

Advice to the Northern Ireland Executive on its Draft Programme for Government

19 December 2016

Introduction

The Office of the 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) and (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. Under Article 7(4), NICCY has a statutory duty to advise any relevant authority on matters concerning the rights or best interests of children and young persons, and it is under the fulfilment of this duty that we make this submission.

The Commissioner's remit includes children and young people from birth up to 18 years, or 21 years, if the young person is disabled or in the care of social services. In carrying out her functions, the Commissioner's paramount consideration is the rights of the child or young person, having particular regard to their wishes and feelings. In exercising her functions, the Commissioner has regard to all relevant provisions of the United Nations Convention on the Rights of the Child (UNCRC).

Consultation on the Draft Programme for Government Framework

In July the Commissioner submitted a considered and detailed advice paper to the Executive in response to its draft Programme for Government (PfG) Framework. This contained a number of important points in relation to the strategic delivery for children. It is disappointing to note that none of our recommendations have been reflected in the 'Analysis of Responses' document, nor do they appear to have been taken into account in drafting PfG document and delivery plans. This appears to be due to the approach taken to analysing responses, which was limited to identifying satisfaction levels in relation to outcomes, indicators and measures.

We note that the analysis document states that:

“a structured process was established to analyse the narrative responses. This involved officials capturing from each response key messages recorded and categorised according

to their relevance to: outcomes, indicators, measures, delivery plans, methodology and governance, budget/funding, and equality impact assessment.”¹

However, the document does not contain this analysis of the narrative documents, and we would suggest that this has limited the effectiveness of the consultation process. As a result, we are in the position of having to reiterate all the main points that we had raised in our advice on the Framework document in July. We expect that the advice we provide will be taken into account.

Strategic Delivery for Children and Young People under the Programme for Government

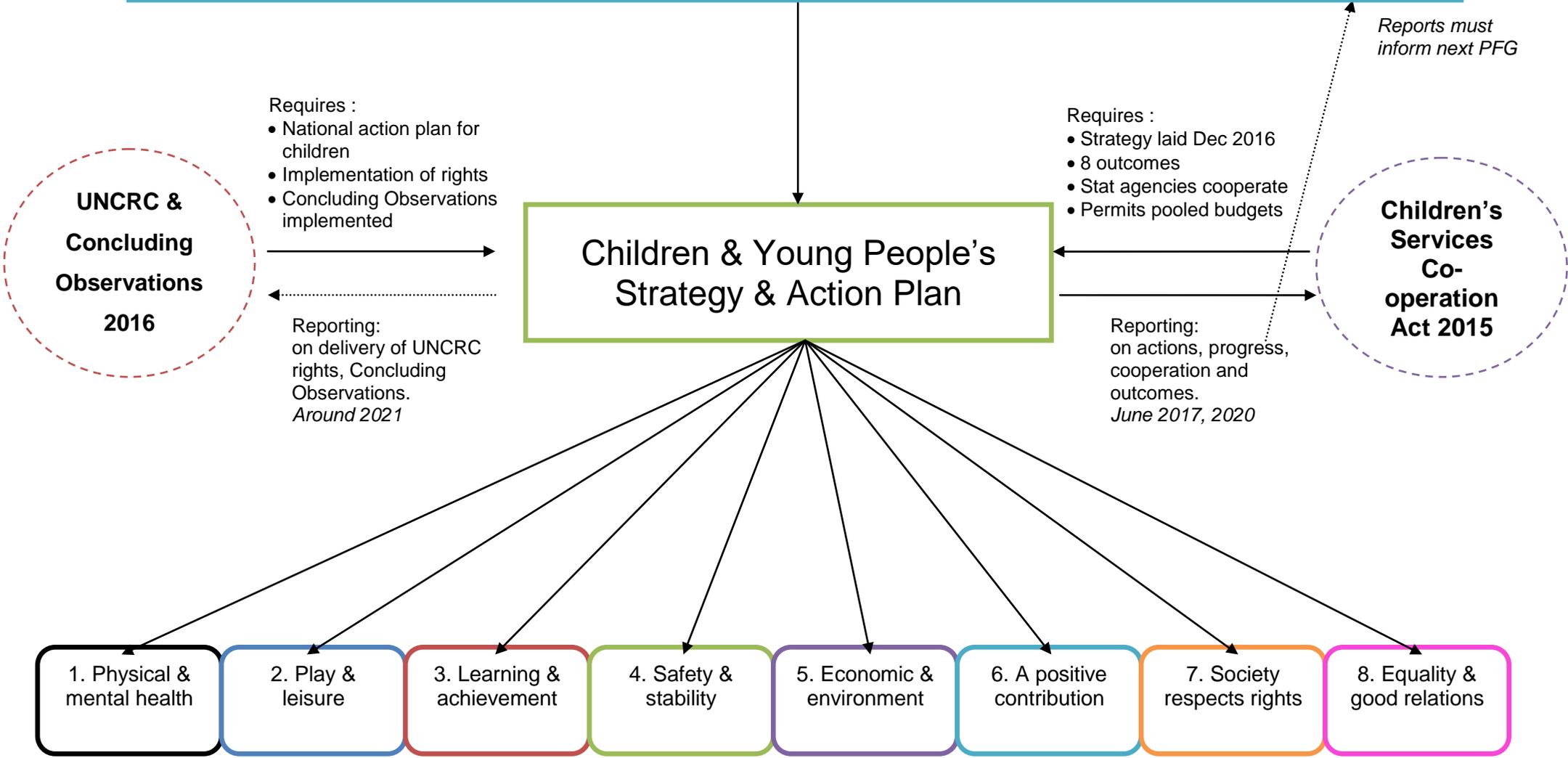
NICCY believes that the Programme for Government (PfG) must accurately reflect the current strategic legislative and policy context in relation to delivery for children and young people in Northern Ireland. In particular it should reflect the statutory obligations on children’s services providers by the Children’s Services Co-operation Act (Northern Ireland) 2015 (CSCA), and the related development of the next Children and Young People’s Strategy for Northern Ireland. It should also include explicit reference to the recommendations made of Government in the recent Concluding Observations made by the UN Committee on the Rights of the Child following its examination of the UK and its devolved Governments’ compliance with the UNCRC in June 2016.

