Department of Health Mental Health Strategy 2021-2031

NICCY Advice Paper

22.03.2021

1. Background

The Northern Ireland Commissioner for Children and Young People (NICCY) was established under the Commissioner for Children and Young People (NI) Order 2003 with a principal aim to safeguard and promote the rights and best interests of children and young people in Northern Ireland (NI). In exercising her functions, the Commissioner must have regard to all provisions of the United Nations Convention on the Rights of the Child (UNCRC).

Mental Health and wellbeing is a priority area for NICCY, in September 2018, we published a Rights Based Review of Mental Health Services and Support for Children and Young People - ‘Still Waiting’.[[1]](#footnote-1) The NI Executive accepted the recommendations and an Inter-Departmental Working Group (IDG) was established to oversee the implementation and to publish an annual progress report[[2]](#footnote-2) which NICCY provides a response to in the form of a monitoring report.

The Commissioner expects that the learning from ‘Still Waiting’ and the outworking’s of it through the IDG Still Waiting Action plan[[3]](#footnote-3) will be embedded into the Mental Health Strategy. In NICCYs recent monitoring report, we referred to the overlap and commonality across a number of policy areas with respect to intentions and actions. NICCY has been advised by the Department of Health and the Minister that the Still Waiting recommendations and Action Plan remain a priority for the Department as it ‘maintains focus on mental health services and support for children and young people’.Whilst welcomed, it is important that these separate but related plans are sufficiently joined up to form one integrated and coherent set of actions. **The Still Waiting Action Plan developed by the IDG must converge with other relevant work, such as the Mental Health Strategy, Mental Health Action Plan, Emotional Health and Wellbeing in Education Framework, Substance Misuse Strategy etc**. **and** **in such a way that the Still Waiting recommendations feature prominently throughout.**[[4]](#footnote-4)

2.0 Vision and Founding Principles

2.1 Do you agree the vision set out will improve outcomes and quality of life for individuals with mental health needs in Northern Ireland?

The vision is ambitious and inclusive of key values we would expect to see underpinning a lifespan strategy for mental health.

**Rights**

As NICCY was established under legislation to safeguard and promote the rights of children and young people, we particularly welcome the explicit reference to ‘respecting diversity, equality and human rights’ within the vision statement for the Strategy.

The UK State Party, and Northern Ireland as a devolved administration, ratified the UNCRC in 1991 and it subsequently came into force in 1992. As an International Treaty, it places obligations and responsibilities on States and their institutions to uphold and realise the rights it contains in it for children and young people.

There is clear evidence that a rights based approach has been taken to the process of developing the Strategy so far. This includes the fact that a Child Rights Impact Assessment (CRIA) screening process was carried out on the proposals for consultation and that consideration will be given to a full CRIA on the delivery plans relevant to children and young people. We also welcome the fact that a child and young person version of the consultation document and response form was also produced.

**Reference to individual rights**

It is important, however, that more direct reference is made to individual rights within the body of the Strategy. This will help ensure that the principles of respecting rights are embedded within the actions. **With respect to the actions relevant to children and young people, NICCY recommends reference to relevant articles of the UNCRC are included within the body of the Strategy**.

For example, **Article 24** sets out children’s right to health- in particular 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*.’

There are also four guiding principles of the UNCRC which underpin all other rights, including the right to health and it is important that these are articulated within the Strategy:

**Article 2**: A child’s right to non-discrimination. In the context of health, requires State Parties to uphold and realise every child’s equal right to the best possible health and access to health services without discrimination on any basis.

**Article 3**: Best interests of the child being a primary consideration in all matters. Individual children’s best interests should be based on their physical, emotional, social and educational needs, age, sex, family and social background, and after having heard their views as required by Article 12 of the UNCRC. The Committee urged State Parties to place children’s best interests at the centre of all decisions affecting their health and development, including the allocation of resources, and the development and implementation of polices and interventions that affect the underlying determinants of health. For example, the best interests of the child should guide treatment options, and include giving children and young people access to appropriate information on health issues.

