

**EMAIL**

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Ref: 22/CJS/KY/28

16 February 2022

To whom it may concern

**Re: Draft Refugee Integration Strategy**

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.

My remit includes children and young people from birth up to 18 years, or 21 years if the young person is disabled or is care experienced. In carrying out my functions, the paramount consideration is the rights of the child or young person, having particular regard to their wishes and feelings. I am required to have regard to all relevant provisions of the United Nations Convention on the Rights of the Child (UNCRC).

NICCY welcomes the opportunity to provide advice on the above draft Strategy and notes that our comments are not intended to be comprehensive but instead address the key aspects of the consultation which most directly engage children and young people's rights and best interests.

## Remit and parameters of the strategy

I welcome the stated vision of the long-awaited Strategy “for a cohesive and shared society where refugees and asylum seekers are valued and feel safe, are integrated into communities and are supported to reach their full potential”. It is important to provide clarity and consistency in relation to which groups which children, adults and families fall within the remit of the document, for example, whether it is applicable to those with refugee status only, to those also seeking asylum or to all individuals who are subject to immigration control or who are ‘newcomers’ to Northern Ireland.

NICCY would also welcome the Strategy providing further detail on those aspects of the document which relate to non-devolved matters. This includes setting out more clearly the position of the Northern Ireland Executive in seeking to positively shape or actively mitigate the effects of UK-wide developments on reserved and excepted matters where these may impact negatively on the Strategy’s vision, outcomes or areas for action and touch on devolved areas, like healthcare, education and housing. I note that significant UK Government developments which illustrate such concerns include the ‘Nationality and Borders’ Bill and associated debates regarding age assessment of Separated Children<sup>1</sup>, reform of the National Referral Mechanism for potential child victims of trafficking and modern slavery and access to supports and services being dependent on arrival pathway (for example whether as part of government resettlement programme or as a ‘spontaneous arrival’).

## Children’s rights

I recommend that **children’s rights should be firmly embedded within the Strategy and should guide the outcomes, key priorities and associated actions** as they relate to children, young people and families. It is disappointing that this is not currently the case and advise that the Strategy should seek to provide the delivery plan for the recommendations made by the United Nations Committee on the Rights of Child in their 2016 Concluding Observations. These set out the steps to be undertaken by the UK and devolved governments in order to meet the obligations of the Convention on the Rights of the Child and have been provided as an appendix in relation to recommendations concerning special protection rights for refugee, asylum seeking and migrant children and child victims.

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<sup>1</sup> 2021 NICCY, Scottish and Welsh Children’s Commissioners joint letter on Home Office Immigration Plan: <https://www.niccy.org/publications/2021/may/05/home-office-immigration-plan/>

Children's rights would be more effectively reflected by highlighting the duties of statutory bodies and outcomes for children which are set out in the Children's Services Co-operation Act (Northern Ireland) 2015<sup>2</sup> (CSCA) and making a direct link with the Children and Young People's Strategy (2020-2030) which reflects these outcomes. The outcomes framework provided by the Act and the Children's Strategy should guide the identification of priority areas and actions in relation to children and young people who are within scope of the draft Strategy. This process should be further supported by the undertaking of a Child Rights Impact Assessment and we highlight the value of the assessments completed during the development of the Looked After Children's Strategy 'A Life Deserved' and the Service Model for Separated Children by Executive colleagues in the Departments of Health and Education.<sup>3</sup> **NICCY recommends that The Executive Office undertakes such a CRIA for the Refugee Integration Strategy.**

### **Outcomes, priorities and monitoring**

As noted above, children's rights should be better reflected in the Strategy and children and young people must be more visible in the outcomes and associated areas of action. While we do not intend to provide detailed comment on the outcomes and associated actions noted in the document, we reiterate that **the outcome areas for children's wellbeing established by the CSCA and expressed in the Children's Strategy should be included in the draft** across the eight areas of: physical and mental health; the enjoyment of play and leisure; learning and achievement; living in safety and with stability; economic and environmental well-being; making a positive contribution to society; living in a society which respects their rights; and 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.

The Strategy should also seek to better articulate the intended impact of actions or identified areas in making improved outcomes a reality for children, young people and families. This should include actions and intended impacts on areas which both identify the range of persistent barriers which children and families currently face in accessing basic rights and also take account of positive developments and future plans. This includes ongoing difficulties, for instance in relation to physical and mental health, in securing proper access to GP and dental care, in relation to learning and achieving, addressing challenges in securing school places, that school uniform and transport policies are adequate, removing digital inequalities and exclusion, in safety and stability ensuring equal access to Family Support Hubs, noting the move to a regional service model for Separated

<sup>2</sup> <https://www.legislation.gov.uk/nia/2015/10/section/1/enacted>

<sup>3</sup> See for example: <https://www.health-ni.gov.uk/publications/life-deserved-strategy-looked-after-children>

Children and embedding the supports in place for those from the Syrian Vulnerable Person's Relocation Scheme (VPRS) to all refugees.

