

## Response to draft Budget consultation 2015-16

December 2014

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) to safeguard and promote the rights and best interests of children and young people in NI. 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 of age if the young person is disabled or 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 take account of the United Nations Convention on the Rights of the Child (UNCRC) in all our work.

The Commissioner for Children and Young People is grateful for the opportunity to comment on the draft Budget 2015-16. While it can be difficult to determine, from the information provided, the true impact on children, there are a number of overarching points we would wish to make.

### Child Rights Perspective on Budgets

The Commissioner for Children and Young People has a particular focus on public spending on children, as this is one of the key ways of determining a government's priorities.

Article 4 of the UN Convention on the Rights of the Child states that:

'States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures **to the maximum extent of their available resources** and, where needed, within the framework of international co-operation.'

A working group of UN Committee on the Rights of the Child (2009) has raised concern

with how some States understand the phrase ‘to the maximum extent of their available resources’.

‘Some States have unfortunately understood progressive realization to mean that their obligations to implement economic, social and cultural rights are of a less urgent nature and can be postponed until a more economically prosperous time.’

The Committee has made it clear that, even under periods of recession, Governments have the responsibility to continue to progressively realise children’s rights.

‘States parties must consequently demonstrate that they have undertaken all possible efforts to ensure the widest possible enjoyment of the relevant rights, even under “prevailing circumstances”, while paying particular attention to the most disadvantaged and marginalized members or groups of society.’

### **The Children’s Commissioner’s Work on Public Spending on Children**

In 2007, the Commissioner, in partnership with OFMDFM and DFP, published an analysis of public spending on children in Northern Ireland. The report drew on Treasury data to provide comparisons, where possible, across the UK.

One of the findings was that, while spending on education was higher per head of population, due to a higher proportion of the Northern Ireland population being children, the spend *per child* was less than elsewhere. Spending on Personal Social Services for children was also found to be considerably lower than the rest of the UK (29% less than in England, 33% less than in Wales, and 44% less than in Scotland).

Earlier this year (2014), NICCY published a report commissioned from the Centre for Effective Services (CES), exploring the process of allocating government budgets and considering how the funding allocated results in the delivery of services for children and young people. While it proved very difficult to track expenditure for children down to tangible services, or outcomes, the report made a number of recommendations on how this could be taken forward, including the establishment of a children’s budgeting working group, to include government officials, NICCY, academics and voluntary sector organisations. The aims of this group would be to:

- Consider the benefits and challenges of tracking expenditure on children and young people;
- Examine different ways of overcoming the barriers in the current system (taking account of resource implications); and
- Co-develop strategies for taking the work forward.

NICCY is in the process of establishing this working group.

NICCY has also commissioned a third piece of work, in partnership with Atlantic Philanthropies, and with the support of the Delivering Social Change Programme Board. The Researchers, from Dartington Social Research Unit, have been working with Officials from each government department to identify and quantify spending on programmes for children, and to ascertain which of these are considered **early intervention** or prevention programmes. The research is currently in the final writing up phase and will be published early in 2015.

### **Considerations on the draft budget and spending on children**

The Commissioner is very aware of the challenges on the Executive to deliver high quality public services in the face of both increasing demand, and real term cuts to the Resource DEL grant. We recognise that tough decisions will be required and that the budget should embody 'our hopes for the future'.

In reality it is difficult to determine how the proposed changes will impact on children, as the spending on programmes for children is not, by and large, identified in the figures. The exception is the Department for Education, the budget for which is dedicated entirely to services for children and young people.

Bearing in mind the UN Committee's exhortation to undertake 'all possible efforts to ensure the widest possible enjoyment of the relevant rights' the Commissioner is disappointed to see e.g. that the Executive is proposing a 4.9% reduction in the Non-ring-fenced Resource DEL for the Department of Education.

In his budget speech, the Minister for Finance and Personnel correctly identified that, according to HM Treasury's Public Expenditure Statistical Analysis for 2014, Northern Ireland spends more per person on Education than Scotland or Wales. What was not

explained was that Northern Ireland has a higher proportion of its population under the age of 18. Therefore, the expenditure on education *per child* is less in Northern Ireland than in Scotland or Wales.