**Article 12**: Views being given due weight in accordance with age and maturity. This outlines children’s fundamental right to participation, including in health promotion, the need to respect the views of the child in decisions made about their own health care, and in the planning and provision of health services.

**Article 6**: Right to life and to survival and development to the maximum extent. Article 6 requires State Parties to guarantee the child the fundamental right to life and to survival and development to the maximum extent possible. Article 24, builds on Article 6.

References and further detail on the UNCRC, and rights relevant to health are available from Section 2 of NICCYs Still Waiting Report.[[5]](#footnote-5)

2.2 Do you agree the founding principles set out provide a solid foundation upon which to progress change?

The principles set out in this draft mental health strategy reflect a rights perspective and are therefore welcomed; however, fundamental to their realisation will be sufficient human, technical and financial resources.

In the most recent examination of the UK and Northern Ireland in 2016, the Committee made a number of strongly worded recommendations relating to children’s mental health and this included reference to planning, monitoring and investment.[[6]](#footnote-6)

60. (*b) Rigorously invest in child and adolescent mental health services and develop strategies at national and devolved levels, with clear time frames, targets, measureable indicators, effective monitoring mechanisms and sufficient human, technical and financial resources. Such strategy should include measures to ensure availability, accessibility, acceptability, quality and stability of such services, with particular attention to children at greater risk, including children living in poverty, children in care and children in contact with the criminal justice system.*

The NI Affairs Committee conducted a review of the NI Health Budget in 2019, in its report it recommended that the mental health budget for children was raised to 10%, however since this report was published need has increased due to covid-19, whilst the budget of £20.4 million has actually fallen in real terms from 7.8% to 7.4% due to inflation. [[7]](#footnote-7)

**The relationship between Children’s Service Cooperation Act (NI) 2015, the PfG and CYP Strategy**

This Mental Health Strategy should be connected to the broader strategic work affecting children and young people and is essential for maximising the impact of all available resources. It also makes it more likely that a whole system approach is taken to children’s and young people’s holistic needs, and ensures that services are better integrated and co-ordinated in how they work.

There is a legislative context, in that the Children’s Services Co-operation Act (NI) 2015, (CSCA) places a duty on all children’s services to co-operate to improve the well-being of children and young people. The Act also places a duty on the Executive to adopt a Children and Young People’s Strategy (CYPS) as the driving vehicle for this. The CYPS seeks to achieve positive outcomes for children and young people that align with all eight characteristics (wellbeing outcomes) in the Act. The CSCA defines the well-being of children and young people against eight outcomes, which include physical and mental health.

The Programme for Government (PfG) has a number of strategic outcomes, one of which is that ‘we give our children the best start in life’. This is to be achieved through the implementation of the CYPS which provides the strategic framework through which departments can achieve the PfG outcomes for children and young people.

The Executive’s Children and Young People’s Strategy 2020-2030 sets out the framework for progressing all issues affecting children and is designed to provide an overarching holistic structure to drive forward and monitor how departments are progressing eight outcomes to improve the well-being of children and young people.[[8]](#footnote-8) The wellbeing outcomes mirror the ‘characteristics’ of wellbeing as outlined in the Children’s Services Co-operation Act (NI) 2015 described below. A wide range of government policies, strategies, programmes and services more specific to different aspects of children and young people’s lives underpin and work to deliver on the strategy; the Mental Health Strategy is an example. **It is vital that the Mental Health Strategy connects to the broader strategic work relating to children and young people as outlined above.**

We also note that under the Strategic Context section of the consultation document, a number of key reviews focused on mental health provision for children and young people are missing but have informed the mental health agenda in recent years. **We recommend that these seminal reviews are added to the strategic context section of the Strategy.**

1. Rees, D., York, A., and McDougall, T. (2014) A Review of Beechcroft and Child and Adolescent Acute Care Pathways, available from [Mental Health - HSCB (hscni.net)](http://www.hscboard.hscni.net/our-work/social-care-and-children/mental-health/)
2. NICCY (2018) A Rights Based Review of Mental Health Services and Support for Children and Young people- Still Waiting, available from [Mental Health Review - Still Waiting (niccy.org)](https://www.niccy.org/StillWaiting)

3.0 Theme 1: Promoting wellbeing and resilience through prevention and early intervention

3.1 Do you agree with the ethos and direction of travel set out under this theme?

The consultation contains very clear actions which would be of direct benefit to children and young people in terms of prevention/ early intervention, and in terms of treatment and recovery.

