

Meeting of: NI Commissioner for Children and Young People (NICCY) With The Committee of the Office of First and Deputy First Minister

20 May 2015

Issues Paper

The Office of the Commissioner for Children and Young People (NICCY) was created in accordance with 'The Commissioner for Children and Young People (Northern Ireland) Order' (2003); its principal aim is 'to safeguard and promote the rights and best interests of children and young people in Northern Ireland (NI)'. The remit of the Office is for children and young people from birth up to 18 years, or 21 years if the young person has a disability or is/has been in care.

Public Sector Reform

The NI Executive is currently progressing public sector reform. For NICCY this means budget cuts, reduced staffing levels and more recently, proposals to 'move' NICCY from the remit of OFMDFM to the Department of Education. We have begun a series of meetings and formally registered concerns with relevant Ministers and Officials.

NICCY was required to conduct a review of its founding legislation 3 years after establishment. This had been done and following a lack of response in 2006 from OFMDFM Ministers - our current Sponsor Body – NICCY was asked to carry out another. This was completed and the required Article 24 Report (copy attached) outlining recommendations was submitted in May 2013 by the previous Commissioner and is with Ministers. One of those recommendations calls for NICCY to be made an institution of the NI Assembly, to confer upon it the independence required by the 'Paris Principles'. The Paris Principles are a set of international guidelines Human Rights Bodies, such as NICCY, are required to adhere to in order that they maintain the necessary independence from government to allow them to perform their functions appropriately. There were existing concerns that our independence is compromised by our sponsor body being a Government Department which is why one of the recommendations is that NICCY become a Body of the NI Assembly.

It is also noted that NICCY, like its counterparts in England and Wales are sponsored by government departments rather than being directly accountable to their legislatures. In Northern Ireland there have been two reviews (see previous sections) of the Commissioner's legislation (2006 and 2013) both of which recommended that in order to be Paris Principles compliant the Office should be independent of government and report to the NI Assembly. However, the Scottish Commissioner for Children does report to the Scottish Parliament.

If NICCY were moved to a single Ministerial Department this would compromise the capacity for independence even more than is currently the case – OFMDFM having joint Ministerial responsibilities. Moving NICCY under the remit of Department of Education would also potentially create further situations of 'conflict of interest' as a large proportion of complaints – though not all of course - which come via casework to the Legal and Investigations Department concern matters across the education spectrum. It is also concerning as NICCY has supported (in its last evidence session to the Committee) the proposed legislation on 'Children's Services Co-operation' which seeks to establish/promote inter-departmental collaboration. NICCY is interested in the Committee's views.

Review of NICCY's Legislation: Article 24 Report

We have recently received a letter from the First Minister and Deputy First Minister in relation to 1 of the 12 recommendations i.e. that on 'Victim status' and have suggested a meeting to discuss NICCY's Article 24 Report further – this is being progressed. NICCY commissioned Professors Brice Dickson and Barry Fitzpatrick to review the legislation and based on their report NICCY submitted (as required) its Article 24 Report. The recommendations seek to remove duplication or 'contradictory' clauses, update to reflect devolution of policing and justice and ensure that NICCY can effectively exercise the powers – as originally envisaged - in pursuit of its fundamental aim.

UNCRC UK Children's Commissioners' Report

The UN Committee on the Rights of the Child is due to examine the fifth UK State Party Report next Spring. NICCY with the 3 other UK Children's Commissioners is currently finalising its draft shadow Report for submission on 1 July 2015 in advance of the pre-session hearing later this year (October). NICCY wishes to reflect some main points in relation to NI at this stage to the OFMDFM Committee.

It is also pertinent to note that in Northern Ireland there has been little progress in relation to the incorporation of the UNCRC since 2008. Few policies or pieces of legislation refer to the UNCRC, and only a very limited number of Child Rights Impact Assessments have been conducted. However, the development of a new Children's Strategy from 2016, alongside child rights indicators, offers the opportunity to consider incorporation of the UNCRC and implementation of the general measures.

Age GFS

Age discrimination legislation in relation to Goods, Facilities and Services is one of the Programme for Government commitments. NICCY has been working on this for 2 years now and has previously appeared before the Committee – along with the Chief Commissioner of the Equality Commission NI and Commissioner for Older People NI – to register concern at proposals to exclude under 16 year old Children and Young People. Evidence papers and legal opinions formed part of the submissions made. NICCY has held recent meetings including a Roundtable with Sectoral Organisations and with OFMDFM in respect of the EQIA and Consultation documents. We are anticipating that these will be released for public consultation this month. The most recent announcement by OFMDFM's Junior Ministers on 19th February at a Stormont Castle meeting that this would exclude under 16s is of obvious and deep concern not least because this is age discrimination legislation which could, if unchanged, discriminate on the basis of age! NICCY is of the view that the scope of the age range in the proposed EQIA and Consultation documents be included as one of the questions posed. It is vital that Government 'send a positive message' to our Children and Young People that they are valued, respected and 'included' in NI Society. This proposed exclusion reinforces the negative stereotyping experienced by them and which we as adults should seek to address.

COFMDFM & NICCY

NICCY has a range of duties and powers (see appended summary) including that to advise, monitor and challenge Government on the adequacy and effectiveness of law, practice and services for/to/on behalf of Children and Young People. It is also accountable for its work, expenditure of public monies and the exercise of those duties and powers. It is with this in mind that NICCY wishes to develop robust working relationships with the OFMDFM Committee (and indeed those of other Departments) through ongoing periodic engagement and, in the case of our Sponsor Body, a formal meeting/session/s on its Annual Report. As NICCY is required to lay copies of its Annual Report and Accounts before the NI Assembly, it would also be appropriate – in the

interests of openness, accountability and transparency, to have a formal session / presentation on it with Assembly members; NICCY would be keen to discuss this issue with members of the Committee.

Pending Work

NICCY plans to engage thoroughly with OFMDFM on the pending Child Poverty Action Plan and the development of the new Children's Strategy.

In the Autumn of this year we shall be launching comprehensive research on Public Expenditure on Children which we hope will assist the NI Assembly and Executive in its deliberations for priorities for the next Programme for Government and the Comprehensive Spending Review.