



# **ANNUAL COMPLAINTS AND LEGAL REPORT 2022-2023**

## Contents

Introduction by NICCY Chief Executive	3
The Legal & Investigations Team	5
The Statutory Duties and Powers of NICCY	6
Legal Work Categories	9
Complaints Casework Service	11
Statistical Overview 2022-2023 Business Year	13
Complaints Casework: Sample Cases	20
Evaluation Feedback	26
Legal Proceedings Summary	29
▶ Interventions	30
▶ Formal Investigation	31
▶ Legal Funding Support	31
▶ Strategic Litigation	32
Protected Disclosures	33
Continuing Professional Development Events	36
Contact NICCY's Legal and Investigations Team	37



# INTRODUCTION



Welcome to our Annual Complaints and Legal Report for the 2022-2023 business year setting out the work and functions of NICCY's Legal & Investigations (L&I) Department. This year we received 356 new complaints, closed 324, and brought

forward 83 from the previous year, with 118 to be carried forward into the next business year. It is pertinent to note at the outset that the complexity of cases has increased – perhaps an indication of the 'stresses' being felt across our public sector services. As always, the issues and/or trends identified through our legal work 'informs' our policy and research work and contributes to NICCY's advice provided to Government and relevant authorities.

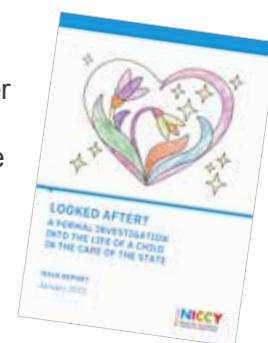
'The Commissioner for Children and Young People (Northern Ireland) Order 2003' ('the Order') established the Office, the principal aim of which is *'to safeguard and promote the rights and best interests of children and young people in Northern Ireland'* (Article 6). As the independent human rights institution (IHRI) for children in this jurisdiction, in carrying out the functions of the Office, paramount consideration must be given to the rights of the child or young person. In so doing, NICCY *'shall have regard in particular, to the ascertainable wishes and feelings of the child or young person (considered in light of age and understanding) and to all relevant provisions of the United Nations Convention on the Rights of the Child ('UNCRC')*. NICCY is also to have regard to the importance of the role of parents in the upbringing and development of their children.

Furthermore, under the founding legislation, the Commissioner has a statutory duty to keep under review the adequacy and effectiveness of law, practice and services provided by relevant authorities. As set out in a later section, NICCY has a range of duties and powers used in addressing breaches of children's rights; our Legal & Investigations Department plays a fundamental and key role in this work.

I was delighted this year to welcome a new Head of Department, Joanne McGurk, who joined us in October 2022. Joanne qualified as a Solicitor in 2011 and has devoted her legal career to the rights of children and young people, which she is continuing at NICCY. In previous roles she has gained experience in private and public family law, domestic abuse law, education law and judicial reviews in relation to the education and rights of children and young people. The L&I Department is at its highest number since NICCY was set up – which, as we have seen, is vital in progressing the demanding range of areas of legal work.

This year has seen NI 'emerging' from the grave impacts of the COVID pandemic amid fresher challenges facing us. The worst cost-of-living crisis in 45 years has been causing extreme difficulties for many across society, while Northern Ireland has been without an Assembly and Executive following the May '22 elections. However, NICCY, like many, continued its vital work safeguarding the rights of our children and young people. This year, we issued our Report on our first formal investigation i.e. 'Looked After? A Formal Investigation into the Life of a Child in the care of the State'

This was launched in January by our outgoing Commissioner Koulla Yiasouma, who finished her second term in office on 1 March 2023. Following publication of the report, NICCY, as set out in our legislation, issued formal notices to the relevant authorities on the recommendations made based on systemic failings and issues identified during the course of the investigation. Monitoring of the implementation of these will take us into the next business year. It is important to note that the Report, while hard hitting, was welcomed by stakeholders as a catalyst for improvements to be made in respect of children in the care of the State.