**NICCY recommends that a stronger focus is given to play, sports, arts and drama in this section of the strategy and delivery plan**. Access to play and leisure is a right enshrined under Article 31 of the UNCRC. Covid-19 restrictions have led to infringement in children’s ability to undertake play and leisure, and has highlighted how fundamental these activities are to the psychosocial development as well as physical health of children and young people.[[9]](#footnote-9)

3.2 Comments on actions and outcomes set out under Theme 1

**Outcomes Paragraph 33**

The GHQ is a screening tool used for detecting possible psychological wellbeing in adolescents. As such it is not designed for children and may not pick up on other more nuanced indictors of emotional wellbeing. These issues have been raised in the consultations on the PfG and CYP Strategy, as the GHQ was also proposed as an indicator for these strategies. NISRA are currently consulting with ‘users’ on mental health data needs and this would be a good opportunity to discuss data needs.

As the focus on Theme 1 is prevention and early intervention, **NICCY recommends the inclusion of an indicator which draws on early signs of poor emotional and mental wellbeing of children and young people**. This could include a self-reported measure of emotional wellbeing, examples have been included in YLT / KLT surveys and the Young Person Behaviour and Attitude Survey.

The term ‘awareness’ of mental health is used for two outcomes in this section and **we would suggest strengthening these to ‘knowledge through training**’.

**Outcomes Paragraph 52**

Highly relevant indicators and data are available through the Youth Wellbeing prevalence survey. We would point out that this survey has been conducted once and should be repeated on a more regular and consistent basis to act as an outcome measure over the life course of the Mental Health Strategy. This links to the scoping work NISRA is carrying out on mental health data needs.

The CAMHS dataset is compiled by the HSCB and includes standardised, quality assured service activity data from each of the 5 HSCTs - it is not published, but is available and could provide data for measuring performance of actions within the Strategy,[[10]](#footnote-10) e.g. number of young people aging out of CAMHS with a transition plan.

4.0 Theme 2: Providing the right support at the right time

4.1 Do you agree with the ethos and direction of travel set out under this theme?

Theme 2 contains some very clear actions which would be of direct benefit to children and young people (Actions 5-7).

There are additional actions under this theme which are more general and for this reason it is less clear if they will have an equal focus on children and young people as they do for adults. For example: ‘Action 12- Embed psychological services into mainstream mental health services. Psychological therapies will be available across all steps of care’. It is important that the delivery plan provides sufficient detail to show all actions targeted at children, to include monitoring processes with disaggregated data.

There are also a number of actions which refer to existing services targeted at adults i.e. talking therapies (18+ service) and recovery colleges (designed for 16+ but attended mainly by those over 18), however many children and young people, particularly adolescents may also benefit from these. Therefore, **NICCY recommends that full consideration should be given to adapting these initiatives for those under 18** (Action 2& 10).

4.2 Comments on actions and outcomes set out under Theme 2

**Paragraph 63: outcomes**

Waiting lists for services is a key indication of whether services are meeting demand, CAMHS waiting list is commonly cited with respect to statutory mental health services for children, however, it does not measure internal waits which can be as extensive as the initial wait for a first appointment i.e. waiting time between first and review appointments, and waiting lists for psychological therapies. It is also the case that CAMHS (statutory services) is one part of the system where young people with mental health needs are supported, there are also waits for services provided by other services or sectors that are not monitored in the same way but should be i.e. community and voluntary sector / youth services, community counselling and school counselling.

Also waiting lists is a ‘process’ outcome which differs from ‘wellbeing’ outcomes - **it is important that sufficient focus is given to wellbeing outcomes across the thematic areas of the strategy which effect children and young people, this should include children and young people’s self-reported outcomes,** as this provides an essential insight into the lived experiences of children and young people**.**

**NICCY also recommends that the final indicator set for the Mental Health Strategy is informed by the ‘Child Rights Indicators’ project taken forward by UNESCO for OFMDFM (now TEO)**. Considerable work was done to map the available government data on children against the UNCRC, and to identify where there were gaps in available data.