NICCY considers the timing of all of these developments to present an unprecedented opportunity to join up the delivery of policy and legislation relating to children and young people in Northern Ireland in a way which will positively impact on their lives and progresses the realisation of their rights. We recognise the significance of the PfG as the NI Executive’s overarching strategy for the work of Government and in setting the strategic context for the associated delivery plans, related strategies (Investment, Economic and Social) for Northern Ireland and subsequent budgetary decisions.

It is very welcome, therefore, that the Executive has focussed one outcome specifically on children and young people: Outcome 14: ‘We give our children and young people the best start in life’. As clearly articulated in our PfG advice paper in July 2016, it is essential that the Children and Young People’s Strategy is taken forward as **the** delivery plan for this outcome, as outlined in the following diagram.

¹ TEO, (2016), ‘Programme for Government Framework - public consultation: Analysis of responses,’ p3.

Programme for Government 2016-21



It is very disappointing to note therefore that this draft PfG, while it does mention the CSCA, does not make reference to the Children's Strategy or the eight well-being outcomes the Executive, government departments and agencies are statutorily required to work together to deliver through the Strategy. These are:

- (a) physical and mental health;
- (b) the enjoyment of play and leisure;
- (c) learning and achievement;
- (d) living in safety and with stability;
- (e) economic and environmental well-being;
- (f) the making by them of a positive contribution to society;
- (g) living in a society which respects their rights;
- (h) living in a society in which equality of opportunity and good relations are promoted between persons who share a relevant characteristic and persons who do not share that characteristic.

Delivering on the UN Convention on the Rights of the Child

It is important to note that the CSCA states that, in determining the meaning of well-being for the purposes of the Act, regard is to be had to any relevant provision of the UNCRC. It is therefore extremely disappointing that there is no reference in the PfG to the UNCRC or the UN Committee on the Rights of the Child's Concluding Observations 2016. This should be addressed in the final version of the PfG as we believe that, with regard to children, the ultimate goal for all Government Departments and the Northern Ireland Executive must closely align to that of the CSCA - to improve the well-being of children and young people in a manner which ensures the realisation of their rights.

The UNCRC is a set of legally binding minimum standards and obligations in respect of all aspects of children's lives which the Government has ratified and must comply with in the discharge of its functions. The UK Government and its devolved administrations have recently been examined by the UN Committee on the Rights of the Child with regard to compliance with its obligations under the UNCRC in June 2016. The Committee's Concluding Observations following this examination were published in July 2016 and provide a detailed set of recommendations with which Government must comply across all aspects of children's lives in meeting its obligations under the UNCRC.

The principles of the UNCRC are all relevant to the discussion of the obligations on

Government to children and young people and its priorities over the next five years as outlined in the PfG. The Government needs to ensure the rights of all children not to be discriminated against (Article 2), have their best interests upheld (Article 3), that they survive and develop to the maximum extent possible (Article 6) and they are able to meaningfully participate in all aspects of their lives (Article 12). These core principles of the UNCRC should underpin the PfG, acting as a framework for decisions with regard to the priorities for Government for children and young people.

NICCY has provided an advice paper to the Department of Education (DE) on the relevant provisions of the UNCRC, including articles and Concluding Observations, for each of the eight statutory CSCA well-being outcomes.²

Investment in Children and Young People

The PfG sets the strategic context for the priorities of the Northern Ireland Executive over the next five years. It is regrettable that the PfG is being consulted on without a clear and costed budget which aligns to each of the outcome areas. NICCY considers the uncertainty of the future availability of resources to fund the proposed outcome areas over the lifetime of the PfG to be a significant issue which undermines the ability for the PfG outcomes to be taken forward in a long term and adequately planned manner.

It is vital that the Northern Ireland Executive reiterates its commitment to children with adequate and clearly defined investment. The UNCRC is clear about the obligations on State parties to invest in children and young people and to ensure that children and young people remain a central priority for Governments in policy making. Article 4 of the UNCRC states that,

“States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.”

The UN Committee on the Rights of the Child, following its examination of the UK Government in 2016 expressed its concern at the effects that recent fiscal policies and

² This paper can be accessed in Section B here: <http://www.niccy.org/about-us/our-current-work/programme-for-government-pfg-children-and-young-peoples-strategy-and-csca/children-and-young-peoples-strategy/>

allocation of resources have had in contributing to inequality in children's enjoyment of their rights, disproportionately affecting children in disadvantaged situations. The Committee went on to urge the Government to,

*"...allocate the maximum extent of available resources for the implementation of children's rights, with a special focus on eradicating child poverty and reducing inequalities within and across all jurisdictions."*³

The Committee outlined that it expects the Government to adopt a child's rights budgeting approach, monitor spend on children and young people and carry out child rights impact assessments in order to identify resource allocations to children and the effective implementation of policies and legislation impacting on children. The Committee further emphasised the importance of carrying out child rights impact assessments and recommended that the Government introduce a statutory obligation at national and devolved levels to systematically conduct child rights impact assessments when developing all laws and policies affecting children. They also recommended that the results of such assessments be published and the Government should demonstrate how they have been taken into consideration in progressing laws and policies.⁴

The Committee has also highlighted the need to invest in children by Governments, stating that investment in children is a, *"...widely accepted best guarantee for achieving equitable and sustainable human development and a fundamental requirement for social and economic priorities of any government"*.⁵

The UN Committee on the Rights of the Child has recognised the importance of holding States to account with regard to their obligations to invest in children. In elaborating on what is meant by the general measures of implementation of the convention under Article 4 of the UNCRC, the Committee has just recently published a new General Comment on public expenditure for the realisation of children's rights.⁶ This General Comment includes indicators to measure the extent to which States are meeting their obligations.

³ Para 12, CRC/C/GBR/CO/5, 3rd June 2016

⁴ *Ibid*, Para 9.

