



**ENOC 15<sup>th</sup> ANNUAL CONFERENCE**

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*"The respect of the rights of children and young people in institutional care"*

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14, 15 and 16<sup>th</sup> September 2011  
Warsaw, Poland

Name of the member institution : **Northern Ireland Commissioner for Children and Young People**

Current Ombudsperson: **Patricia Lewsley**

**I. Role and structural organisation**

- Legal framework
- Principal functions as defined by law
- Structural organization

**Role & Structure of the Northern Ireland Commissioner for Children & Young People (NICCY)**

The office has four departments:

- Legal & Casework;
- Communications and Participation;
- Policy and Research; and
- Corporate Services.

These departments were created to reflect the role and remit of NICCY as outlined in our legislation.

**NICCY'S Statutory Role**

NICCY was established by the Commissioner for Children and Young People (Northern Ireland) Order 2003.

The principal aim of the Commissioner is highlighted within Article 6 of the Order where it states that the Commissioner's role is to safeguard and promote the rights and best interests of children and young people. In determining how to exercise her functions under the Order, in relation to any particular child or young person, the Commissioner's paramount consideration is for the rights of the child or young person.

In exercising her functions under this Order, the Commissioner also has regard for the importance of the role of parents in the upbringing and development of their children and for any relevant provisions of the United Nations Convention on the Rights of the Child (UNCRC).

## **II. Individual complaints (if the institution has a competence to handle individual complaints)**

- Scope of competences of the Ombudsperson in handling individual complaints
- Relevant statistics (if available) on:
  - Number of cases for the year 2010-2011 or for a given period in between,
  - Complaints' main authors. What is the percentage of complaints initiated by children,
  - Age average of concerned children,
  - Area of complaints (ex: situations relating to schools, social and housing problems etc.).

### **Individual Complaints**

The general powers of the Commissioner, contained within Article 8 of the Order, state that the Commissioner may provide advice or information on any matter concerning the rights or best interests of children or young people. The Commissioner may also make representations or recommendations to any body or person about any matter concerning the rights or best interests of children and young people.

Article 11 of the Order relates to individual complaints. The Commissioner can provide assistance, including financial assistance to a child or young person, in making a complaint to a relevant authority. The Commissioner can do so whether either the rights of the child or young person have been infringed by any action taken by a relevant authority or whether the interests of the child or young person have been adversely affected. The Commissioner may act on behalf of a child or young person making the complaint and in any investigation or other proceedings conducted by that authority pursuant to that complaint. This power is restricted, in that the Commissioner shall not provide any assistance unless it appears there is no other person or body likely to provide such assistance or take such action.

Article 12 gives the Commissioner the power to conduct an investigation into a complaint made by a child or young person, that his rights have been infringed by action taken by a relevant authority or that his interests have been adversely affected by such action. The complaint must raise a question of principle and it must not fall within an existing statutory complaints system. This power is restricted by Article 13 which states that the Commissioner shall not conduct an investigation if the complainant has nor had a right of appeal to a tribunal or a remedy by way of court proceedings, unless satisfied that it would have been unreasonable to expect the complainant to resort to same.

### **Statistics for April 2010 to March 2011**

Number of cases - 661

Complaints came in the most part from parents, carers or young people themselves. However, we were also received initial referrals from solicitors, youth workers, politicians, social workers and school teachers. 44% related to children aged 6 - 15 years.

Areas of cases: Special Educational Needs, bullying, school transport, suspensions and expulsions from school, community safety, housing provision, education, disability and provision of services.

### **III. Expressed opinions, statements, policy recommendations and/or proposals for legislative and/or other reforms**

Over the past year, NICCY has provided advice to government on a wide range of topics, largely in relation to policies or pieces of legislation that were in development. Some of these include:

- The Early Years Strategy - We expressed concern at the limited nature of the strategy, as it did not address the rights and needs of early years children in a holistic manner, focussing instead solely on issues relating to education.
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- The Cohesion, Sharing and Integration Strategy - this draft strategy was written from a very negative perception of young people, and was widely criticised.
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- The Safeguarding Bill - NICCY has engaged in the development of this Bill for a number of years and in 2011 provided advice to the Health Committee who subsequently negotiated a number of changes in the Bill, including the need to ensure the participation of children and young people in the Safeguarding Board, which the Bill establishes.
- The Community Safety strategy - Again, this was the latest stage in a process of advising the Department of Justice on this Strategy. While initial policies included proposals to duplicate some particularly severe approaches from England, the final document had taken on board a number of our arguments and had not contained these proposals.
- Speech Language and Communication Strategy - this Strategy was the outcome of two reports NICCY produced in 2006 and 2007 on problems of children accessing Speech and Language Therapy. As a result of NICCY's work, a number of working groups were established that resulted in this Strategy.
- The Child Poverty Strategy - The UK Child Poverty Act 2010 set in place a statutory duty for the Northern Ireland Executive to produce a strategy to tackle child poverty by March 2011. NICCY was disappointed in the draft Strategy because of the lack of clarity in how child poverty was to be addressed, and very few changes were made to this before it was published. We continue to engage with the Northern Ireland Executive as it produces its Delivery Plan for the Strategy.
- The Play Implementation Plan - Again, NICCY has engaged with the Northern Ireland Executive over a prolonged period of time in relation to the development of the Play Strategy and subsequent Play Implementation Plan.
- The draft budget 2011-15 - The Commissioner was very disappointed at the lack of detail provided in the Northern Ireland Draft Budget 2011-15 in relation to what was planned in terms of services for children, and how they might be affected by budget cuts. Her over-riding concern was that children were invisible in the budget; and therefore is planning to monitor budget cuts and announcements over the period of the budget to assess the impact on children.
- Historical institutional abuse - Following the publication of reports into Institutional abuse in the Republic of Ireland, and calls from victims of institutional abuse in Northern Ireland, the NI Executive has announced that it will hold an Inquiry into historical cases of child abuse in institutions within its jurisdiction. NICCY has provided advice on the Terms of Reference for the Inquiry, in relation to how it should draw lessons from the past to safeguard children in institutional care today and in the future.