5.0 Theme 3: New Ways of Working

We welcome the emphasis placed on workforce planning, improving data upon which decisions should be made, and placing the focus on outcomes as a main measure of success. These are all fundamental pillars which are central to the successful delivery of this strategy.

It is also fundamental that a greater focus is placed on the financial resources / investment. Whilst some efficiencies can be made through doing things differently, it is evident that mental health services experience significant under-investment and this is particularly the case for children’s mental health. The total investment in CAMHS is currently £20.4m which represents only 7.8% of the total mental health budget. Furthermore, this investment in real terms has dropped further through 19/20 and now stands at 7.4%. [[11]](#footnote-11)

Covid-19 has placed significant additional pressure on the budget and already stretched services; the pandemic has also profoundly impacted the mental health and wellbeing of the population, with children and young people disproportionally affected. The reform of emotional wellbeing and mental health provision for children and young people has never been more important, and this Strategy is critical. **However, to meet the ambitious reforms set out in this Strategy, greater prioritisation of funding to this area is required. Long-term transformational change requires long term strategic planning, matched with the required multi-year funding to deliver it**.

The need for a whole system approach and ‘working across service boundaries’ is mentioned in the Strategy (point 58, p25) and many of the good practice case studies reflect integrated working across services i.e. CAMHS and YJA; and DE and DoH ‘Emotional Health and Wellbeing Framework for schools’. **NICCY recommends that a greater emphasis and clarity is given to cross- departmental working as a core element needed to deliver the Strategy, this could include embedding this commitment in the new or improved ways of working section of the Strategy**.

We would also take this opportunity to reiterate recommendations made in NICCYs Still Waiting Report which relate to steps needed to operationalise a whole system approach to the delivery of human rights compliant mental health services. Although these recommendations were made in response to children and young people provisions, they are equally relevant to adult services.

1. A long term and sustainable ‘funding and practice partnership model’ which takes account of the investment required across all key services and sectors included in the Stepped Care Model;
2. The use of the fund mapping methodology alongside an analyses of need- this would provide a systemic way of mapping increases in spending on emotional and mental health services over time, and to demonstrate how additional resources are being allocated to meet the needs of children and young people;
3. Formalisation of the relationship between Statutory CAMHS and the Voluntary and Community Sector (VCS), through the development and implementation of clear strategic policy direction; and
4. The development of a culture and practice of multi-disciplinary and multi-sectoral team working.

The Carnegie Trust has made some extremely progressive proposals to the NI Executive to enshrine a ‘Wellbeing Outcomes Approach’ in Law, to effect all tiers of government, which is led by the programme for government and includes linking budgets to outcomes rather than Departments.[[12]](#footnote-12) We fully support these proposals and would highlight the Children’s Service Co-operation Act (NI) 2015 (CSCA) as a significant legislative development for children’s services in this regard, it places a definition of children’s wellbeing on a statutory footing and sets out a duty to co-operate across all children’s authorities and service providers.

Furthermore, Section 5 of the CSCA places a duty on the NI Executive to produce a report outlining actions taken by the NI Executive, and Government Departments, for the purpose of achieving the outcomes set out in the Children and Young People’s Strategy; this includes:

* what progress has been made towards achieving those outcomes, or the extent to which they have been achieved;
* how children's authorities and other children's service providers have co-operated with each other in the provision of children's services;
* how children's authorities have exercised their powers to share resources and pool funds; and
* how the well-being of children and young people has improved.

**Full account of the opportunity the CSCA provides in moving towards a more ‘wellbeing outcomes based accountability process’ should be taken during the development of the Mental Health Strategy, particularly the implementation planning process which includes the delivery plan, investment / resourcing, and monitoring framework**.

5.1 Comments on actions and outcomes set out under this theme

The actions are valid and have been highlighted in a number of reviews of the system over many years. It is critical that these actions are taken forward quickly, as they are central pillars around which the other strategic aims will sit, but will take time to implement.