We have been encouraged further this year by increasing reference to NICCY by the judiciary, including in relation to interventions in cases as/ where necessary. Also on a positive note, we very much welcomed the inclusion of our training modules on Children's Rights and Child Rights Impact Assessments (CRIA) on the NICS training platform 'Links' – these are to be 'rolled out' via our website to expand access to other statutory bodies i.e. Councils, ALBs and others with our aim to make these available to our NGOs.

I wish to commend the L&I Department Staff overall for their dedication and commitment in addressing breaches of children's rights and significantly contributing to better outcomes for children and young people.

**Mairéad McCafferty**  
Chief Executive

## The Legal and Investigations Team

The L&I Department is headed up by NICCY's new Head of L&I, Joanne McGurk, who joined us in October 2022; prior to that, our Chief Executive, Mairéad, carried out this role.

The L&I Team is comprised of:

- ▶ Joanne McGurk LLB Hons  
Head of Legal & Investigations Department
- ▶ Peter McGettrick BCL  
Senior Legal & Investigations Officer
- ▶ Robert Hunter MLegSci  
Senior Legal & Investigations Officer;
- ▶ Shari Holmes LLB Hons  
Legal & Investigations Officer;
- ▶ Deborah Crawford LLM  
Legal & Investigations Advice Officer; and
- ▶ Steven Chapman  
Legal & Investigations Administration Officer.

## Mission

NICCY's Mission is, 'to safeguard and promote the rights and best interests of children and young people'.

## Vision

NICCY's Vision is, 'A society where the rights of all Children and Young People are respected and realised.

## Our Values

All of NICCY's work is underpinned by our core values which we recently reviewed and updated. We apply these in our day to day work and seek outcomes based on their application and realisation.

1. **Children's and Young People's Rights** are at the centre of all we do.
2. We value and protect our **independence**.
3. We **respect** and value people, promote inclusion and diversity, and challenge discrimination and inequality.
4. We are open and honest and act with **integrity**.
5. We are **optimistic**, striving to effect positive and lasting change.



## **NICCY'S STATUTORY DUTIES & POWERS**

NICCY's duties and powers, as set out in legislation, are summarised below in the following diagrams.

### NICCY's Statutory Duties



#### Promote

Awareness and understanding of the Rights and Best Interests of Children & Young People

Awareness of function / location of the Commissioner and how to contact NICCY

Art 7(1), (5) (a)



#### Monitor & Review

The effectiveness of Law and Practice

The adequacy and effectiveness of Services

Art 7(2) & (3)



#### Advise & Communicate

Advise Government and Relevant Authorities;

Communicate effectively with Children and Young Persons and their Parents

Seek views of Children & Young People

Art 7(4) & (5)

## NICCY's Statutory Powers



### Undertake Commission Challenge

Research or educational activities concerning the Rights or Best Interests of Children and Young Persons or the exercise of his/her Functions

Conduct Investigations as she considers necessary or expedient to meet his/her Duties

Compile information, provide advice and publish any matter (including educational activities, investigations and advice) concerning their Rights and Best Interests

Art 8 (1), (3) & (5)



### Issue Guidance Make Representations

In relation to any matter concerning the Rights or Best Interests of Children or Young Persons

Make representations or recommendations to any Body or Person relating to the Rights and Best Interests of Children and Young Persons

Art 8 (2) & (6)



### Address Complaints / Rights Breaches Advocacy

Assist with Complaints to / or against Relevant Authorities

Bring, Intervene in, or Assist in, Legal Proceedings

Art 11, 12 & 14





## **LEGAL WORK CATEGORIES**

As set out in the previous section, the Order confers a range of duties and powers upon the Commissioner. In line with these legal functions, the following sets out how NICCY uses these to address breaches of Children's and Young People's Rights in Northern Ireland i.e.:

- ▶ **Complaints Handling** (casework) against relevant authorities, across a range of areas: e.g. special educational needs and disabilities, including SENDIST Tribunals; the impact of COVID-19 e.g. ongoing response arrangements across health, education and secure settings; access to/ waiting times for healthcare treatment and/ or surgery; mental health issues; quality of treatment; education arrangements; transfer test assessment queries; housing; care arrangements; access to services on contingency accommodation and respite services.
- ▶ **Conducting Independent Investigations** where breaches of the rights of children and young people are alleged, and where internal complaints processes have been exhausted.
- ▶ **Formal Investigations** into cases which require formal use of NICCY's powers under Articles 16 – 23 of the Order, including those which expose systemic failings adversely impacting on Children's Rights. NICCY's first Formal Investigation was published in January 2023 and the L&I Team will continue to monitor the implementation of the recommendations contained within the report.
- ▶ **Bringing, Intervening in or Assisting with, Legal Proceedings** in addressing breaches of children's and young people's rights through a range of measures. Some enquiries we receive will require us to commence or intervene in legal proceedings or assist in the provision of legal funding. There is established criteria to assist with decision making.
- ▶ **Holding Government to Account** when they fail to protect children's rights. This involves working with our Policy & Research colleagues to raise issues of concern, make recommendations to government and relevant authorities, on important issues affecting children.
- ▶ **Providing Advice** to ensure the implementation of children's rights in compliance with current legislation, strategies and policies and respond as/where appropriate to government consultations.
- ▶ **Strategic Litigation** which aims to bring about positive legal changes in children's rights and which may also set precedents, thereby potentially impacting larger numbers of children, is an area we have been focused on in recent years. (*See later section*).
- ▶ **Processing Protected Disclosures** in line with the Public Interest Disclosure (Prescribed Persons) Order 2014 (Public Interest Disclosure (Northern Ireland) Order 1998 as subsequently amended). These are reported on annually as required.

Relevant details and information on each are available on our [website](#) or via our Legal and Investigations Staff page.



## **COMPLAINTS CASEWORK SERVICE**

In the 2022/23 business year our Complaints Casework Service Staff:

- ▶ Dealt with 356 new cases;
- ▶ Successfully closed 324 cases;
- ▶ Brought forward 83 cases; and
- ▶ Carried forward 118 cases into next business year.

The 2022/23 business year saw the beginning of the cost-of-living crisis, which has continued to considerably worsen. In addition, society is still dealing with residual matters from the pandemic and expect to be dealing with such matters for years to come as the full impact of the restrictions become realised. Children and young people were adjusting to attending school full time and sitting exams that their more senior peers were previously exempt from due to the restrictions. Many of our queries had mental health as a primary issue for children and young people. We found an increase in queries around school refusal and difficulties in accessing services for support with anxiety and other mental health issues.

We are also contacted increasingly for guidance and assistance from professionals in the statutory and voluntary sectors who work with children and young people. This is indicative of increased awareness of NICCY and our reputation in the sphere of children's rights. We welcome the opportunity to assist and advise on any aspect in which a person believes that a child may be disadvantaged or their rights are not being upheld.

We strive to ensure equality of access to our services and can provide access to interpreters and carry out outreach visits when necessary. Complainants can access our complaints service completing an [online referral form](#) to capture all relevant details (see back cover for website details).

If desired, a caseworker can complete the form for a client, if they have difficulties filling out the form, over the phone. We have a strict policy of contacting clients within 5 working days of the form being allocated at our weekly 'Complaints Allocation and Review' (CAR) meetings.

However, when we are contacted by a child or young person, we will respond on the same day, as they are always given priority access to our service.

Our legislation sets out matters which we can and cannot assist with. If we are contacted on an issue that is outside our remit, or another organisation is better placed to advise, we signpost appropriately.

Cases are closed when the matter has resolved satisfactorily and clients are informed. If a client disengages, our policy is to contact them to advise we will be closing the case while informing them they can revert to us if further matters arise.

We record all contacts with clients on our secure data management system; these records are confidential and treated in line with GDPR legislation. We collect feedback from clients and welcome all comments as this helps to improve the delivery of our services.

In the statistical overview which follows, we have outlined the categories of complaints we have received. The categories are identified using the primary category about which the client is contacting us. This ensures that categories are not duplicated.