⁵ Para 27, CRC (2007) Day of General Discussion "Resources for the rights of the child – Responsibility of States".

⁶ General Comment 19, 20th July 2016

Outcome 14: We give our children and young people the best start in life

While we understand that children and young people may be implicitly included under all of the outcome areas, it is most welcome that an explicit, separate outcome on children and young people has been included in the PfG. However, we repeat our previous recommendation.

NICCY recommends that this outcome area be amended to “We have a society where all children thrive and fulfil their maximum potential”.

NICCY believes this to be more reflective of the outcomes approach of the PfG, the UNCRC obligations, the UN Committee’s recommendations and the legislative focus of the CSCA, under which the new Children and Young People’s Strategy will be developed. It is important that all of the work undertaken by Government to improve outcomes for children is consistent in its shared vision in order to deliver more effectively. NICCY believes that our suggested wording for outcome 14 will better achieve this.

NICCY wishes to see the adoption of the Children and Young People’s Strategy as the delivery mechanism for children and young people under outcome 14 of the PfG being reflected in the text under this outcome area. **NICCY suggests that rather than relying on the proposed limited range of indicators to monitor progress on outcome 14 that this is done through the indicators developed to monitor delivery of the Children and Young People’s Strategy.**

As we suggested in our previous advice on the draft PfG framework, NICCY recommends the inclusion of the following statement under “*The Role of the Executive*” in outcome 14:

“We will make our contribution by fully implementing the Children and Young People’s Strategy and meeting the statutory requirements of the Children’s Services Cooperation Act (Northern Ireland) 2015 to cooperate with each other in order to improve the following well-being outcomes for children and young people.”⁷

NICCY has provided comprehensive advice to the DE on the development of the Children

⁷ NICCY (2016), Advice to the Northern Ireland Executive on its Draft Programme for Government Framework, (Belfast). <http://www.niccy.org/publications/2016/july/22/niccy-advice-on-draft-programme-for-government/>

and Young People's Strategy. This provides detailed information on how NICCY proposes that the Children and Young People's Strategy should be progressed as the overarching strategic delivery mechanism for children and young people in Northern Ireland.⁸

Strategic indicators for children within the Programme for Government

When one compares the indicators under Outcome 14 to the eight CSCA well-being measures, it is clear that there is a great deal missing from the PfG in relation to its compliance with these legislative requirements.

Of the six indicators specifically identified to measure delivery against Outcome 14, four relate to educational attainment at 16, one to health at birth, and one to development levels at age 3.

Only health and education are addressed, and indeed these are extremely limited in their scope and target age. There are no indicators for children from 4 to 15, two thirds of all children. Furthermore, this outcome contains no indicators or measures for children relating to the majority of areas include in the eight statutory well-being outcomes, including:

- Physical health (other than at birth);
- Mental health;
- Safety;
- Safeguarding;
- Homelessness;
- Poverty;
- Participation;
- Equality;
- Play and leisure;
- Respect for children's rights.

We do recognise that some of these areas could however be addressed, to some degree through the other 13 outcomes, and NICCY received assurances during the last consultation period on the PfG that each PfG indicator would be disaggregated by Section 75 category, including age. If this were the case, it would mean for example that Outcome 4: 'We enjoy long, health, active lives' could potentially contribute to the 'Physical and

⁸ This paper can be accessed in Section A here: <http://www.niccy.org/about-us/our-current-work/programme-for-government-pfg-children-and-young-peoples-strategy-and-csca/children-and-young-peoples-strategy/>

Mental Health' CSCA well-being outcome, and Outcome 3: 'We have a more equal society' could contribute to the 'Economic and Environmental' and 'Equality and Good Relations' CSCA well-being measures and vice versa.

It is a matter of great concern that many of the indicators that have been chosen do not include data for children, simply excluding those under 16 years, such as:

- the NI Crime Survey cited in Outcome 7: We have a safe community where we respect the law and each other);
- use of Labour Force Survey data as an interim measure for indicator 42, relating to life satisfaction scores for people with disabilities; and
- the Inpatient Survey highlighted as an indicator in Outcomes 4 and 5: We enjoy long, healthy and active lives and We have high quality public services.

Children under the age of 18 represent approximately 24% of the Northern Ireland population.⁹ For this reason, and because of the unique circumstances and inherent vulnerability of children, it is essential that the measures used to monitor change in relation to each outcome include children, and that the data for children is disaggregated to allow scrutiny of the PfG's delivery of better outcomes for children.

In addition, as we had stated in our response to the consultation on the PfG Framework in July 2016, **NICCY recommends the use of additional indicators and multiple datasets for each measure in order to gain a fuller, more accurate understanding of the current situation regarding the outcome areas and a greater clarity on the actions which must be undertaken to ensure improvement in children's lives.**

The indicators measuring children's well-being in the PFG must align with the indicators adopted by the Children and Young People's Strategy. The UNCRC Committee's General Comment No 5 emphasises that,

"...sufficient and reliable data collection on children, disaggregated to enable identification of discrimination and/or disparities in the realisation of rights" is an essential part of implementation.¹⁰

The UN Committee suggests that reports which offer a comprehensive overview of the state of children's rights should be produced annually.¹¹ The significance of this failure to

⁹ 'Census 2011: Key statistics for Northern Ireland', December 2012, Table KS102NI, Page 12.

¹⁰ CRC/GC/2003/5, Para. 48.

¹¹ *Ibid.*

produce such information is pertinent to the PfG in that without adequate baseline data on children's lives, progress cannot be determined and areas requiring remedial measures cannot be identified. This is extremely disappointing not only with regard to the obligations under Article 4 of the UNCRC, but also given the existing statutory obligation on Government to collect data under section 75 of the Northern Ireland Act 1998.

