

EMAIL

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To whom it may concern

Review of PBNI Governance Structures

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)(3) of this legislation, NICCY has a mandate to keep under review the adequacy and effectiveness of law, practice and services relating to the rights and best interests of children and young people by relevant authorities. The remit of the Office is 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 determining how to carry out her functions, the Commissioner's paramount consideration is the rights of the child and NICCY is required to base all its work on the United Nations Convention on the Rights of the Child (UNCRC).

I welcome the opportunity to provide advice on the Department of Justice (DOJ) Review of the status and governance arrangements for the Probation Board Northern Ireland (PBNI). When producing this response, we are mindful of the following options based from recommendations outlined in New Decade New Approach (2020) and the CJI 'Probation and Practice in NI An Inspection of the PBNI' (2020):

1. Remaining as non-departmental public body (NDPB);
2. The status of PBNI and the size of its Board;
3. Amendments to the Probation Board (NI) Order 1982; and
4. Ensure any changes from this review that may cause equality implications considers all groups cited in Section 75 of the Northern Ireland Act (1998).

Delivery of PBNI Functions

NICCY agrees that the PBNI has built up a reputation as being community-based, independent and able to work in in all communities. I concur that there is no evidence to suggest its independent governance or effectiveness in delivering efficient services is lacking.

NICCY would like to place on record concern about *option 2(iii) Merging with the Youth Justice Agency (YJA)* to create a single agency providing community supervision and probation services for young people and adults; and option 3: The PBNI and the YJA to become a merged NDPB. NICCY notes that the intention of this option would be to maximise synergies *“in bringing together community supervision of young people and adults under one body and supporting a more effective transition for young people moving to adult services.”* And that *“A single body could also provide a more seamless transition for young people moving to adult services and would draw together all areas of community supervision under one body, perhaps better supporting sharing of good practice.”*

I do not believe that these aims are viable nor do they provide sufficient reasons to merge the 2 agencies. As a children's service the Youth Justice Agency must be either a standalone agency or housed within a childcare body. Youth justice must be kept separate from the adult criminal justice system. This position has been clearly articulated by the UN Committee on the Rights of the Child in General Comment 24 (2019) which states that:

“Children differ from adults in their physical and psychological development. Such differences constitute the basis for the recognition of lesser culpability, and for a separate system with a differentiated, individualized approach. Exposure to the criminal justice system has been demonstrated to cause harm to children, limiting their chances of becoming responsible adults.”

UNCRC/GC/24

Furthermore, references to ‘seamless’ and ‘effective’ transitions from youth to adult justice systems must be met with caution. NICCY understands there are instances, where young people migrate into adult services and whilst there must be emphasis on strong and effective communication between the YJA and PBNI, it is important that the primary focus of the Youth Justice System is to prevent children and young people from requiring adult justice services, rather than on transition.

Status of PBNI and Proposed Legislative Changes

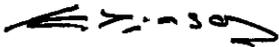
NICCY strongly agrees that PBNI should remain a standalone NDPB of the Department of Justice.

NICCY has no concerns with the proposed name change from Probation Board NI to Probation Northern Ireland. Furthermore, NICCY agrees with the proposed legislative change at S4(1)(a) of the Probation Order (NI) 1982, which places a requirement on the Board to *'secure the maintenance of an adequate and efficient probation service'*. However, **I recommend that the term 'adequate' is changed to place a requirement on the Probation Board to deliver an 'effective and efficient' probation service.**

I see no potential equality implications for children and young people regarding the review of the PBNI Status and Governance. However, if the DoJ decide to alter aspects of the PBNI's status and/or governance, I would expect the Department to undertake a Child's Rights Impact Assessment (CRIA) and a full Equality Impact Assessment (EQIA) to ensure proposed changes do not create any adverse human rights implications or unintended negative consequences in respect of Section 75 groups as cited in the Northern Ireland Act (1998).

Should you require further comment or clarification please do not hesitate to contact my office.

Yours sincerely



Koulla Yiasouma
Commissioner