	Total spend (£millions)	Spend per person (£)	Spend per child (£)
England	72,756	1,360	6,323
Scotland	7,655	1,441	7,396
Wales	4,196	1,365	6,660
Northern Ireland	2,841	1,558	6,576

Calculated using UK Treasury PESA 2014 stats and ONS mid-year population estimates 2013

If Northern Ireland were to provide the same funding per child as Wales, the budget for the Department of Education, rather than being reduced, would need to be increased by 1.3%. To match the spending on education per child with that in Scotland, the budget for DE would need to be increased by 12.5%. It is important, therefore, when considering budgets in Northern Ireland compared to other regions that the higher proportion of children in NI is taken into account.

If the budget is to embody 'our hopes for the future', services to children should be ring fenced. This is particularly the case for early intervention and prevention services. Any reductions to these vital services will result in children's services being much more focused on crisis-response. Children's rights are about providing children with the interventions they need proactively, and it is unacceptable to wait until their situation has deteriorated until intervening. Such an approach wreaks havoc on children's lives and, indeed, leads to a requirement for more expensive services.

Given the suggestions that Departments will increasingly have to roll back their services to prioritise solely their statutory responsibilities, the Commissioner is concerned that budgetary cuts may impact most severely on the many vital early intervention and prevention services for children and their families.

The report of the Independent Inquiry into Child Sexual Exploitation in Northern Ireland, published on 18 November 2014, somewhat unusually made a key recommendation to the whole of the Northern Ireland Assembly:

‘The Northern Ireland Assembly, through the Office of the First Minister and Deputy First Minister, should re-affirm its commitment to strategic, long-term and sustained funding of services for prevention and early intervention.’

The Commissioner would reiterate this recommendation to the Executive and ask that Ministers ensure that these important services are preserved.

### **Addressing Child Poverty**

A report commissioned from the Institute for Fiscal Studies by OFMDFM and published earlier this year predicted that one in three children will be living in relative poverty by 2020, an increase of more than 8 percentage points from 2010. It also projected increases in absolute child poverty from 21.4% in 2010 to 32.9% in 2020. This is a dreadful prospect and should be a major focus for the Northern Ireland Executive in coming years.

A 2013 report authored by Donald Hirsch found that child poverty in Northern Ireland cost Northern Ireland Executive and Treasury an estimated £757 million per year, including lost earnings, services to deal with the consequences of child poverty, and extra spending. The Child Poverty Alliance have estimated the costs of eliminating child poverty as £677 million per year, which is only 3.4% of the total identifiable public expenditure on Northern Ireland.

The Commissioner has expressed a number of times her concern that a new Child Poverty Strategy has not been released, nine months after the deadline required by the Child Poverty Act 2010. This does not provide reassurance that the Executive is prioritising this vulnerable – and growing – group of children or working together to target child poverty. There are a number of actions that must be taken to address the financial hardship faced by families with children, and to ameliorate the devastating impact of poverty on these children. These must include a range of actions to increase the resources going to poor children, for example, seasonal grants in Winter and Summer, providing universal childcare and promoting the living wage with employers. Actions should also include spending on services targeted at poor children, including ‘Free school days’, expanding Surestart services and targeting extra resources to schools with a high proportion of children on Free School Meals.

### **Considerations on OFMDFM’s budget**

As the Department with the responsibility for co-ordinating delivery for children, it is

appropriate that the Commissioner would particularly scrutinise OFMDFM's budget. However, the level of information provided does not allow for any meaningful scrutiny.

The Commissioner would like to see further information on the planned OFMDFM budget allocation to the Delivering Social Change signature projects, the Early Intervention Transformation programme, and other key areas of work for children in Northern Ireland.

It is vital that these pieces of work are not short term, but that investment is maintained to influence practice and effectively deliver over the longer term. Moreover, OFMDFM needs to lead a change in approach to the planning and delivering of services, to ensure an integrated / joined up approach across government departments and agencies.