One of the UN Committee on the Rights of the Child's recent recommendations focussed specifically on the need for a set of child rights indicators for Northern Ireland:

*"The Committee recommends that the government of Northern Ireland expedite the finalization of a Child Rights Indicator Framework, covering all areas of the Convention and taking into account the conceptual and methodological framework set out in the Office of the United Nations High Commissioner for Human Rights (OHCHR) publication entitled Human Rights Indicators: A Guide to Measurement and Implementation."*¹²

NICCY recommends that the Northern Ireland Government establish systems for disaggregated data collection for children and young people. .

Indicators and Delivery Plans

NICCY is concerned that a decision has been taken to develop a limited set of indicators for each outcome and then to focus the delivery plans on these. This means that the PfG does not provide a holistic approach to its delivery for children and is not comprehensively meeting the requirements of the CSCA to deliver on the eight well-being indicators for children. It also results in a complex structure for the delivery of the PfG.

Advice on specific indicators and delivery plans¹³

Outcome 7: We have a safe community where we respect the law and each other Indicators 1, 38, and 39

Indicator 38 – Average time taken to complete criminal cases

NICCY is disappointed with the delivery plan for this indicator. It is noted in the delivery plan that speeding up the criminal justice system has been a priority since the devolution of justice in 2010. Since that time some steps have been taken to try to address the

¹² *Op cit* 3, Para 9.

¹³ Note that this advice is based on the delivery plans produced at the start of the consultation process. Given the significant number of delivery plans it has not been possible to check back regularly for updates.

alarming delay within Northern Ireland's justice system, however few of the measures initiated affect the youth justice system and no real progress in tackling delay has been made.

The Commissioner believes that delay will only be effectively addressed through the introduction of Statutory Time Limits (STLs). It is therefore with great frustration we note the absence of a commitment to STLs in a delivery plan which aims to speed up the criminal justice system. STLs were recommended by the Criminal Justice Review in 2000,¹⁴ by CJI in 2006¹⁵ and again in 2010¹⁶ and by the Youth Justice Review in 2011.¹⁷ Delay was also repeatedly highlighted as an issue in the Department of Justice's (DoJ) Scoping Study on Children in the Justice System in 2016. The Department carried out pre-consultation engagement on STLs in 2013 before issuing consultations in 2014 and 2016 and yet this delivery plan fails to make a commitment to their implementation.

NICCY does not accept the Department's explanation for the failure to introduce STLs in the Youth Court in the autumn of 2015. Since our pre-consultation engagement with the DoJ in 2013, NICCY has been clear and consistent in our advice regarding the unsuitability of the 2003 Order, the proposed starting point, end point, duration of STLs and the likely problems with setting a target close to current performance. Associated costs and lead in times should not have come as a surprise to the Department. Despite all of the above, the delivery plan tasked with speeding up the justice system fails to make a commitment to the introduction of STLs and Administrative Time Limits (ATLs) in the interim. **NICCY expects the Department to make clear its commitment to both and revise the delivery plan for Indicator 38.**

Indicator 39 – Reoffending Rate

In order to ensure an effective youth justice system, better outcomes must be secured for our children who come into contact with the system. The reoffending rate for 2013/14 was 18.1%, however when this was further analysed it was shown that 28.2% of young people committed a proven offence within one year. The reoffending rates for young people increase in line with the gravity of the original sentence and are much more than those for adults.

However, an examination of the reoffending rate alone is not sufficient to measure

¹⁴ 'Review of the Criminal Justice System on Northern Ireland', 2000

¹⁵ CJI, 'Avoidable Delay', 2010

¹⁶ CJI, 'Avoidable Delay; A Thematic Inspection of Delay in the Processing of Criminal Cases in Northern Ireland', 2006

¹⁷ A Review of the Youth Justice System in Northern Ireland, 2011

outcomes for our young people; data must be gathered and examined in respect of a range of issues including the following:

- An increase in employability and education outcomes;
- Accommodation stability;
- A reduction in the use of alcohol and drugs;
- Appropriate therapeutic interventions.

NICCY is aware that the DoJ intends to collect data regarding the above, however there must be a clear plan through which this is analysed so that failings can be identified and the Northern Ireland Executive can deliver on the identified categories of 'helping the person to change' and 'creating the environment for change' as set out in this delivery plan.

With regards to the proposals regarding problem solving approaches, NICCY is very disappointed to learn that Problem Solving Courts will not be available for young people. NICCY is aware of the Department's reason for this decision and we remain concerned that a process will be denied to young people whose matter will progress to court. NICCY urges the Department to give consideration for a Problem Solving Court for all youth courts which is not restricted to one issue but rather is equipped to deal with the reasons behind young people's offending behaviour and offer support.

We would also highlight that the reoffending rate measure does not effectively demonstrate progress against the 'safe community' outcome. Proposals to 'turn the curve' with health and other partners in this area should more explicitly address taking action on issues including CSE and trafficking to make more robust connections with government commitments outlined in existing strategies and action plans.

Indicator 1 – Prevalence rate

NICCY would reiterate our advice above under Indicator 39 – Reoffending Rate. NICCY is concerned by the use of the NI Crime Survey to identify the baseline position. As the Department has acknowledged, the survey is limited. A survey which excludes young people under the age of 16, young people living in group residences and crimes against children is inadequate to identify the prevalence rate. These deficiencies cannot be overcome by an examination of the Police Recorded Crime statistics and so the Department should take steps to gather data which accurately records the prevalence of crime against all of Northern Ireland's citizens.

We are supportive of the proposed development of a 'harm caused by crime' measure as

part of outcome 7 and note the importance of ensuring this takes account of children's views and experiences.

Indicator 5 - % of people that are satisfied with health and social care

We welcome this indicator which is aimed at starting to gather some aspect of users experiences of HSC services: We Have High Quality Public Services - % of people who are satisfied with health and social care.

Service users, carers and their families should be given the opportunity to influence developments within health and social care services based on their own experiences. We welcome and fully endorse the Health Minister's commitment to 'co-production 'and co-design' by establishing effective mechanisms for listening to those with experience of using the health system and to use that information to shape services that meet their needs and expectations.¹⁸ These must allow government to measure experience of care across social care and all aspects of health, not just hospital based inpatient care.

