

## EMAIL

Modern Slavery and Human Trafficking Branch  
Protection and Organised Crime  
Department of Justice  
Castle Buildings  
Stormont Estate  
Belfast  
BT4 3SQ

Ref: 22/CJS/KY/65

17 May 2022

To whom it may concern

**Re: Consultation on measures to strengthen the response to Modern Slavery and Human Trafficking**

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.

My remit includes children and young people from birth up to 18 years, or 21 years if the young person has a disability or is care experienced. In carrying out my functions, NICCY's paramount consideration is the rights of the child or young person, having particular regard to their wishes and feelings. In exercising such 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 comment on the consultation but notes that this is not intended to be a comprehensive response but instead highlights key concerns in relation to the safeguarding of children at risk of human trafficking and modern slavery. We are

supportive of the intention of the Department to strengthen existing legislative protections for victims of modern slavery and to address concerns raised by the 2020 Criminal Justice Inspectorate (CJINI) report on Modern Slavery and Trafficking in Northern Ireland<sup>1</sup> and the UK Independent Anti-Slavery Commissioner's 2019/20 Annual Report.<sup>2</sup>

### **Comments on proposals**

**Slavery and Trafficking Risk Orders (STRO):** in relation to the introduction of the Orders, which have been highlighted by both CJINI and the UK Independent Anti-Slavery Commissioner as potential tools to improve protections against modern slavery, NICCY **welcomes in principle the proposal to introduce STROs.** I note the importance of ensuring that the Orders are effective, with any lessons on implementation in other jurisdictions being learned and appropriate legal and procedural safeguards for individuals subject to such Orders being put in place. NICCY also draws attention to the importance of ensuring that the introduction of STROs and similar tools does not detract from a concerted focus on improving criminal investigation and prosecution in respect of these complex crimes. We request further detail on the application of STROs to child victims up to the age of 18 as we are mindful that existing arrangements, such as abduction offences and recovery orders, do not protect all under 18s.<sup>3</sup>

**Duty to Notify:** NICCY also **welcomes in principle the commencement of the Duty to Notify requirement on public authorities** and agrees that this should be accompanied by training and awareness raising. While we note that notification should be automatic where a victim is under 18, we are aware that introduction of the duty more generally should improve data and understanding about the scope and scale of slavery and trafficking in Northern Ireland and better inform disruption and investigation activity.

**Police Powers:** we acknowledge that the document states that consideration of additional police powers has arisen from operational concerns. In considering the introduction of additional search powers, we note that the existing ability of police to search individuals and seize materials, such as mobile phones, is key to the investigation of a wide range of potential crimes and **request further information on the need for new powers specifically relating to modern slavery and human trafficking offences.**

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<sup>1</sup> <http://www.cjini.org/getattachment/df690ef3-5352-457e-bbeb-ea2957b531b0/report.aspx>

<sup>2</sup> [https://www.antislaverycommissioner.co.uk/media/1461/ccs207\\_ccs0520602790-001\\_iasc\\_annual-report-2019-2020\\_e-laying.pdf](https://www.antislaverycommissioner.co.uk/media/1461/ccs207_ccs0520602790-001_iasc_annual-report-2019-2020_e-laying.pdf)

<sup>3</sup> <https://www.niccy.org/publications/2021/september/24/justice-sexual-offences-and-trafficking-victims-bill/>

**Additional comments:** we note with some concern that the document makes no reference to a **review of the effectiveness of Section 22 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 and highlight that this should be progressed.** The review has been recommended by CJINI who noted it should have a particular reference to cases involving children and young people.<sup>4</sup> The provision, which was established to ensure that victims of modern slavery, including children, are protected against prosecution for offences they were forced to commit while being subjected to slavery or trafficking, is an important legal safeguard and concerns about its effectiveness should be addressed with urgency. We draw attention to the 2016 recommendation of the United Nations Committee on the Rights of the Child to the UK and devolved governments that a clear commitment to the non-prosecution of child victims should be in place.<sup>5</sup>

Further to this, we note that CJINI recommended that the Department should consult on legislation to contain a requirement for jury directions to be given in modern slavery and human trafficking cases to enable juries to approach court evidence in a more informed manner and request an update on this.

Following on from this we also draw attention to CJINI's concern that the **review of the law on Child Sexual Exploitation is progressed** by the Department and, as documented in our evidence<sup>6</sup> on the draft Justice (Sexual Offences and Trafficking Victims) Bill which sought to progress limited elements of the review, there are a significant range of areas which require further legal reform.

Finally, I would like to highlight that the consultation process and next steps provide an important opportunity to consider more broadly how arrangements to protect and support child victims of trafficking and slavery can be strengthened, including through development of a child centred National Referral Mechanism and ensuring that processes and procedures **take full account of Child Criminal Exploitation**, as outlined in NICCY's 2021 paper.<sup>7</sup>

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<sup>4</sup> <http://www.cjini.org/getattachment/df690ef3-5352-457e-bbeb-ea2957b531b0/report.aspx>

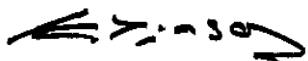
<sup>5</sup> UN Committee on the Rights of the Child (2016) Concluding Observations on the Fifth Periodic Report of the United Kingdom of Great Britain and Northern Ireland; para. 83(C).

<sup>6</sup> <https://www.niccy.org/publications/2021/september/24/justice-sexual-offences-and-trafficking-victims-bill/>

<sup>7</sup> <https://www.niccy.org/publications/2021/july/30/advice-to-government-child-criminal-exploitation-safeguarding-children-and-young-people-from-abuse-and-exploitation/>

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

Yours sincerely



Koulla Yiasouma  
**Commissioner**