### **Considerations on Department for Education's budget**

The Department of Education's draft budget outlines a proposed reduction of £130 million against the 2014/15 opening baseline. This comprises a funding gap of £162.5million in the resource budget (4.9%) and £36.1million in the capital budget (19.7%). Overall, the draft budget identifies a total funding gap of £198 million for the 2015-16 period. The extent of these proposed cuts is most likely to significantly impact on the Department's ability to realise the five key goals outlined under its strategic priorities, including raising standards, closing the performance gap and improving the learning environment.

NICCY is deeply concerned that the proposed reductions to the education budget will affect 'frontline' services, impacting on teaching and learning and ultimately affecting children and young people. Reductions in funding for special educational needs (SEN), Early Years (Surestart) and pre-school education are proposed. While the Minister has stated a commitment to prioritising support for pupils with SEN, he notes that the introduction of the new SEN framework and accompanying preparation and capacity building will be delivered over a longer period than originally proposed. Pupils with SEN represent some of the most vulnerable children and young people in the education system and challenges already exist in terms of fully meeting their needs. Further funding constraints will only exacerbate current difficulties and create further barriers to essential services and support required by these pupils. Reductions in early years funding is also a major concern, given the value of early years education as a preventative and early intervention tool particularly in supporting children and families living in disadvantaged communities.

Furthermore, the draft budget proposes that services provided by external bodies will be cut completely. Over £3million will be deducted from vitally important programmes on safeguarding and behaviour and community relations. Such reductions will have a detrimental impact on pupils' personal, social and emotional development.

NICCY is extremely concerned that the nature of these cuts will impede the delivery of quality education and have a detrimental impact on those pupils who are most urgently in need of support and provision.

We are also deeply alarmed at the proposed cuts to youth services. The Commissioner has spent much of her final months in post meeting with groups of children and young people to hear about the issues affecting them. Out of the 34 groups with whom she met, one of their most important areas of concern was the very limited leisure provision for young people across Northern Ireland. Given this, the proposed cut of £3 million to the youth service budget, around 10% of the current – inadequate - budget, is a matter of concern for the Commissioner.

If the Executive is serious about addressing mental health issues for young people, in addition to preventing teenage drug and alcohol use, this is a very shortsighted cut. Indeed, the Executive should instead put more resources into youth provision, which will result over the longer term, in savings to crisis services. This should be considered as a 'spend to save' investment.

While acknowledging the present financial challenges, NICCY would urge the Department to carefully review the proposed budget cuts and take every possible step to minimise the adverse impacts on children and young people – its key stakeholders.

### **Considerations on DHSSPS budget**

The allocation of 2015/16 funding across service areas has not yet been finalised, therefore the figures used in the budget consultation document are illustrative only. It is based on the 2014/15 opening Department allocation of £156 million, with £220 million being carried over from the previous year, which leaves a funding gap of £164 million when inflationary pressures of a further £100 are taken into account.

We understand that the Department's preliminary assessment of current expenditure requirements forecast that financial balance can be maintained if there are no service

developments, and if significant saving targets are achieved. This is an extremely optimistic scenario, when set against a situation where current levels of spending within the HSC sector have been persistently rising above the level of funding allocations, and where a review of the health and social care system in 2011, through Transforming Your Care (TYC), warned of the immediate need to re-shape how services are delivered to allow the system to function effectively. The out-workings of this TYC review are on-going. Some parts of the system are currently experiencing very high levels of stress, which is leading to waiting times and concerns about the ability of the HSC system to maintain safe levels of care in facilities. For example, critical incidents within Accident and Emergency Departments have led to an Inquiry being set up into Emergency Health Care by the Human Rights Commission.

NICCY would be extremely concerned about the impact of such a funding gap on the HSC's ability to meet social care needs for the most vulnerable groups in our society, especially when it is one which is based on no new service developments being made. We appreciate the efforts being made by the Department and the HSCTs to identify potential saving opportunities. However, we would be concerned about the likelihood of such savings being made in the time frame required, and without some kind of upfront investment cost being required for some of the areas identified, such as those listed under acute reform and social care reform. Furthermore, for many of these areas, much more information would need to be gathered to fully understand the impact on children and young people and the ability of the system to provide safe and effective services.