In February 2011, NICCY produced a twelfth and final briefing of our 'Make it Right' campaign (see Section V for more details). Each briefing focussed on a key child rights issue, and contained three policy calls to government. Since the last ENOC conference the topics for these briefings were:

- Education
- Mental Health and Emotional Wellbeing
- Youth Justice
- Protecting children

The 12 areas and 36 calls have formed the basis of the Commissioner's advice to the new Northern Ireland Executive following elections to the Assembly in May 2011. The Commissioner has met with Ministers, civil servants, government advisors and political representatives to provide an overview as to the critical child's rights issues and to advise them as to what they will include in their Programme for Government 2011-15.

In 2008, the UN Committee on the Rights of the Child reviewed the UK Government's report to the Committee, and produced Concluding Observations. The expected date that the UK Government will report to the Committee next is 2014. NICCY is currently working with the offices of the Childrens Commissioners in England, Wales and Scotland to produce a 'Mid Term Report' for the UK and devolved governments, which provides an assessment of progress against the 2008 Concluding Observations. The four offices will publish this in November on the anniversary of the UNCRC coming into force.

In 2010/11, the Legal and Casework department submitted a written intervention in a case before the Supreme Court regarding the use of precautionary suspensions in schools. The outcome of the case was that such suspensions were ruled illegal. NICCY then met with the Department of Education to discuss what actions they were going to take as a result of this case. NICCY continue to monitor the situation.

The Legal and Casework department also submitted a written intervention in a case which is to be heard by the European Court of Human Rights. This case involves the right to privacy of a young person.

#### **IV. Research, investigation, studies**

In September 2010, NICCY published a report on children's experiences of the current arrangements used to transfer pupils from primary to post-primary schools in Northern Ireland. The current procedures are controversial and have attracted criticism from educationalists, politicians and key stakeholders. NICCY was concerned about the impact of the procedures on children and felt it was important that their voices were included in the ongoing debate about the issues. The '**Talking Transfer**' report documented the experiences and views of almost 1000 children involved in the transfer process along with their proposals for changes to the current arrangements. Following publication of the report (and a children's version), the Commissioner met with the Education Minister (in post at that time) and a range of other key stakeholders to discuss the issues raised by children, express her concern about the absence of children's voices from ongoing discussions, and to call for the introduction of an equitable, child-centred transfer process. NICCY is continuing to press for changes to the current arrangements.

In January 2011, NICCY commissioned researchers from Queens University Belfast to produce a report on the **barriers to effective government delivery for children in Northern Ireland**. The report will be published in October

2011 and it has identified barriers such as delays in policy development, a lack of 'joined up working', changes to staffing, inadequate data collection and analysis, and a lack of resources to implement policies and strategies for children. Recommendations include:

- Re-prioritising children in the new Programme for Government
- Making children visible in budgets - and ring-fencing resources for children
- Putting in place a statutory duty to cooperate when planning and delivering services to children
- Building capacity of government officials in relation to children's rights.

## **V. Communication, Promotion and Publications**

The Make It Right (MIR) campaign, marking the 20<sup>th</sup> Anniversary of the UNCRC was initiated in September 2009 and continued into 2010/11.

The purpose of MIR was to support young people to campaign for Government action to address the very real issues affecting them in Northern Ireland. Through the 12 months of the year-long campaign, 12 policy documents and 12 campaign documents for children and young people were published along with an end of campaign publication which highlighted all the positive work that young people had carried out over the preceding year. Each policy briefing identified three calls to action for Government and specific Government departments. Campaign briefings were also published each month specifically for children and young people.

Evaluation of the campaign along with the evidence gathered helped NICCY develop its next three year Corporate Plan (2011/14) and more immediately into its 2011/12 Business Plan. MIR through the calls to Government, give the organisation focus to ensure that children and young people receive the services and protection to which they are entitled. Feedback to date would indicate that when asked, participants have reported an improved understanding of the UNCRC and who to contact if they feel their rights are being breached.