NICCY is concerned about the lack of regional, easily accessible and transparent data on health and social care services that children and young people use. The lack of a regionally robust system for collecting and analysing patient and client experience data is a serious issue and must be rectified as a matter of urgency.

There is currently very little evidence of feedback processes within the HSC system being tailored to ensure that children and young people are facilitated and encouraged to give their experiences and views i.e. policy or service development. This is particularly evident for those aged under 16. Where children and young people have the age and maturity to express their views, this consultation / engagement should be carried out directly with children and young people. Furthermore, reporting processes should be designed in order to allow for the provision of a breakdown of data for younger children and adolescents. It is very important that the views of children and young people are collected as part of any process and where possible this should be the direct feedback from children and young people and not through a 'proxy'. This is a right that all children and young people aged 0 - 18 years old have under both domestic and international law e.g. Personal and Public Involvement (PPI), Section 75 of the Northern Ireland Act 1998 and Article 12 of the UNCRC.

¹⁸ Health and Well-being 2026 - Delivering Together, Department for Health, October 2016.

Indicator 6 - the % of population with GHQ12 scores ≥ 4

It is vital that measurement tools are checked for their reliability and validity for different age groups and for people with different needs, e.g. learning disabilities. It is extremely important that the tracking of indicators is done using detailed disaggregated data. It is only by breaking down the data by specific demographic information that real patterns or change can be seen and tracked. None of the key data charts in the draft delivery plan have been disaggregated by age or level of deprivation - these are the types of variables where differences are likely to be found. Furthermore, it is our understanding that the Health Survey is the main source of information for the data charts being considered under the Indicator 6 delivery plan. However, this survey only collects information from those aged 16+ years. Parents and Guardians are asked a number of questions on their child's physical health; however this does not appear to extend to parent and guardian views on the mental or emotional health of their child. Research, good practice and a children's rights approach would recommend that children and young people, where possible, are asked directly how they feel about issues. In most cases this will also provide a more accurate reflection on whatever is being measured. The Young Person's Behaviour and Attitude Survey is a survey with 11-16 year olds and could be used as a source of regular standardised information from younger children on key PfG indicators.

There has been a historical under-investment in Child and Adolescent Mental Health Services (CAMHS) which has been identified in a range of reviews, including the Bamford Review of Mental Health and Learning Disability.¹⁹ This lack of investment has been compounded by a significant lack of data available on children and young people's mental health and their use and experience of CAMHS, including a lack of disaggregated data which would show differences by age, gender, ethnicity, disability etc. This makes it extremely challenging, if not impossible, for services and policies to be truly evidence based or robustly measured and evaluated. We understand that a range of actions are being taken by the Department of Health (DoH) and the Health and Social Care Board (HSCB) to address this gap in data and would strongly suggest that this is taken forward as a key priority.

The General Health Questionnaire (GHQ-12) is a screening device for identifying minor psychiatric disorders in the general population, which is only suitable for adolescent years upwards **and therefore is not suitable for children**. As it is not suitable for children an alternative should be sought and in place in time for the start of tracking of PfG outcomes progress, or as close to as possible. The lack of suitability of the GHQ for children (under 16 years old) has also been identified by DE who is leading on the development of the

¹⁹ 2002

Strategy. Furthermore, as the GHQ is a self reported screening tool, it is unclear whether it can be easily used with children and young people with learning or intellectual disabilities. These issues must be addressed before the GHQ-12 is progressed as the core indicator.

NICCY has concerns about whether the GHQ is sensitive enough to pick up on the full range of mental health problems that are prevalent during adolescence. However, we understand that in addition to the core measure, a range of HSC measurement systems will be used to determine how well any outcome is being achieved, which will include linking into the measurement system of other departments.²⁰ This is a welcome development as it would be much too simplistic to rely on only one indicator to provide evidence of change in any of the outcome areas set by the PfG. We look forward to receiving further information and clarity on the additional measures that are being considered.

NICCY recommends that an additional indicator which focuses on the emotional health and well being of children and young people should be included. Although we understand that physical and mental health indicators are placed under different outcome areas - particularly outcome 4: “We enjoy long, healthy, active lives”, there is a clear lack of a robust, specific measure for children and young people’s emotional health and well being. It would be useful to consider an indicator which draws on the early signs of poor emotional and mental well being of children and young people. For example, *“the percentage of children and young people who often worry about everyday concerns”* - Ark Research has included these types of questions in its YLT / KLT surveys. There are also merits in adopting a measure which would track changes in infant mental health (from pre-birth to three years old) and link to the current infant mental health framework²¹ which is focusing on promoting positive social and emotional development from pre-birth to 3 years. There may be a suitable indicator currently being measured through the Early Intervention Transformation Programme stream of work - this work is included in the action plan of the Infant Mental Health Framework.

Indicator 10: Care experienced children

The Commissioner welcomes the recognition in the PfG that government and statutory agencies, as corporate parents, play a unique role in the lives of looked after children and young people and that this is illustrated in delivery plans for outcomes 8 and 14: “We care for others and we help those in need” and “We give our children and young people the best start in life”. While the delivery plan for indicator 10: the % of care leavers who, aged

²⁰ As outlined in the draft delivery plan for the GHQ-12 (page 22)

²¹ <http://www.publichealthagency.org/publications/infant-mental-health-framework-northern-ireland>

19, were in education, training or employment puts in place a number of supports and interventions for children before, during and after contact with the care system, it is important to ensure a full range of measures across these areas is monitored and reported against. This should ensure that the plan is not simply reduced to the indicator relating to education, employment or training which, in isolation, will not evidence whether the intended outcome of improving support for looked after children is being achieved.

Indicators 11, 12 and 13 relating to educational outcomes

Outcome 14 contains a number of education related indicators and associated delivery plans. What is immediately obvious from an analysis of the education related actions within the PfG which will be the responsibility of the DE with partners, the Children's Strategy is mentioned only once as an action to be taken under indicator 42: Average life satisfaction score of people with disabilities. As stated earlier, **The Children and Young People's Strategy should be the delivery plan for Outcome 14 of the PfG** and should also be interwoven into all of the outcomes and indicators which will impact on the lives of children and young people.

