Implementation Plan around the three broad areas of Places and Spaces for Play and Leisure, Access to Play and Leisure, and Championing Play and Leisure. We also acknowledge the importance of the area of Workforce Development.

It is important to note that NICCY recognises the complexity of improving children's access to their right to play and leisure. This involves working across a wide range of sectors of statutory, voluntary and private bodies, and requires changes in areas as broad ranging as facilities, transport, pricing policies and attitudes towards children and young people. While we welcome the draft Implementation Plan we would like to highlight a number of concerns we continue to have relating to the overall structure of the Plan.

It is important that the high level aims of the Implementation Plan are translated into clear objectives and actions set against timeframes and performance indicators. For example, in the key impact area of "children and young people's rights" it is not clear how the action of "promote the use of play services by children and young people with particular needs" and associated targets of conducting an annual audit and producing guidance for local providers will ensure greater equality of access or will track increased use of play and leisure facilities by particular groups of children and young people.

In addition to identifying the need to address children's rights and inequalities the Implementation Plan must demonstrate how these will be mitigated through specific objectives and actions. While we recognise, as noted in area 3 of the Plan, that delivery requires central and local government action, the framework must outline how it will make a real and tangible difference to children and young people's experiences of play and leisure.

We welcome the designation of a lead department for each area of the plan but remain of the view that the all government bodies who are duty bearers fulfilling their statutory obligations in the delivery of the Implementation Plan should be differentiated from other delivery partners, such as non government organisations (NGOs). The Implementation Plan should also identify which actions will be taken forward by which bodies. We assume that where agencies have been named as delivery partners this has been negotiated and agreed directly with those organisations, particularly when they are NGOs.

We would also note our concern at being cited as a delivery partner in areas of the plan and reiterate that NICCY's role, as a 'watchdog' is to review the adequacy and effectiveness of government law, policies and services. In



carrying out our duties and delivering our corporate and business plan objectives we aim to ensure that our activities promote and safeguard children's rights and best interests across all areas of their lives, of which play and leisure is one important aspect.

In acknowledging the critical role of councils in delivering play and leisure, the mechanisms to translate the aims and objectives of the Implementation Plan into duties and guidance for Councils should be clarified. For example, as previously noted Play and Leisure Partnerships may not be established across all council areas and information should be provided on the monitoring process that will ensure play and leisure is being delivered effectively and consistently across Northern Ireland.

While this response has not intended to focus on the detail of areas within the Implementation Plan we must highlight that the references made to action in relation to transport and cost for those under 16 must be amended to reflect the age range of the Play and Leisure Policy Statement of up to 18 years old, or 21 years where they are care experienced or have a disability. This was again an issue which the NICCY Youth Panel reiterated.

As discussed earlier, we recommend that the Implementation Plan strengthens the role given to children and young people's participation in the development and evaluation of play and leisure policies and provision. This must reflect the obligations of article 12 of the UNCRC, Section 75 of the Northern Ireland 1998 and "Ask First!" The Northern Ireland Standards for Children and Young People's Participation in Public Decision Making.

5.3 Appendix A

The membership list should note that NICCY was an observer.

6.0 Conclusion

Recommendations

- The Implementation Plan should acknowledge that meeting children and young people's right to play and leisure will positively contribute to their enjoyment of other rights under the UNCRC, such as the right to health, the right to freedom of assembly and the right to inclusion for children with disabilities.



- The foreword should state the age definition of a child is up to 18 years old, or 21 years where they are care experienced or have a disability, in line with the Play and Leisure Policy Statement.
- The listed barriers to play and leisure should clearly identify where factors relate to inequality and disadvantage and should acknowledge the legacy of the conflict as a barrier.
- The mechanisms for partnership working should be more clearly articulated and include an explicit commitment to involving children and young people.
- The systems to monitor and evaluate the Implementation Plan, including the involvement of children in this, should be discussed in greater detail and NICCY should not be cited as having a role to play in the monitoring and successful implementation of the Plan.
- The high level outcomes and key impact areas must be translated into actions which will clearly progress these. They should be set against performance indicators and timeframes and be allocated to particular bodies and agencies.
- Alongside identifying a lead department for each area of the Plan the framework should differentiate government and public bodies who are obliged to fulfill statutory duties in relation to play and leisure from other delivery partners, such as, non government organisations. NICCY should not be cited as a delivery partner.
- The Implementation Plan must clarify how its aims and objectives will be translated into duties and guidance for councils in more detail, particularly if there is no requirement placed on councils to establish Play and Leisure Partnerships.
- Where references are made to those under 16 these must be amended to reflect the age range of the Play and Leisure Policy Statement of up to 18 years old, or 21 years where they are care experienced or have a disability.
- The Implementation Plan should strengthen the role of children and young people's participation in all stages of the development and evaluation of play and leisure policies and provision.