Monitoring and reporting processes that accompany the Strategy should be based on sound data sources and be able to progressively track impact and change across outcomes and identified areas. In relation to outcome 3 in the draft document, I am particularly concerned by the reference to rights and responsibilities and highlight that the rights-based obligations government holds to children and young people are unconditional and this should be reflected in the strategy. We would also welcome further detail on the reference made to Child Transfer Schemes and the position, which may be subject to review, that Northern Ireland is not in a position to participate in such processes.

NICCY welcomes the inclusion of destitution as an identified area and notes that this would fall within the children's outcomes of economic and environmental wellbeing. We highlight our 2021 paper 'A Hostile Environment: children and families affected by No Recourse to Public Funds'<sup>4</sup> and suggest that our recommendations should inform this area of the Strategy, these are:

1. Undertake work to identify how many children in NI are living in a family with no recourse to public funds and to publish this data. This should include both figures held by the Home Office in regard to immigration control and legal status and by the Department of Health in relation to children who may be eligible for or are receiving support under Article 18 of the Children (Northern Ireland) Order 1995;
2. Develop clear pathways across and between Home Office and health and social care agencies to ensure that children and families who may be subject to no recourse to public funds are referred and that the needs and best interests of children are assessed as a matter of urgency. This pathway information should be published; and
3. Address the needs of each child, particularly ensuring that they have access to the highest standard of health care, an effective education, an adequate standard of living and all other protections afforded by the UNCRC.

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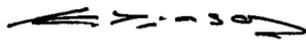
<sup>4</sup> <https://www.niccy.org/about-us/news/latest-news/2021/october/07/number-of-children-affected-by-immigration-rules-and-at-risk-of-destitution-in-ni-unknown/>

It is important that there is an effective delivery plan, monitoring and reporting framework and adequate resourcing to support implementation of the final Strategy to ensure improved outcomes for children, young people and families.

Finally, I highlight the need to make sure there is meaningful engagement with and involvement of affected children and young people at all stages of the process, including in the development, monitoring and evaluation of the Strategy. We note that while an easy read document is available, a children's version of the consultation does not appear to have been developed and we would welcome further detail on the engagement undertaken with children.

Please do not hesitate to contact my office if you require any further information.

Yours sincerely



Koulla Yiasouma  
**Commissioner for Children and Young People**

## Appendix one

### 2016 Concluding Observations, United Nations Committee on the Rights of the Child

Para 77: With reference to its general comment No. 6 (2005) on treatment of unaccompanied and separated children outside their country of origin, the Committee recommends that the State party:

- (a) Systematically collect and publish disaggregated data on the number of children seeking asylum, including those whose age is disputed;
- (b) Establish statutory independent guardians for all unaccompanied and separated children throughout the State Party;
- (c) Conduct age assessments only in cases of serious doubt through multidisciplinary and transparent procedures taking into account all aspects, including the psychological and environmental aspects of the person under assessment;
- (d) Cease the detention of asylum-seeking and migrant children;
- (e) Review its asylum policy in order to facilitate family reunion for unaccompanied and separated refugee children within and outside of the State party, including through implementation of the EU Dublin III regulation;
- (f) Provide sufficient support to migrant, refugee and asylum-seeking children to access basic services;
- (g) Review the Immigration Act (2016) in order to ensure its compatibility with the Convention;
- (h) Ensure that when the return of children occurs, this happens with adequate safeguards, including a formal best interests determination, effective family tracing that includes individual risk and security assessments, and appropriate reception and care arrangements.

Para 83: The Committee recommends that the State party fully implement the Committee's recommendations on the initial report of the State party (CRC/C/OPSC/GBR/CO/1), provided in its concluding observations on the Optional Protocol on the sale of children, child prostitution and child pornography in particular that the State party:

- (a) Ensure that all children up to 18 years of age are protected from all types of offence covered by the Optional Protocol and that domestic legislation throughout the State party, including in its devolved administrations, enables it to establish and exercise extraterritorial jurisdiction, without the dual criminality criterion, over all the offences covered by the Optional Protocol;
- (b) Strengthen the National Referral Mechanism for identifying trafficked and exploited children which is embedded in existing child protection procedures;
- (c) Establish mechanisms and procedures to protect the rights of child victims of offences covered by the Optional Protocol, including establishing a clear obligation of non-prosecution, and ensure that they are treated as victims rather than criminals by the law enforcement and judicial authorities;

- (d) Operationalize the provision of a competent and statutory guardian during the criminal justice process;
- (e) Revise its legislation to ensure that all children up to 18 years of age are protected from all types of offence covered by the Optional Protocol.