**Draft NI budget 2021-22**

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. The Commissioner’s remit includes children and young people up to 18 years, or 21 years, if the young person has a disability or experience of being 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 is required to have regard to all relevant provisions of the United Nations Convention on the Rights of the Child (UNCRC).

The Commissioner welcomes the opportunity to provide advice to the Department of Finance in relation to the draft NI Budget 2021-22. We recognise the challenge of delivering this budget in light of the high level of demand for services, the limitations on resources, and the impact of Covid and Brexit. While we are not in a position to provide detailed comments on the budget, we have provided brief advice in relation to the DfC, DE and DOH’s EQIAs.

**Department for Communities**

The Commissioner recognises DfC’s critical areas on the rights and best interests of children and young people. This includes DfC’s responsibilities in relation to addressing poverty and disadvantage, including developing the Anti-Poverty Strategy, tackling child poverty, supporting local councils to deliver services, delivering the social security system and providing advice and support for those seeking employment and those unable to work. These support delivery of children’s right to an adequate standard of living, and to social security. The UNCRC states the following.

*Article 26*

*1. States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.*

*2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.*

*Article 27*

*1. States Parties recognize the right of every child to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development.*

*2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child’s development.*

*3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.*

*4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.*

Moreover DfCs role in promoting diversity and participation in society, and responsibilities in relation to social inclusion, including the development of the gender equality strategy, disability strategy, and sexual orientation strategy will deliver on critical NDNA targets to support to some of the most vulnerable groups of children and young people in Northern Ireland, and on article 2 of the UNCRC:

*Article 2*

*1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.*

*2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child’s parents, legal guardians, or family members.*

Finally, the Department’s role in promoting sports and leisure within our communities, providing free access to books, information, IT and community programmes through our libraries, maintaining museums, supporting the creative industries and promoting the arts, language and cultural sectors are all vital for the development and education of children, and in providing support to their right to play, as enshrined in articles 31 of the UNCRC.

*Article 31*

*1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.*

*2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.*

In addition to DfC’s responsibilities relating to delivering on children’s rights, it also sponsors a number of Arms Length Bodies, including NICCY. The funding for NICCY enables us to meet our statutory duties relating to promoting and safeguarding children’s rights and best interests. Over recent years this has involved advising and challenging government departments and agencies in relation to their deliver for children, focussing on critical issues including child poverty, mental health, educational inequalities, safeguarding, youth justice, legacy of the conflict, the participation of children and young people in decisions affecting them. Since the start of the Covid pandemic, NICCY has responded by closely scrutinising the introduction and application of the emergency legislation on vulnerable children and young people, monitoring impacts, and advising on responses as the situation developed.

The dual burdens of Covid and Brexit over the past 12 months have only deepened the challenge facing the Executive, and the Department for Communities has a critical role in mitigating the worst impacts on the poorest and most disadvantaged within our communities.

In this context it is a matter of deep concern that the Department for Communities is projected to have a ‘flat’ budget in 2021-22, particularly given its role in delivering on many of the critical commitments in the New Decade New Approach strategy. We note that only 8% of the budget is considered ‘discretionary’ and, indeed, that much of this is already committed costs. This leaves very little to deliver on the NDNA commitments in relation to poverty, social inclusion, housing, employability and welfare reform.

Given their importance in relation to child poverty, NICCY supports the prioritisation of:

1. Benefit delivery for working age customers given increased demand for working age benefits as a result of Covid-19 related increases in unemployment; and
2. Employment support to help those impacted by Covid-19 related unemployment enter employment.

However, there must be an additional priority to tackle poverty (particularly as it relates to children) and promote social inclusion. NICCY has engaged with the co-design process in relation to the development of the Anti-Poverty Strategy, and is very supportive of the actions proposed by the Expert Advisory Panel. This is a unique opportunity to act decisively to target support to the most disadvantaged in society, but instead the budget for any actions will be extremely limited, greatly hampering the effectiveness of the Strategy.