# **STATISTICAL OVERVIEW 2022-23 BUSINESS YEAR**

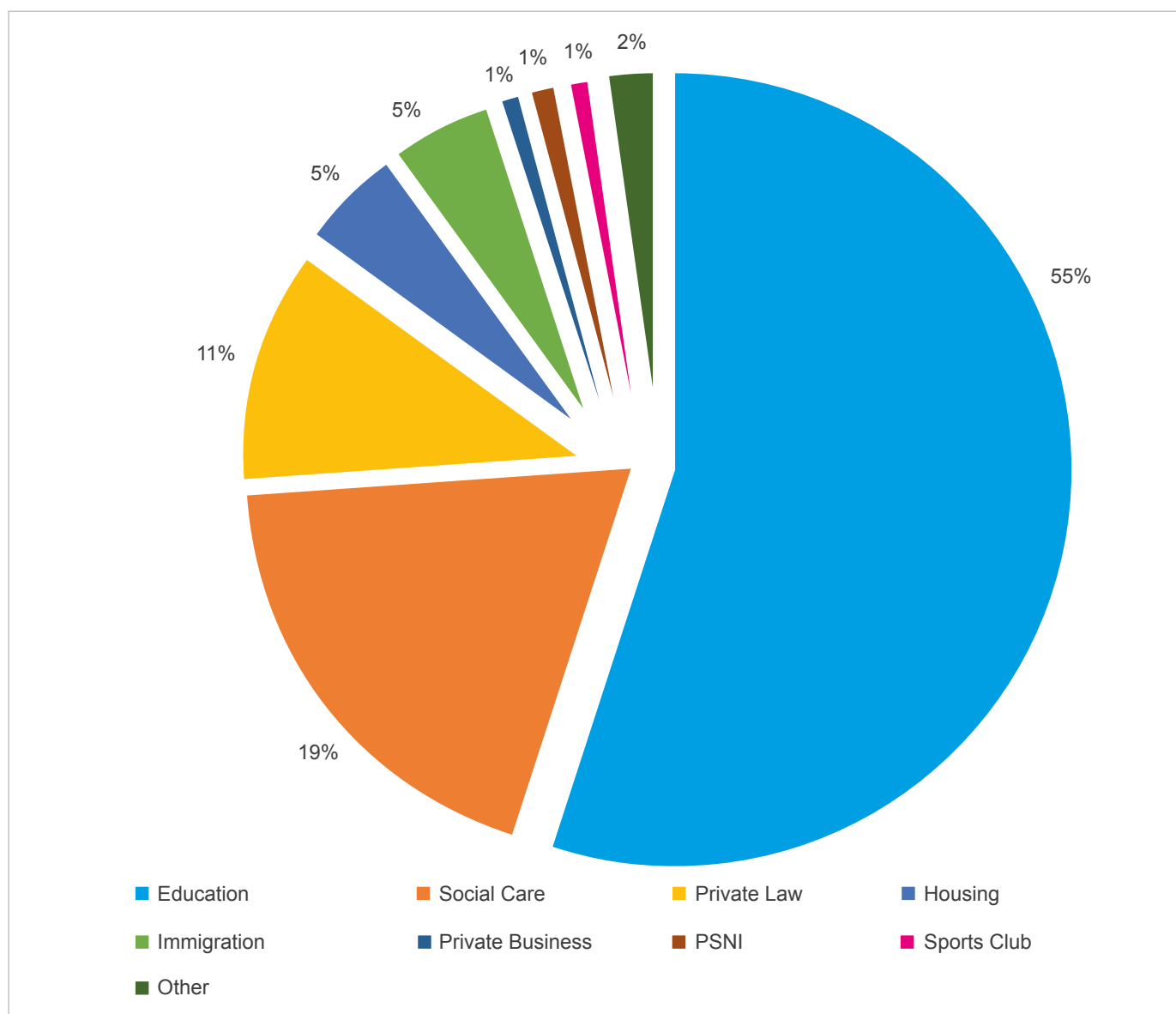
## Total New Complaints - 356

## Total Closed Complaints - 324

While we had a significant rise in queries in the 2021-22 year, we had a slight decrease for this year: 386 to 356. The nature of the queries were more complex and clients presented with secondary matters such as education, bullying and mental health.