The current budget does not provide details of these pressures on the full scale, nature and implications for the delivery of health and social care. The development of the Royal Victoria Hospital Regional Children's Hospital is something on which the Commissioner has been very supportive. We would be concerned that such a high priority project could be affected by funding cuts. Furthermore, the economic downturn and the related problems caused by it, such as lower employment, poverty, reduced support systems, have been identified as one of the main contributing factors to the rise in numbers of 'Children in Need' or given a 'Looked After Status'. Children in Need referrals are up by 42% between 2008 and 2014 and as of 31 March 2014, 2,858 children were 'looked after' in Northern Ireland which was the highest number recorded since the introduction of the Children (Northern Ireland) Order 1995.<sup>1</sup> NICCY would urge the Department to closely

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<sup>1</sup> DHSSPS (2015) Children's Social Care Statistics-Northern Ireland 2013/14  
<http://www.dhsspsni.gov.uk/child-social-care-13-14.pdf>, pp11 and 32)



monitor the cuts that will be made across the HSCTs, to ensure that as much protection as possible is given to ALL frontline services for the most vulnerable sections of our communities particularly children and young people. These are also those whose life chances are greatly affected by the care, treatment and intervention that is given to them in their critical early years.

### **Considerations on Cuts to NICCY's budget**

Over the eight years the current Commissioner has been in office, the budget has been reduced from £1.91 million to £1.43 million, representing a 23% cut. There has also been a cut in staffing levels over this time. It is our understanding that, in common with the other OFMDFM Arms Length Bodies, there will be a 10-15% cut in NICCY's budget in 2015-16.

Given the pressures on the Northern Ireland budget and the impact on services, all public sector bodies, including ALBs such as NICCY must share the burden of cuts. However, rather than applying uniform cuts across all ALBs, it is critical that consideration is given to their disproportionate impact on smaller organisations such as NICCY, with only 24.5 staff. It will become increasingly difficult for the Commissioner to fulfil all her statutory functions and duties with reduced resources. A 'differential reduction' approach will be necessary to mitigate against compromise of delivering on same.

At a time where resources are severely restricted, and services to vulnerable children are under threat, there is an even greater necessity for the vital scrutiny, advisory and challenge role of the Commissioner for Children and Young People. NICCY will seek to prioritise this important work in the context of severe cuts to its own budget.

### **Department of Justice**

The Department of Justice has provided very useful information on the impact of budget cuts on its work. The Commissioner is particularly concerned about cuts to the Youth Justice Agency and how cuts to Legal Aid and the Courts and Tribunals Service will impact on children and young people's access to the Justice system. Moreover, the Commissioner recognises the importance of community policing in protecting, and building positive relationships with, children and young people and believes that a cut to these services will have a detrimental impact. The cuts to community and voluntary sector funding will have a direct impact on reoffending rates which will have a detrimental impact on young people in the justice system, and on policing, court service and prison costs.

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The Commissioner for Children and Young People therefore recommends that the Executive prioritises the budget for these preventative services, Youth Justice Agency, and children's access to the justice system.

### **Department of Social Development**

In 2012, the Commissioner for Children and Young People published a Child Rights Impact Assessment of the proposals for Welfare Reform, in which the detrimental impact on children was made very clear. She also highlighted the inadequacy of the DSD EQIAs on these proposals in that they did not properly consider the impact of the proposals on children and young people in Northern Ireland. This was despite the document highlighting that most of the households detrimentally impacted by the proposals would include children.

While the DSD draft budget provides information on cuts to SSA, NIHE, CMS and Urban Regeneration, there is little or no analysis of the impact on people in communities, other than employees of the Department and its agencies. There is also little mention of children other than the protection of funding to CMS and to the Women's Childcare Fund, both of which are welcomed.