We welcome that £42.8 million has been ring fenced for continuing mitigations, including those relating to the benefit cap and social sector size criteria. However, this does not go far enough in addressing the welfare reforms that have particularly targeted families with children, including the two-child limit and the removal of the family element of tax credits. NICCY has called for a new mitigation package to include payments relating to these, and in addition:

* Grants to address costs associated with employment
* A per-child payment for low income families, and
* An expanded payment for low income families with young children, based on the Scottish Government’s ‘Best Start’ Grant.[[1]](#footnote-1)

Given the importance of efficient benefit delivery, it is a matter of great concern that the draft budget 2021-22 settlement provides no Covid-19 allocation to address the need to increase staffing numbers to process and pay working age benefits. The EQIA indicates that this will result in delays in payments, as the processing times for new claims will increase. Moreover, there will also be delays in the time taken to process people’s change of circumstances, which will result in under or over payments, and creating hardships among families already under extreme financial pressures. In addition to this, the loss of the £1.5 million welfare reform mitigation funding to the advice sector, will also undermine the support to these most vulnerable households, many of which will include children and young people.

In relation to the second priority of the Department, ie Employment Support, it is unacceptable that the settlement provides no Covid-19 allocation to address the need for labour market interventions to support people to return to employment thereby helping with economic recovery.

We note that the Department had planned the introduction of a JobStart programme for 16-24 year olds, Advisory Discretion Fund Expansion including the payment of upfront Childcare costs to support parents return to employment and a refreshed Work Experience Programme (WEP) Opportunity Guarantee for 18- 24 year olds offering 13 week work experience placement opportunities to job ready unemployed people. We understand that these were due to launch in December 2020, but that they have been delayed due to a lack of funding for these in the draft budget.

The EQIA correctly identifies that young workers are the most badly hit by the covid pandemic, and that low income workers are seven times more likely to work in a sector than closed down during lockdown than high paid workers. However, there is little in the way of mitigations for these impacts.

**NICCY recommends that DfC is allocated additional resources to mitigate the adverse impacts of the budget and ensure efficient and timely processing of benefit applications, to fund the planned Covid employment support programmes, the Social inclusion strategies including the Anti-Poverty Strategy, a new Mitigations package including new elements relating to children in poverty and their families, and to reinstate the mitigation funding for the advice sector.**

In conclusion, we commend the Department for the quality of the EQIA conducted, particularly in how it identified the impact of the departmental budget allocation on each of the section 75 groups. We would be happy to discuss any element of this submission, or to provide additional information or clarification if required.

**Department of Education**

DE has critical areas of responsibility in the lives of children and young people. This includes DE’s responsibilities in relation to coordinating government delivery for children and young people generally, including in relation to the Children’s Services Cooperation Act 2015 and the Children and Young People’s Strategy, and its specific responsibility for the education of children and young people.

Article 28 of the UNCRC outlines a child’s right to education but it is article 29 where is expands on what that education should entail.

*Article 29*

*1. States Parties agree that the education of the child shall be directed to:*

*(a) The development of the child’s personality, talents and mental and physical abilities to their fullest potential;*

*(b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;*

*(c) The development of respect for the child’s parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;*

*(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;*

*(e) The development of respect for the natural environment.*

We note that the Department has been given a Draft Budget baseline of £2,300.7 million which represents an increase of about 1% on DE’s 2020-21 opening Resource Budget, and that a significant element of this additional funding is to fund new programmes/initiatives, as opposed to meeting any 2021-22 pay and price pressures.

We welcome the specific allocation of £10 million for SEN in recognition of the increasing costs of assessing and providing for those with particular needs in the education system, but note that £42 million allocated to SEN in 2020-21 is being carried forward. We are not clear why this money was not spent and why the full amount is not required in 2021-22.

NICCY also welcomes the £30.6 million for the Holiday Meals Scheme during the COVID-19 pandemic. We note that the Finance Minister has stated an intention to provide DE with a further £16.5 for programmes designed to tackle educational underachievement through the in-year monitoring process in 2021-22.

We are deeply concerned, however, at the considerable Resource funding gap of

£321.3 million for 2021-22, taking into consideration only those pressures which are inescapable or pre-committed, broken down as follows:

* + General pressures - £137.2 million
	+ Covid-19 pressures – £73.7 million
	+ NDNA pressures – 110.4 million

We also note a capital funding gap of £59.8 million.

The Commissioner has been aware of the great strain on the education system due to ongoing financial pressures and had published a report on this in 2017: [‘The Cost of education in Northern Ireland’](https://www.niccy.org/media/2909/niccy-costs-of-education-key-findings-report-and-recommendations-18-oct-17.pdf), which included an analysis of the per child funding to schools in Northern Ireland compared with the rest of the UK. This found that the overall education spending per school age child in Northern Ireland was lower than any other region of the UK. It also found that parents were paying an average of £1222.30 per child on education. The recommendations of this report are attached, and should be considered in addressing the DE budget shortfall.