We are in the process of promoting our work on social media in the hope of reaching more children and young people. Parents and carers are most likely to contact us and submit queries on behalf of their child/ children – and we do receive referrals from voluntary and statutory agencies, elected representatives and health professionals including social workers.

## Chart 1 2022-2023 Types of Enquiries



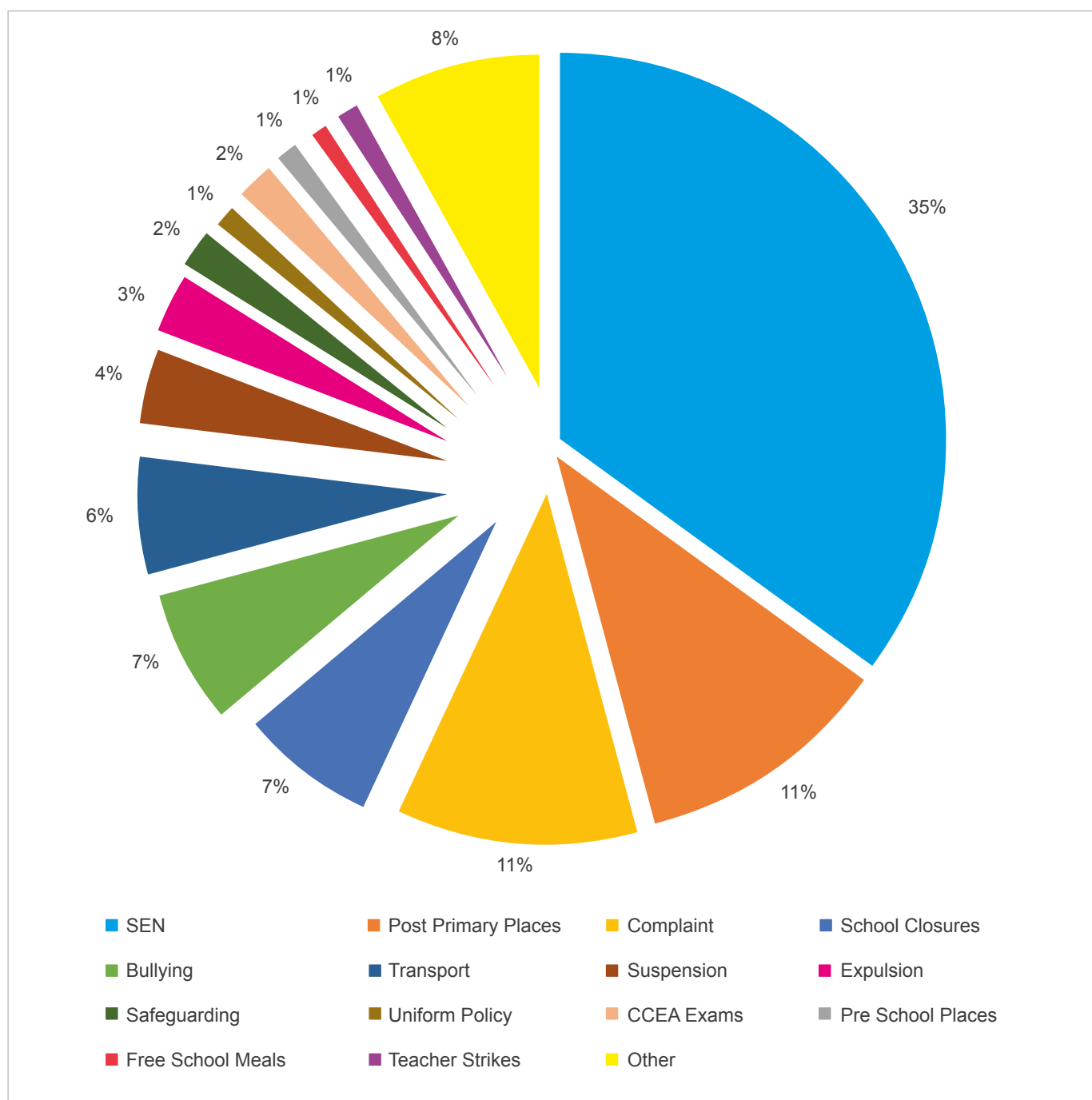
Education is always the largest area of our work. Work in this area decreased in this period from 69% to 55%. The issues raised are often complex and include a number of other issues.