However, it is problematic that a lack of clarity remains over how Welfare Reform will be taken forward. There is a potential for children already living in low income households to be severely affected, particularly where they or a family member has a disability. The Executive as a whole must ensure that it protects these vulnerable children and their families as it considers the way forward on Welfare Reform.

### **Conclusion**

It is vital that Government economic policy is developed in conjunction with social policy, as it is clear that economic development does not automatically benefit all within society equally. Indeed, as we have seen, economic recession does not automatically hit all within society equally, and NICCY has grave concerns at the potential impact of the forthcoming budget cuts on vulnerable children and young people. Over recent years since 2007 the poorest families have experienced disproportionate unemployment, homelessness and hardship. We understand that over the past 1-2 years the number of Food Banks has grown from 2 to 14 across Northern Ireland.

The Executive must work together over 2015-16 and thereafter to ensure that budget cuts do not impact disproportionately on poor families and vulnerable children. Executive ministers must also identify and ringfence preventative and early intervention services, as to cut these will have a detrimental impact on children and their families, and cost considerably more in the future. These should be prioritised first before allocating money to the 'Change Fund'.

The Children's Commissioner requests that she be proactively consulted about the details of any cuts to services for children over this period.

## **Appendix: Excerpt from UNCRC working paper: ‘States parties’ obligations: realizing economic, social and cultural rights. Are child rights a luxury during an economic crisis?**

November 2009

### **Overview: The principle of “progressive realization”**

When a State party ratifies the Convention on the Rights of the Child (CRC), it agrees to be bound by a series of obligations to ensure that all children are able to fully enjoy the rights recognized in the Convention. Specifically, Article 4 provides that to give effect to the Convention's principles and provisions, States parties must undertake concrete steps, including “all appropriate legislative, administrative, and other measures.” These obligations are universally applicable, however, the drafters understood that the costly nature of reform initiatives, particularly for economic, social and cultural rights, could prove prohibitive for many States parties. As a result, Article 4 elaborates that in relation to economic, social and cultural rights, measures must be undertaken by States parties “to the maximum extent of their available resources.” In so doing, the Convention takes up the wording of Article 2 of the International Covenant on Economic, Social and Cultural Rights and introduces the concept of “progressive realization.”

Progressive implementation is explicitly articulated in the CRC as an option with regard to implementation of the rights to health care (art. 24) and education (art. 28), but perhaps most significantly under Article 6 which recognizes that every child has the inherent right to life and that States parties must ensure “to the maximum extent possible” the survival and development of the child. In other words, Article 6, which is to be read in conjunction with Article 4 and Article 27 on the right to an adequate standard of living, obligates States parties to commit the maximum available resources to enable children to fully realize their basic rights to shelter, food, education, health and social security.

### **The myth**

Nevertheless, based partially on a historical fallacy of a hierarchical distinction between civil and political rights on one hand and economic, social and cultural rights on the other, some States have unfortunately understood progressive realization to mean that their obligations to implement economic, social and cultural rights are of a less urgent nature and can be postponed until a more economically prosperous time. This perspective is

particularly relevant, and disconcerting, during the current global economic crisis. Although the Committee has noted that “investing in children” is a concept now widely accepted as the best guarantee for achieving equitable and sustainable human development, as Governments revise their financial priorities and fiscal policies, protecting and promoting the rights of children through the allocation of resources is viewed as less of a fundamental priority and more of a luxury.

### **The reality**

According to the Secretary-General's 2009 progress report on the Millennium Development Goals (MDGs),<sup>2</sup> an estimated 55 million to 90 million more people are living in extreme poverty than were anticipated before the current economic crisis. It is of significant concern that the majority of these individuals are children, women and families, particularly given that research has clearly demonstrated that extreme poverty often leads to or exacerbates violations of the most basic rights of the child. Children experience poverty in their growing minds, hearts and bodies, and in most cases they are either unaware of their rights, or are unable to exercise them.