As stated earlier, NICCY is concerned that the connections between the PfG and the Children and Young People's Strategy have not been adequately made. This is most starkly obvious when one considers that the DE has responsibility for the Strategy, yet it fails to adequately acknowledge the Children and Young People's Strategy's role in meeting any of the education targets within the PfG. Given that the PfG is being developed and consulted upon at the same time as the Children and Young People's Strategy and both are Northern Ireland Executive strategies, it is vital that the opportunity to join up the delivery of children's policy in Northern Ireland is grasped in a manner which positively impacts on the lives of children and young people and realises their rights.

With regard to the focus on the indicators for outcome 14, NICCY is concerned that there is an unbalanced emphasis on academic achievement and no measurements which relate to children's enjoyment of education or the development of children and young people's skills, talents and abilities within education. Article 29(1) of the UNCRC, which details the aims of education, adds a qualitative dimension to the right of the child to education under Article 28. Article 29(1) reflects the rights and inherent dignity of the child; it insists on the need for education to be child-centred, child-friendly and empowering and highlights the need for educational processes to be based upon the principles outlined in Article 29(1).

Given that the Government has committed to delivering the rights of children and young people through ratification of the UNCRC, **NICCY wishes to see a focus in the PfG on**

ensuring that children and young people enjoy an education which develops their skills, talents and abilities thereby reflecting the “Learning and Achieving” outcome in the draft Children and Young People’s Strategy.

There is also a lack of emphasis on the well-being of children in schools. This is markedly incongruous when one considers the statutory obligation on the NI Executive and all of its agencies under the Children’s Services Co-operation Act (Northern Ireland) 2015 to co-operate with each other in the delivery of children’s services to improve the well-being of children and young people in a manner which ensures the realisation of their rights.

NICCY recommends the inclusion of a well-being measurement which reflects the statutory obligations on all children’s services providers in the PfG.

In addition, the indicators for Outcome 14 are focussed on early years and GCSE level. There is a large part of a child’s life between these two points which needs to be reflected in the indicators that have been chosen and actions which will be taken under the associated delivery plans. It is not sufficient to focus on two points in children’s lives only when proposing to achieve better outcomes for children. NICCY expects the PfG to better reflect every stage of a child’s life in meeting this outcome which again would highlight the need to make much clearer links between Outcome 14 and the Children and Young People’s Strategy.

Indicator 15 - Improve child development

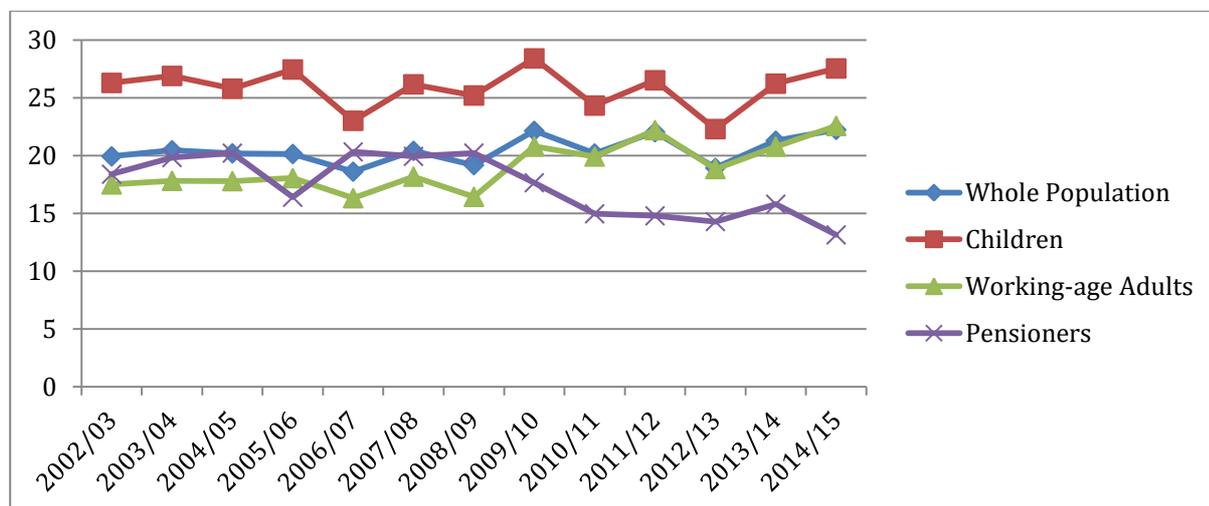
This is an important indicator and one in which coordinated working between government departments and their agencies will be particularly important. NICCY believes that the proposals reflected in the delivery plan reflect a sensible approach, building on work already started under delivering Social Change (DSC) and the Early Intervention Transformation Programme (EITP).

We also note that most of the actions within this delivery plan focus on universal services. While these are clearly critical, it will also be important to include early intervention actions, targeted at children with particular needs, for example children with disabilities or newcomer children.

Indicators 19 and 28 relating to poverty and self efficacy

These indicators are further examples of the point we have made repeatedly - the importance of measures being disaggregated for children. While the graphs showing changes in the general population in poverty are useful, disaggregating the figures by different age groups demonstrates how government policies have had different outcomes

for different groups. Whilst there has been welcomed success in addressing pensioner poverty there has been less success in tackling child poverty, which remains higher than for any other group.



Source FRS data 2002/3 to 2014/15 - Relative poverty AHC.

It is essential that the Executive meets its statutory obligations under the Child Poverty Act 2010, amended to become the Life Chances Act 2010²² by developing and delivering Executive Child Poverty Strategies. We note that the publication of the 2014-17 Child Poverty strategy was delayed until March 2016 and that most of the actions were already out of date at this time.. The ‘Social Strategy’ which is currently being developed by DfC will, in effect, be the Poverty Strategy required by the St Andrews Agreement, 2006. This strategy should adopt a ‘lifecycle’ approach, with sections focussing specifically on children..