The social care queries rose from 13% to 19% and included many delays in provision of services due to lack of resources. The continuing absence of a functioning Assembly is placing considerable stress on services. Budgets cannot be verified, and money is not being released where it is needed. The 'Private Law' section includes mainly cases in which we are contacted regarding a matter that is outside our remit. We have made our website more user friendly and hope that people can understand how NICCY can assist. We cannot deal with family law matters and those under the conduct of the court. The matters, therefore, are referred to a private law solicitor.

Housing is becoming an area in which we are receiving more queries: from 2% last year to 5% this year. Where appropriate, we refer clients to Housing Rights. However, we are increasingly becoming engaged in casework regarding housing matters when the issues are negatively impacting on a child's day-to-day health such as suitable housing and home adaptations for children and young people with a disability.

We continued to signpost to other agencies or private law solicitors where complaints fell outside the remit of NICCY. For example, private law court proceedings, matters under the conduct of the Court, complaints against the PSNI.

## Chart 2 Education Enquiries



The above table shows the range and nature of the queries we receive within the Education category.

### Special Educational Needs

Special Educational Needs ('SEN') queries have hugely increased from 16% to 35% in comparison with the figures from 2021-22. SEN matters are usually the largest category

we assist with each year. The reduced level of SEN complaints recorded in last year's annual report can be attributed to SEN queries being included as the primary category of post primary transfers in the preceding period,



accounting for 36% of our queries during that year. This was a result of the extraordinary measures in place for the transfer tests in that year. The complex SEN framework and process causes parents and carers to require assistance and we take steps to ensure that children's rights are upheld. We can offer assistance such as engaging with schools, relevant authorities and providing advice and guidance on submitting an appeal to the Special Educational Needs and Disability Tribunal (SENDIST), writing case statements and representation at the Tribunal, depending on resources available at the time.

Matters recorded as school complaints make up 11% of this category. These matters can be the result of how an issue is addressed by the school; for example, bullying or SEN. We can assist and advise a young person, parent or carer in their engagement with the school or in making a formal complaint through the school's complaints process.

### **Post Primary**

Post primary matters made up 11% of our education queries which had decreased compared to the year before (16%). However, this is still a relatively high proportion of education queries for this year. The impact of the pandemic affecting mental health and ability to do the AQE for some pupils was a factor in the queries raised with us.

Some pupils had not been allocated a post primary placement and we were able to assist them during this stressful time.

### **Complaint**

This is an area in which we advise and assist a child, parent or carer through the complaints process of a school or other education provider, Trust, or other relevant authority. We encourage complainants to exhaust the relevant complaints procedures in place, where appropriate, and then explore other routes.

### **School Closures**

This was a new category last year relating to the Department of Education's 'Sustainable Schools Policy'. We were contacted by concerned parents because they had been advised of prospective school closures. Due to budget restraints and allocation of limited resources, some schools had been earmarked for closure or merger with another school. Such matters can cause a huge amount of stress and concern for the school community – particularly children, where, for example, the majority have been accustomed to small school or class sizes or have concerns about having to travel outside their local area to a new school. The office engages periodically with the Department of Education and has received assurances that the rights of children affected would be a paramount consideration in transition.

