

**VIA EMAIL:** [GTCNIconsultation@education-ni.gov.uk](mailto:GTCNIconsultation@education-ni.gov.uk)

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Dear Team

## **Consultation on functions delivered by the General Teaching Council for Northern Ireland**

The Northern Ireland Commissioner for Children and Young People (“NICCY”) was established 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 up to 18 years, or 21 years, if the young person is disabled or in the care of social services. 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 to the Department on Education on the functions assigned to the General Teaching Council for Northern Ireland (“GTCNI”) and how these can be delivered effectively and efficiently in the best interests of children and young

people. Our response first briefly outlines NICCY’s previous actions relating to GTCNI, before responding under the sections identified in the consultation questionnaire.

### **Earlier action by NICCY**

The following summary is not intended to revisit historical events but instead to contextualise the advice given in this response.

In 2020, in our role as a ‘Prescribed Person’ under the Public Interest Disclosure Order 1998 (and subsequent amendments), NICCY received a Protected Disclosure. The content of the disclosure highlighted that:

- GTCNI was not effectively performing the safeguarding role as intended on its foundation;
- The role of GTCNI was lacking in terms of a process of graduated sanctions in the event such were needed; and
- People raising these related concerns considered that they were not being engaged with effectively.

Throughout the process of investigation, NICCY experienced significant difficulty in obtaining clarity on issues of concern, resulting in protracted correspondence and meetings with representatives of GTCNI and Department of Education. It was asserted that the legislative basis of GTCNI was flawed, effectively limiting the scope of GTCNI’s functions, duties and powers. On that basis, NICCY identified the need for a comprehensive approach going forward, including:

- substantive investigation as to what was and not working well;
- review and amendment of legislative basis;
- need for transparency; and
- processes for ongoing appraisal / oversight to ensure efficacy.

### **1. GTCNI Functions**

NICCY considers it essential that all the functions and roles of GTCNI, as originally envisaged by legislation and gaps subsequently identified, be performed:

- effectively (mindful of the above and the BTMM effectiveness review);
- with transparency and accountability;

- in a manner prioritising the wellbeing and safeguarding of children and young people; and
- with ongoing consultation with relevant stakeholders.

## **2. Delivery of Functions**

In keeping with NICCY's role and remit the following sets out those functions which would be required in the best interests of children and young people to include:

- Registration (professional qualifications);
- Regulation;
- Misconduct Investigations and application of graduated sanctions as appropriate and proportionate;
- Teaching Standards (professional competence);
- Standards of Conduct;
- Scope to provide advice on developing and enhancing the profession.

## **3. Professional Bodies / Models**

As a minimum, NICCY considers that any new professional body or changes for GTCNI must comprise an organisational structure that operates independently while maintaining accountability and that this organisation should be subject to periodic review and investigation as required.

Following review of the models outlined in consultation documentation, NICCY considers that the model / structure that is currently operational in Scotland is a good example to inform the structure of a new body in Northern Ireland. This is on the basis of the independence of that body, its representative structure, and its range of functions which include:

- Registration;
- Education standards;
- Investigation;
- Input to review of standards;
- Capacity to make recommendation;
- Proportionate and scaled powers of penalty.

There are, however, elements from others that Northern Ireland can learn from. Wales's EWC also has some good practice e.g.:

- maintains a Code of Professional Conduct and Practice for the education workforce;
- investigates and hears allegations of unacceptable professional conduct, serious professional incompetence or relevant criminal offences that might call into question a registered practitioner's fitness to practise.

Similarly, the Republic of Ireland's TCI functions include those to e.g.

- establish, publish, review and maintain codes of professional conduct for teachers, which shall include standards of teaching,
- conduct inquiries into and where appropriate, impose sanctions in relation to, the fitness to teach of any registered teacher.

#### **4. Registration / Membership**

NICCY considers it vital that all Teachers in NI are members of a professional body. NICCY also considers that the exclusion of 'tutors' from registration and regulation is a concerning gap and strongly recommends that this is addressed going forward.

#### **5. Board Composition**

NICCY notes BTMM findings that the GTCNI Council membership of 33 was too large and may potentially be unwieldy. While NICCY's focus is on the best interests of children and young people, it is nonetheless important to note that future membership should be representative, cyclical and reflective of the growing diversity in NI society insofar as possible. An appropriate skills mix and range of experience is important to ensure robust governance and processes in effectively fulfilling required functions are crucial so that previous concerns NICCY highlighted do not recur.

#### **6. Regulation**

Furthermore, NICCY considers it imperative that regulation entails effective mechanism(s) for sanction. As in the case of the Scottish model, the primary aim of sanctions should be to have a protective rather than a punitive effect, and NICCY recommends that these are:

- proportionate (including a range of scaled options in terms of their severity);

- compliant with legal frameworks (to include NI and UK legislation, European Convention on Human Rights, and United Nations Convention on the Rights of the Child); and
- focus on the wellbeing and safeguarding of children and young people.

### **Legislative reform**

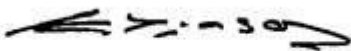
As noted above, our investigation of a Protected Disclosure led NICCY to recognise that legislative restrictions were acting as a substantive barrier to GTCNI's capacity to undertake its intended functions. We considered that legislative change was needed to address this. Going forward therefore:

**NICCY strongly recommends that: Relevant parties produce a robust, detailed legislative framework and regulations appropriate to ensure the highest professional conduct and practice in educating/working with our children and young people.**

NICCY is mindful that legislative reform may be difficult in current political climate. If so, NICCY recommends that interim mechanisms must be put in place to ensure regulation and safeguarding pending passage of legislation.

My office looks forward to continuing to engage with the Department of Education as this matter progresses. In the meantime, should you require further clarification, please do not hesitate to contact my office.

Yours sincerely



Koulla Yiasouma  
**Commissioner**