NICCY also undertook a number of additional activities to raise awareness of and promote children's rights:

- The Democra-School programme, promoting further participation in schools through the medium of school councils, continues to move forward. NICCY has received support from the main teacher unions and is working closely with the Department of Education to ensure appropriate guidance is given to school principals and governors.
- To support the objective of raising awareness of UNCRC, the 'Train the Trainers' programme continues with work in the two main teacher training colleges. This is expanding with further training opportunities being explored with youth work and community work students. Also, in partnership with St Mary's teacher training college, NICCY has developed a Masters in Education module on Children's Rights. This will be offered to teachers in the near future.
- The NICCY Youth Panel (NYP) have been involved in a number of initiatives to promote children's rights throughout 2010/11:
  - o NYP marked International Day of Youth on 12<sup>th</sup> August by members being interviewed live on radio on issues affecting children and young people
  - o 4 NYP members took part in a live radio discussion to mark World Mental Health day on 7<sup>th</sup> October.

- o The NYP decided to make negative stereotyping of children and young people the focus of their initiative for the 2010/11 business year. Action included promoting the campaign at key events around Northern Ireland; creating new and innovative ways to help people understand what stereotyping is; meeting with key politicians to make them aware of the issue of negative stereotyping; creating a campaign pack to help anyone who wants to help people get involved and creation of promotional material to support the campaign.

NICCY has a **duty to communicate** to children and young people and their families. We engage both formally and informally with a vast range of stakeholders from children and young people themselves to Government, the media and many groups and individuals. The aim of this focuses on raising awareness and promoting the rights of children and young people as laid out in the UNCRC. Some of the activities we undertook to fulfil this duty included:

- Participation staff worked with almost 8,000 children and young people and over 4,500 adults between April '10 and March '11, explaining the work of NICCY, discussing the UNCRC and explaining how it is relevant for every child and young person in Northern Ireland.
- Engaging the NI Assembly: In addition to the work undertaken as part of the Make It Right Campaign, the Commissioner presented details of her work and her views on key issues to several NI Assembly statutory committees. NICCY was also present at party political conferences.
- In addition NICCY supported an engagement programme to mark the anniversary of the signing of the UNCRC which saw young people challenge political party children's spokespeople in a 'speed dating' format event.
- Media: the Commissioner has enjoyed another year of supportive coverage in the Northern Ireland media, with more than 90% of stories about NICCY having a positive tone.
- NICCY has supported young people delivering their own messages in the media, particularly around negative stereotyping.
- Online: NICCY has further developed its online presence, with the NICCY website ([www.niccy.org](http://www.niccy.org)) once again having a year-on-year increase in visitors and page views. A pilot social media project saw the Commissioner launch a Twitter page [www.twitter.com/nichildcom](https://twitter.com/nichildcom). This has proved a success with almost 300 followers: the social media presence will be reviewed this coming year.
- Special programmes - NICCY also continued specific programmes to engage with large groups of young people, e.g. our Year 8 Schools Awareness programme.

## VI. Other activities

- Innovative projects/good practices

**The Commissioner's Participation Awards:** In early 2011, plans were initiated to develop the Commissioner's Participation Awards through a participative process for young people to identify and reward best practice. The aim of the awards is to encourage government and decision-making bodies to ensure participation of children and young people in decisions and policies that affect them, by highlighting and awarding best practice in this area. The Awards will be delivered during 2011.

**Participation Policy Statement of Intent:** To further support and work towards mainstreaming participation practice within the individual government departments, NICCY developed a 'Participation Policy Statement of Intent' and asked all Ministers to consider and endorse.

The document builds on the commitment as identified in the NI Executive's 10 year Children's strategy and 3 year action plan to involve children and young people in the decision making process. Although presently aspirational, NICCY urge and expect statutory bodies to work towards this over time and ultimately, develop participation policies and mainstream into all practice. To date 10 out of the 12 Government Ministers have endorsed the Statement of Intent.

**ENYA / ENOC:** NICCY contributed to the development of the ENYA programme throughout 2010/11 including:

- The NICCY Youth Panel writing the ENYA E-Forum Code of Conduct for all young people engaged with the forum.
- NICCY's Participation Staff co-wrote the guidelines for Moderators, their roles and functions.
- Participation staff acted as moderators on e-forum discussions.
- Developed funding proposal for ENOC's engagement with children and young people through ENYA during 2011 including hosting a seminar in Belfast.

**Council of Europe:** NICCY represents ENOC in, and contributes to, the Council of Europe's ad hoc committee set up to produce a draft recommendation for the Committee of Ministers in the 47 member states, on child and youth participation.

This work includes the development of a self-assessment tool comprising key quantitative and qualitative measures. The objectives of the tools would be to provide

- a. A 'checklist' for countries wishing to assess as to how far they implement the child's right to be heard and listened to
- b. A method for the Council of Europe to assess and compare the quality and level of child and youth participation in the member states.

The draft recommendations are due to be completed for circulation to member states by the end of the year.