For example, in terms of workforce, it will take many years in some instances to have sufficiently trained staff to fill gaps in the health and social care workforce.

If reform and investment in mental health services is dependent on reform of the wider health and social care system, this should be articulated more clearly within the strategic context for the Mental Health Strategy and ensure that this is built into the implementation phase and governance structures.

6.0 Prioritisation

6.1 Do you agree with the ethos and direction of travel set out under this theme?

All of the areas outlined in the Strategy need to be taken forward together and seen as inter-dependent and essential to fulfilling its vision and working to its principles.

**Mental Health Legislation**

Very little reference is made to mental health legislation in the consultation document. The Mental Health and Capacity legislative framework is a central pillar in terms of guiding policy and practice. **NICCY would strongly advise that the Strategy takes a much greater focus on the mental health framework in NI, particularly for children and young people, and how it needs to reflect the principles and values of the Strategy and ensure it does not act as an impediment to the policy and practice changes that are needed. It is only when legislation is grounded in a rights based approach that it can realise the rights of individuals**.

The introduction of the Mental Capacity (NI) Act is a significant legislative development that will, when fully commenced, fuse together mental capacity and mental health law for those aged 16 years and over. Throughout the development of the legislation, NICCY has consistently expressed concern regarding the proposed application of the Mental Capacity Act (Northern Ireland) 2016 only to those aged 16 and over, thus denying young people under 16 access to the protections and safeguards under the Act. Under 16s are excluded from the scope of the Mental Capacity Act due to Government’s position that the test for capacity cannot be applied to children. This position is not compliant with the UNCRC or ECHR, and NICCY has already written to draw this to the attention of the Minister and requesting that the provisions of the Mental Capacity Act be extended to children and young people under the age of 16.[[13]](#footnote-13)

The Mental Health (NI) Order 1986 will remain in place for under 16’s, despite it being widely regarded as non-compliant with key human rights, not upholding the principle of personal autonomy and not reflecting developments in good practice. A series of amendments are planned to improve protections and safeguards for under 16’s, however, at the moment there is no set date for full commencement of amendments to the Mental Health Order. **NICCY continues to strongly advise Government to take all necessary steps to update the mental health legislation in NI, and to do so as a matter of urgency**.

The Mental Capacity Act does not apply to 16 and 17 year olds in the same way as adults. Unlike adults, they do not have automatic access to the safeguards and protections of the Act when they lose capacity. The current version of the Mental Capacity Act Code of Practice does not appear to fully address the position of 16 and 17 year olds as the Children’s Chapter states that The Age of Majority Act 1969 provides that a person who is 16 or over may consent to surgical, medical or dental treatment without parental consent, but does not remove the right of the parent or guardian to consent on behalf of a 16 or 17 year-old. The Supreme Court judgment in the Re D case resolves some but not all of the outstanding issues with the legislative position.

**NICCYs position is that the provisions of the Mental Capacity Act be extended to cover children and young people under the age of 16 to ensure the legislation is fully compliant with ECHR and UNCRC; that the Mental Capacity Act Code of Practice is revised to properly take account of the re D Supreme Court judgement and that the provisions in the Mental Health Order 1986 designed to improve safeguards and protections for under 16 year olds be commenced as a matter of urgency**.[[14]](#footnote-14)

7.0 Impact Assessments/Screenings

The ongoing equality monitoring process attached to the delivery of the mental health strategy must be informed by high quality disaggregated data across the nine equality category areas. This is required to meet Section 75 duties but also relates to the commitment to non-discrimination as enshrined under Article 12 of the UNCRC. A requirement that the Committee on the Rights of the Child has made repeatedly during its examinations of the UK State Party and NI as a devolved administration.

Child rights impact processes, like the Child Rights Impact Assessment (CRIA), support the integration of children’s rights in decision-making and ensure good governance for children. They are also a very public demonstration of commitment to children’s rights.