We are pleased to note that the delivery plans for the absolute and relative poverty indicators include interventions that focus on children, particularly ‘Early Interventions’, ‘Early Years Development and Childcare’, ‘Nurture Provision in Primary Schools’, ‘Teenage Transitions’ and ‘Improving Literacy and Numeracy’. We also recognise that support to parents, including in relation to employment, can indirectly improve the lives of children in poverty or indeed lift them out of poverty. We would suggest that there are additional actions included in the Social Strategy and the Children and Young People’s Strategy that could also be taken forward to address child poverty.

It is regrettable that the delivery plans for these two indicators does not reference the

²² Section 7(12) Welfare Reform and Work Act 2016

impact of Welfare Reform, or of the Executive's Welfare reform mitigation package. We await with interest the publication of the 'self-efficacy' indicator and information and clarity on how it will apply to children and young people.

Key areas excluded from the Programme for Government

The Commissioner believes that the meeting the statutory requirements of the CSCA to publish a Children and Young People's Strategy must become delivery mechanism for Outcome 14 of the PfG.

The Impact of the Legacy of the Conflict

NICCY regrets the need to again highlight the lack of sufficient emphasis in the PfG on the impact of the legacy of the conflict on our society in general and on children and young people in particular. We raised this issue in our response to the PfG in July 2016 and recommended that the legacy of the conflict is taken forward as an outcome under the PfG. While we appreciate that the delivery plan for Indicators 26, 31 and 35 addresses the issues of respect, reconciliation and shared space, there is a clear focus on measuring the belief of individuals with regard to society, as opposed to any meaningful attempt to deal with the ongoing impact of legacy of the conflict. This is a wholly inadequate response to addressing this issue in any meaningful way.

In the Autumn of 2015 NICCY carried out widespread engagement with over 500 children and young people aged 8 to 21 from a variety of communities and settings across Northern Ireland,. Through this engagement, one area that was consistently raised was the legacy of the conflict. The impact of the Troubles and the divisions underlying it continue to significantly impact upon the lives of children and young people all of whom were born after the Belfast Agreement. Research clearly shows increased levels of child poverty, childhood mental ill-health, educational inequalities and disabilities in the areas which have suffered most as a result of the Northern Ireland conflict. Reports of activity by non-state forces have been confirmed by young people across all communities who have stated that there is increasing recruitment to paramilitary organisations, often through coercion or in payment for drug debts. Young people perceived to be involved in crime or anti-social behaviour continue to be assaulted or excluded from their communities.

Given Northern Ireland's history and the negative impact of the legacy of the conflict on the lives of children and young people, it is inconceivable that addressing the impact of the legacy of the conflict is not contained in the PfG as an outcome. NICCY believes that there

is a pressing onus on Government to comprehensively address the impact of the legacy of the conflict through all of its work, but more so through the PfG. The PfG should provide the strategic context for our societal priorities and NICCY wishes to see the PfG providing the necessary strategic policy leadership within Government and illustrating the Northern Ireland Executive's intention to tackle the difficult, yet vitally important issues which urgently need to be addressed. The impact of the legacy of the conflict in Northern Ireland is one of the most important of all of these issues. Children and young people have told NICCY that they want society to 'move on' so that they and their families can live in peace and stability. NICCY believes that there is an unequivocal obligation on the Northern Ireland Executive to meaningfully respond to this. **Moving forward to a more peaceful and stable future requires cognisance to be taken of the reality of children's lives and the impact of the legacy of the conflict on must be comprehensively addressed through the PfG.**

Consultation with Children and Young People

While we welcome the publication of a Children and Young Person's version of the PfG, we have a number of concerns that this has been published during the consultation period and that children and young people have not been afforded the same amount of time to formulate a response to the consultation as adults. The children and young person's version of the PfG was published on 21st November, allowing children and young people just over 4 weeks to respond to the PfG, as opposed to the eight weeks allocated for consultation on the adult version of the PfG. It is inadequate to allow just over four weeks for respondents to make a submission to the children and young person's version of the PfG in terms of compliance with section 75 and the common law duty to consult.

NICCY made a comprehensive response to the initial consultation on the PfG in July 2016²³ and clearly highlighted in our response the importance of carrying out direct consultation with children and young people on the PfG.²⁴ Given the impact that the PfG will have on the lives of children and young people, it was and remains NICCY's stated view that direct consultation with this group on the PfG is vital in ensuring compliance with both section 75 and Article 12 of the UNCRC. In our initial response to the PfG we were unequivocal about the need for the production of a child accessible version of the consultation document on the PfG. In our response, we expressed our concern at the lack of a child accessible version of the PfG consultation document and requested that the

²³ 22nd July 2016 <http://www.niccy.org/publications/2016/july/22/niccy-advice-on-draft-programme-for-government/>

²⁴ *Ibid*, Pgs. 6,12 and 13

Northern Ireland Executive carry out comprehensive consultation with children and young people in compliance with section 75 of the Northern Ireland Act 1998. As age is one of the nine categories specified in the legislation, there is a need to consult directly with children and young people in policy formulation and development on matters which affect their lives. This is of particular importance in light of the relevance of all of the outcome areas in the PfG to children and young people, as well as the welcome inclusion of Outcome 14 in the draft PfG which commits to giving children and young people the best start in life. Direct consultation with children and young people is essential not only in ensuring compliance with section 75, but also in ensuring compliance with the Government's obligations under Article 12 of the UNCRC. The UNCRC Committee, in its Concluding Observations following its examination of the UK Government's compliance with the Convention have consistently expressed concern about the inconsistent application of Article 12. The Committee reiterated its concerns in its Concluding Observations published in June 2016 where it recommended that the Government,

“Establish structures for the active and meaningful participation of children and give due weight to their views in designing laws, policies, programmes and services at the local and national levels”²⁵

The Committee also recommended that the Government,

“Ensure that children are not only heard but also listened to and their views given due weight by all professionals working with children”²⁶