Over the four years since the publication of this report the funding pressures have only grown. Given the devastating impact of covid on the education of children and young people of all ages over the past year, the Department for Education is going to need additional resources to begin to mitigate these deficits in children’s education. Moreover, during the covid pandemic response, and subsequently, it will also require further funding to support children and young people’s emotional health and wellbeing.

**NICCY recommends that DE is allocated additional resources to remove the resource and capital funding gaps, in relation to general pressures, covid-19 pressures and NDNA commitments.**

We note that the Department has considered the Human Rights issues of the Draft Budget allocation, and has stated that this will have a neutral impact on children’s rights under the UNCRC. NICCY strongly disagrees with this assessment. The funding gaps outlined in the EQIA document will inevitably impact on children’s Article 28 right to education and, potentially on a wider range of rights, if insufficient resources are ring-fenced for the delivery of the Children and Young People’s Strategy.

**Department of Health**

This Department of Health draft budget outline for 2021-2022 makes for very concerning reading. Although, budgets are always stretched and difficult decisions need to be made every year about budget allocation, this year the pressures are amplified and facing into a period when an already crippled health and social care system has to deal directly with the effects of covid-19. The slow pace of reform of the health and social care system and longstanding resourcing issues which has led to NI having some of the worst waiting times in Europe and the most significant gaps in key workforce across all regions of the UK makes this period all the more worrying.

Although we recognise that this section of our response is brief the Commissioner reminds government of the critical role that the Department of Health has in the lives of children and their families. The UNCRC has a number of articles that fall within the remit of the Health and Social Care. These include article 6 – the right to life and:

*Article 19*

1. *States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.*
2. *Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.*

Articles 20 and 21 of the convention reminds governments of the importance of appropriate alternative care and adoption for children when necessary.

*Article 23*

1. *States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child’s active participation in the community.*
2. *States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child’s condition and to the circumstances of the parents or others caring for the child.*
3. *Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child’s achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.*

*Article 24*

*1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.*

The article goes on to outline specific areas that must be addressed to ensure full implementation.

In 2018, NICCY published a significant review of mental health services provided for children and young people, ‘Still Waiting’, which highlighted the historical underfunding of these services, and the devastating impact on their mental health and wellbeing. Moreover, over recent years NICCY has monitored the increasing numbers of children and young people waiting longer and longer for medical appointments, diagnoses and treatment.

The Commissioner does not under-estimate the task ahead to ensure children physical and mental health rights and that financial consideration are not the only issue. However a budget that is sufficient and removes unacceptable waiting periods for health care and ensure a high standard of provision and aftercare is critical to ensuring children get the best start in life.

Whilst very difficult decisions must be made about budget allocation; we emphasise the need for all funding decisions to be transparent and undergo a thorough equality impact assessment. The EQIA attached does not adequately consider the full implications and mitigations for children and young people’s health and social care needs as a consequence of budget constraints. We would strongly advise that a detailed Child Rights Impact Assessment exercise is completed, in addition to a children’s budgeting process to include outlining the proportion of spend that will be directed to children’s services / needs.

Furthermore, on page 15 of the DoH EQIA, consideration of the implications of the Children’s Service Co-operation Act (CSCA) is noted, however, no detail is set out under this section, and we would emphasise the importance of the DoH following through with its intention to ‘assess whether policies, strategies and plans that are to be taken forward impact the principles and requirements of the Children’s Services Co-operation Act, and where appropriate, take account of those particular circumstances.’ (Annex B, 4)

**Conclusion**

The above outlines that there must be a greater understanding across government of the impact of it’s decision making with regards to the lives of children and young people.

**NICCY recommends that all government departments undertake a full Child Rights Impact Assessment (CRIA) of its budget allocation, using the ENOC CRIA[[2]](#footnote-2) framework.**

**The NI Commissioner for Children and Young People strongly recommends that the Department of Finance undertakes a children’s budgeting process to bring visibility to the allocation of resources to delivering on the rights of children and young people. This should form part of a multi-year budgeting process, rather than continuing the single year budgets. In 2021-22 additional resources should be allocated to DE, DfC and DOH to ensure that they are able to meet their responsibilities to delivering critical services for children and young people, and to remove the resource and capital funding gaps, in relation to general pressures, covid-19 pressures and NDNA commitments.**

1. NICCY, (Nov 2020), State of Children’s Rights in Northern Ireland 2, (Belfast: NICCY), p51. [↑](#footnote-ref-1)
2. https://enoc.eu/?page\_id=3718 [↑](#footnote-ref-2)