NICCY commends the DoH for conducting a CRIA screening process on the proposals for consultation, and that consideration will be given to a full CRIA on the delivery plans relevant to children and young people. The European Network of Ombudsperson’s and Commissioners (ENOC) have recently published practical tools to support those wishing to child rights impact assess legislation, policy or practice.[[15]](#footnote-15) **NICCY urges the DoH to continue to demonstrate commitment to assessing its proposals against children’s rights by completing a CRIA at all key stages as the Strategy is developed.**

8.0 Next Stage: Delivery plans

**The delivery plan for achieving the high level outcomes from the Strategy must contain precise and clearly defined actions, with clear timeframes, targets, measurable indicators, effective monitoring mechanisms and sufficient human, technical and financial resource.**

NICCY looks forward to engaging with the DoH in this stage of the process and would highlight the importance of providing sufficient time and detail (as outlined above) for key stakeholders to engage in the process, **this must include children and young people directly through child friendly versions of key proposals and targeted consultation sessions.** This would also demonstrate the NI Executive’s commitment to uphold their responsibilities to the UNCRC (Article 12) and Section 75 of the NI Act 1998.

**8.0 Conclusion**

As stated above, the mental health of children and young people has been a priority area of work for the NI Commissioner for Children and Young People and therefore we view Mental Health Strategy for NI as an important development. Therefore, NICCY looks forward to providing ongoing advice as it progresses.

1. [Mental Health Review - Still Waiting (niccy.org)](https://www.niccy.org/StillWaiting) [↑](#footnote-ref-1)
2. https://www.health-ni.gov.uk/stillwaitingreport-response [↑](#footnote-ref-2)
3. https://www.niccy.org/media/3793/interdepartmental-action-plan-on-niccy-still-waiting-final.docx [↑](#footnote-ref-3)
4. <https://www.niccy.org/media/3794/niccy-monitoring-report-still-waiting-2021-final-4-feb-21.docx> [↑](#footnote-ref-4)
5. [niccy-still-waiting-report-sept-18-web.pdf](https://www.niccy.org/media/3114/niccy-still-waiting-report-sept-18-web.pdf) [↑](#footnote-ref-5)
6. [Treaty bodies Download (ohchr.org)](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/GBR/CO/5&Lang=En) [↑](#footnote-ref-6)
7. [Health funding in Northern Ireland - Northern Ireland Affairs Committee - House of Commons (parliament.uk)](https://publications.parliament.uk/pa/cm201919/cmselect/cmniaf/300/30008.htm) (s.142) [↑](#footnote-ref-7)
8. [final-execuitve-children-and-young-people's-strategy-2020-2030 (education-ni.gov.uk)](https://www.education-ni.gov.uk/sites/default/files/publications/education/final-execuitve-children-and-young-people%27s-strategy-2020-2030.pdf) [↑](#footnote-ref-8)
9. [Our-Voices-Matter-Summary-Report-PlayBoard-NI-Nov-2020.pdf](https://www.playboard.org/wp-content/uploads/2020/10/Our-Voices-Matter-Summary-Report-PlayBoard-NI-Nov-2020.pdf) [↑](#footnote-ref-9)
10. https://www.niccy.org/media/3112/camhs-definitions\_final.pdf [↑](#footnote-ref-10)
11. Paper by CYPSP on behalf of Covid-19 Children and Young People Emotional Health and Wellbeing sub group- Jul 2020. [↑](#footnote-ref-11)
12. [v4-4823-CUKT-EWNI-NI-PfG-consultation.pdf (d1ssu070pg2v9i.cloudfront.net)](https://d1ssu070pg2v9i.cloudfront.net/pex/carnegie_uk_trust/2021/03/04161846/v4-4823-CUKT-EWNI-NI-PfG-consultation.pdf) [↑](#footnote-ref-12)
13. https://www.niccy.org/search/#searchTerm%3DMental%20Capacity%20Bill [↑](#footnote-ref-13)
14. [NICCY response on the Mental Capacity Act (Northern Ireland) 2016 Code of Practice](https://www.niccy.org/publications/2019/february/22/mental-capacity-act/) [↑](#footnote-ref-14)
15. [ENOC » Child Rights Impact Assessment](http://enoc.eu/?page_id=3718) [↑](#footnote-ref-15)