It is extremely disappointing that despite NICCY's previous advice, the children and young person's version of the PfG is only being consulted upon for just over four weeks indirect conflict with The Executive Office's statutory equality obligations under section 75 of the Northern Ireland Act 1998. The Executive Office's approved Equality Scheme is clear in its commitment to compliance with section 75 of the Northern Ireland Act 1998 and to committing the necessary resources to ensure this compliance.²⁷

NICCY considers the imposition of such a restricted timeframe for consultation on the children and young person's version of the PfG to present a barrier to meaningful consultation with children and young people on the PfG. A vital element to the effective operation of section 75 of the Northern Ireland Act 1998 is to ensure that designated public

²⁵ Para 31(a), CRC/C/GBR/CO/5

²⁶ *Ibid*, Para 31(d)

²⁷ Para 1.3, Equality Scheme for The Executive Office, Approved by the Equality Commission for Northern Ireland, 25 September 2013.

bodies remove all barriers to consultation. The Equality Commission's Guidance, "*Section 75 of the Northern Ireland Act 1998 A Guide for Public Authorities*"²⁸ states that,

*"...the accessibility of the language and the format of information be considered to ensure that there are no barriers to the consultation process, that information should be made available on request in accessible formats and that systems are in place in order that information can be made available in accessible formats in a timely fashion. In addition, we recommend that specific consideration is given to how best to communicate information to children and young people, people with learning disabilities and minority ethnic communities. Further guidance on how to consult with children and young people is included in the Commission's publication – 'Lets Talk Lets Listen'"*²⁹

The Executive Office's approved Equality Scheme also refers to this guidance and states that,

*"Specific consideration will be given as to how best to communicate with children and young people, people with disabilities (in particular people with learning disabilities) and minority ethnic communities. We take account of existing and developing good practice, including the Equality Commission's guidance Let's Talk Let's Listen – Guidance for public authorities on consulting and involving children and young people (2008)."*³⁰

Given the importance of direct consultation with children and young people, particularly in relation to the PfG, which has the potential to impact hugely on the lives of children and young people in Northern Ireland **we recommend that The Executive Office extends the deadline for responses to ensure that children and young people are afforded at least eight weeks to respond to this consultation.** Given that the deadline for responses to the consultation on the EQIA is post the PfG deadline, we do not believe such a recommendation is unreasonable, but rather a vital part of ensuring meaningful consultation with children and young people.

Equality Impact Assessment

NICCY understands that the equality impact assessment (EQIA) on the PfG has an extended deadline for comments due to the obligation to consult on EQIA's for 12 weeks as per section 75 of the Northern Ireland Act 1998 and consequent Equality Scheme

²⁸ April 2010

²⁹ Consultation, Page 38, "*Section 75 of the Northern Ireland Act 1998 A Guide for Public Authorities*", April 2010, Equality Commission for NI

³⁰ *Op cit* 27, Para 3.5.

commitments. While this extended deadline is welcome and NICCY intends to respond to the EQIA consultation in due course, we have a number of concerns about the variances in the consultation deadlines. The intention of section 75 is to mainstream equality of opportunity and make it central to policy decision making. In order for an equality perspective to be central to policy making it needs to be incorporated in all policies at all levels and stages. This would involve incorporation of the principles of equality of opportunity from the beginning of this process and throughout the development and implementation of the policy for future impact assessment by Government of all high level strategic policy development. It is fundamental to the proper and effective operation of section 75 of the Northern Ireland Act 1998 that EQIA's and views expressed in consultation on an EQIA will centrally inform the development of policies and legislation. It is regrettable that these two consultation processes are occurring in isolation of each other.

NICCY does not wish to see a situation where decisions about the PfG are made prior to the end of the consultation period on the EQIA. This would have the impact of totally undermining the section 75 process as the findings of the EQIA must contribute to the policy decision making process. If policy decisions are made and adverse impact is identified after decisions are made, the scope for mitigation and alternatives are nil as decisions have already been taken without regard to the equality obligations. **NICCY therefore seeks unequivocal assurances that the views expressed in responses to the EQIA consultation on the PfG will be taken cognisance of in formulating the final PfG document.**

We would also be grateful if you would provide us with details of how you have or intend to consult directly with children and young people on the EQIA as one of the groups likely to be impacted upon most by the implementation of the Northern Ireland Executive's PfG proposals. Children and young people comprise one third of the population in Northern Ireland and are service users of all of the services which will be impacted upon by the Programme for Government proposals, including education, health, youth services, housing, social services and many more. Given the likely impact that the PfG proposals will have on the lives of children and young people, direct consultation with this group will be central to ensuring this large group of vulnerable citizens are consulted in respect of the EQIA on the PfG. Such consultation is essential not only in ensuring compliance with section 75, but also in ensuring the Government's compliance with Article 12 of the UNCRC, one of the principles of the UNCRC - Respect for the views of the Child.

Conclusion

NICCY applauds the outcomes based approach adopted by the Northern Ireland Executive in the development of the PfG Framework. We call on the Northern Ireland Executive to take into account the recommendations made in this paper, which we provide in compliance with the Commissioner's statutory advice capacity under Article 7(4) of The Commissioner for Children and Young People (Northern Ireland) Order' (2003).

It is important to make full use of the opportunities offered by a new PfG to develop a fully inclusive programme that will improve outcomes for all children and young people and realise their rights. This could be achieved by ensuring the implementation of a robust Children and Young People's Strategy as one element of PfG delivery. The outcome based approach developed for the Children and Young People's Strategy, which should be grounded in children's rights and encompass every stage and aspect of children's lives – ensuring that the particular needs, circumstances and vulnerabilities of all children are properly addressed and that that interventions to support and protect them are in place as they are needed – should address the current limitations of PfG in making visible fully delivering for children and young people. Following on from this, by drawing a clear and visible connection between the PfG and the Children and Young People's Strategy, indicators and delivery focus for both can be properly integrated and aligned, providing a more integrated and coherent approach to improving the lives of all our children.

We would of course be happy to discuss any element of this submission or provide further information and clarification if required.