Recognition of the devastating consequences of extreme poverty and its exponential impact on the realization of all other rights, including the right to development, was a central focus of the United Nations Millennium Declaration and a guiding impetus for the establishment of the universal, but flexible indicators and time-bound targeted MDGs. The Secretary-General's 2009 assessment report noted that nine years later, progress in the fight against extreme poverty and hunger, areas in which children often bear the brunt of the burden, has been either inconsistent or has stalled. Further, despite a target to reduce the under-five mortality rate by two-thirds by 2015, nine million children under the age of five died in 2007 (down from 12.7 million in 2005), primarily in developing countries due to largely preventable or treatable causes such as pneumonia, diarrhoea, malaria, measles, HIV and malnutrition.

### **Obligations under a rights-based framework**

In light of the continuing challenges faced by children for their very survival, challenges which are unquestionably magnified during the burgeoning economic crisis, how do we shift the attention back to strategically prioritizing the rights of children and ensure that States parties give effect to their obligations to respect, protect and fulfil the rights

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<sup>2</sup> United Nations Millennium Declaration, A/RES/55/2 (2000)

recognized by the Convention? One way is to remind States that adopting and implementing a rights-based framework, based on the principles and provisions of the Convention and the other international human rights treaties, can facilitate the effective realization of legislative measures, development plans, national plans of action, and sector-wide poverty reduction strategies, and achievement of the goals and targets of the MDGs.

Many States parties argue that although they are committed to protecting and promoting the rights of children, they have insufficient resources to implement these measures. The Committee has always been cognizant of the economic restrictions faced by many States. Nonetheless, through its General Comments, Concluding Observations and at its 2007 Day of General Discussion on “**Resources for the Rights of the Child - Responsibility of States: Investments for the Implementation of Economic, Social and Cultural Rights of Children and International Cooperation,**” the Committee has continuously rejected financial hardship as a legitimate justification for failures of States parties to “take any, or enough of the required financial or technical measures.”

Instead, it has reminded them that while major reforms may be undertaken over time, progressive realization imposes an immediate obligation on all States parties, irrespective of their available resources, to undertake targeted measures as a matter of priority, to satisfy the core minimum content of economic, social and cultural rights, ensuring the minimum conditions under which a person can live in dignity. States parties must consequently demonstrate that they have undertaken all possible efforts to ensure the widest possible enjoyment of the relevant rights, even under “prevailing circumstances”, while paying particular attention to the most disadvantaged and marginalized members or groups of society. As noted by the Secretary-General in the 2009 MDG progress report, the unfavourable economic climate requires the international community to take “the hard decisions needed to create a more equitable and sustainable future.”

### Finding solutions

In suggesting solutions to economic limitations, the Committee has highlighted that Article 4 also provides States parties with the opportunity to seek assistance within the framework of international cooperation; although there are divergent views on whether or not this amounts to a legal obligation. It has stressed that children’s rights are a shared responsibility between developed and developing countries, and that States parties have a duty to provide (rights-based) assistance to other States whenever they are in a position to

do so; a view endorsed by the 20/20 Initiative. And, according to the outcome document of the General Assembly's Special Session on Children "A World Fit for Children," "[p]romoting healthy lives, including good nutrition and control of infectious diseases, providing quality education, protecting children from abuse, exploitation, violence and armed conflict and combating HIV/AIDS are achievable goals and are clearly affordable for the global community."<sup>3</sup>

The Committee has provided additional guidance on the substantive meaning of Article 4 to promote broader, more holistic ways to interpret and implement this provision. For instance, with regard to "available resources," the Committee has emphasized that States parties should look beyond monetary units to any resources that can contribute to the implementation of children's economic, social and cultural rights, including human, technical, organizational, natural and information resources, all of which should be periodically assessed in qualitative and quantitative terms. Parents and families should furthermore be supported as among the most essential available resources.

Finally, the Committee is of the view that States parties can more effectively identify and measure available resources through the development of comprehensive, disaggregated child-specific indicators that are tied to time-bound targets. Such measures can assist States parties in improving their policy formulation in relation to the rights of the child, and enhance the monitoring and evaluation of progress or regression in the realization of children's rights.

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<sup>3</sup> A/RES/S-27/2 (2002)