**EMAIL**

Civil Law Reform Division

Department of Finance

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11 February 2022

To whom it may concern

**Re: Public Consultation on Marriage Law**

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 from birth up to 18 years, or 21 years if the young person is disabled or is care experienced. 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).

NICCY welcomes the opportunity to provide advice on the above consultation 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.

**Minimum age for marriage or civil partnership:**

As noted by the Minister in the foreword to the consultation document, NICCY, the United Nations (UN) and others, have expressed the clear view that child or early marriage is an issue of grave concern and that the law should ensure that such marriages are not permitted. This call has been repeated many times, including for example, in UN General Assembly resolutions including in 2020, in the UN Sustainable Development Goals, in the 2019 General Comment on harmful practices issued jointly by the Committee on the Rights of the Child and the Committee for the Elimination of Discrimination against Women and in the Concluding Observations (2016) from the UN Committee on the Rights of the Child to the UK and devolved governments following examination of how effectively the UN Convention on the Rights of the Child (UNCRC) is being implemented across the UK. The child rights obligations highlighting the need for legal reform are well established and unequivocal. We also note that reform was secured in Ireland through the 2018 Domestic Violence Act and that legislative passage of the Marriage and Civil Partnership (Minimum Age) Bill at Westminster is ongoing to secure reform in England and Wales.

The consultation document acknowledges that while the UNCRC defines a child as being under the age of 18 years, the law in Northern Ireland currently allows child marriage and child civil partnerships for 16 and 17 year olds (where parental consent is granted). NICCY notes that in discussion with the Commissioner’s Youth Panel, young people expressed concern that children up to age of 18 should be afforded full protection in this area and that this obligation was not diminished by different thresholds for consent in other areas of a young person’s life which are noted by the Department, including the age of consent to sex which is 16 years. As the Committee on the Rights of the Child has specifically highlighted in regard to adolescence, as children rightly have increasing agency as they grow older their “right to exercise increasing levels of responsibilities does not obviate the State’s obligation to guarantee protection” to them as they move into teenage years and towards adulthood.[[1]](#footnote-1)

The Department recognises concerns that the requirement for parental consent does not effectively address concerns regarding the use pressure and coercion in child marriage and indeed such concerns were also expressed by members of our Youth Panel who drew attention to the importance of fully informed and free choices being made regarding marriage and that barriers to this may come from parental as well as wider family and community expectations, pressures and coercion. The Department notes that girls and young women are disproportionately subject to child marriage, highlighting concerns regarding the impact of this on their access to education, training and employment as well the effect on their physical and mental health and increased risk of exposure to harm and violence. While such concerns are often associated with global trends and data, the figures provided demonstrate an established pattern across reported years that girls are significantly (two to three times) more likely than boys to be affected by child marriage in Northern Ireland. The Northern Ireland Executive is currently consulting on its strategy to address violence against women and girls and we note that, in line with international standards, this should address all forms of violence and harmful practices against girls and women, including child marriage.

We also note with interest that the figures indicate that each year, a substantial number of child marriages in Northern Ireland, indeed the majority of these marriages, involve children who do not reside within the jurisdiction. NICCY has been made aware of concerns that the current legal position (which presents a lower legal threshold than that in the Republic of Ireland) may lead to an increase in child marriages taking place in Northern Ireland and would welcome further detail regarding this data.

While the Department states that child marriage in Northern Ireland relates only to small numbers of children we would highlight that the figures provided illustrate that there are many children affected – 475 children and 575 marriages in the years reported. As highlighted by our Youth Panel, this is not an insignificant number of children. Further to this, regardless of numbers affected, the vulnerability and risks to all aspects of a child’s life represented by the issue of child marriage and the obligation on government to meet UNCRC standards requires that children should be afforded the protection of the law.

In relation to the Department’s specific questions on mitigations and other measures, we are not of the view that additional safeguards, such as a requirement for judicial consent, would address the concerns that we have outlined above. We are supportive of proposals that would not recognise child marriage or child civil partnership undertaken in another jurisdiction and that would recognise the conduct or facilitation of child marriage as an offence.

**NICCY recommends that the government brings forward legislation to ensure that children under the age of 18 are not subject to any form of child marriage or civil partnership in Northern Ireland.** Finally, we note the importance of the Department ensuring full and meaningful engagement with those groups most likely to be affected by reform of the law, including during the consultation period and in the implementation and monitoring of reform.

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

Yours sincerely

Koulla Yiasouma

**Commissioner**

1. Committee on the Rights of the Child (2016) General Comment 20: On the implementation of the rights of the child during adolescence, para 19. [↑](#footnote-ref-1)