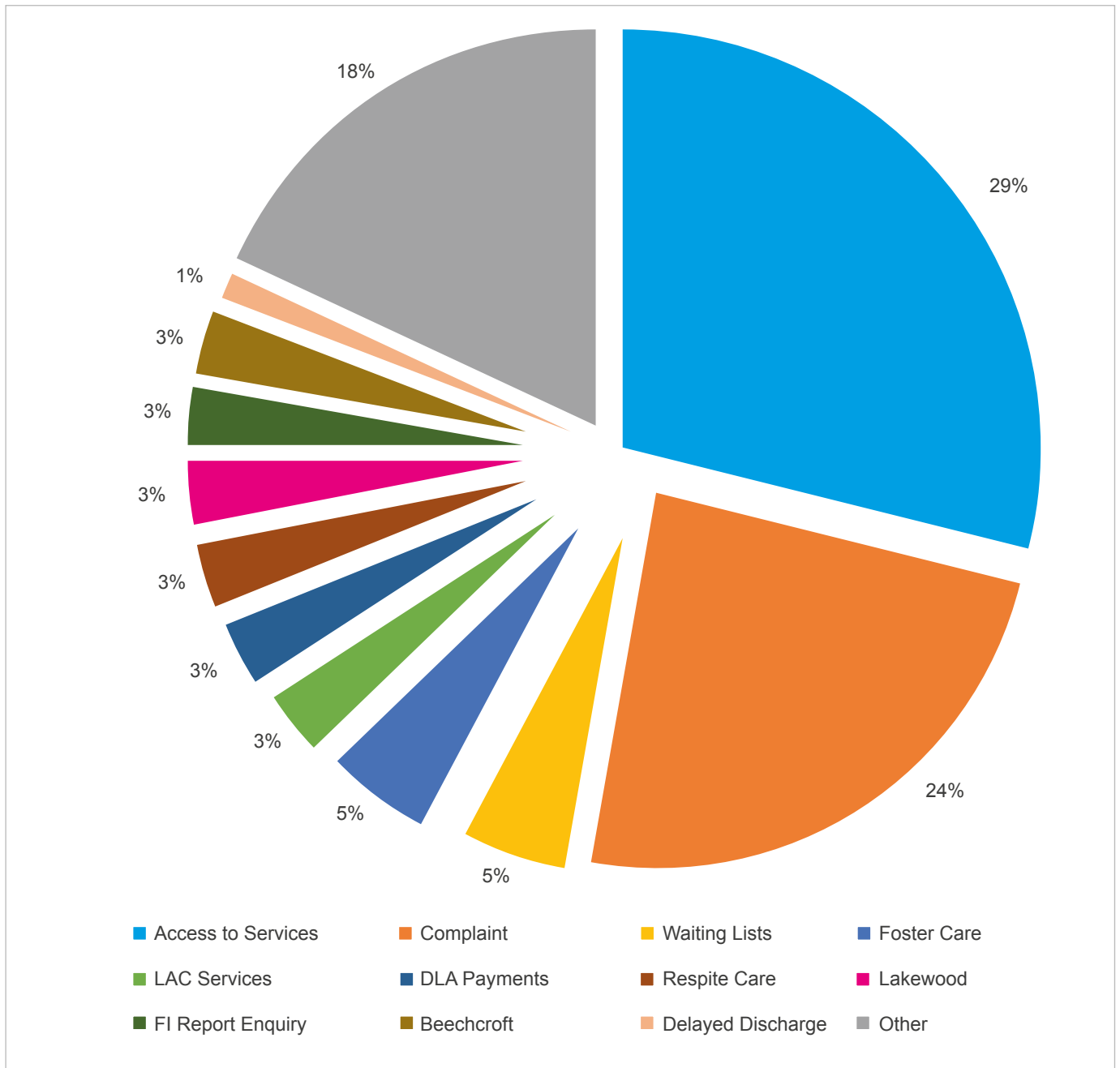
### **Bullying**

Bullying remains a concerning issue for young people in school. Bullying by social media can cause further difficulties for children and young people. We have provided advice and assistance to young people, their parents and carers who contact us with queries regarding bullying. In some cases, we advise and provide guidance to the complainant to make a formal complaint via the school's formal complaints process or we may engage directly with the school to assist in addressing and resolving the issue.

### **Transport**

Transport matters often include queries relating to the transport of children with SEN to and from school. We received a higher than usual number of queries regarding the procurement of transport and the recruitment and retention of staff to escort children with SEN in taxis and school buses. NICCY raised these matters with the Education Authority at the highest level and received assurances that the matters were being dealt with as a priority.

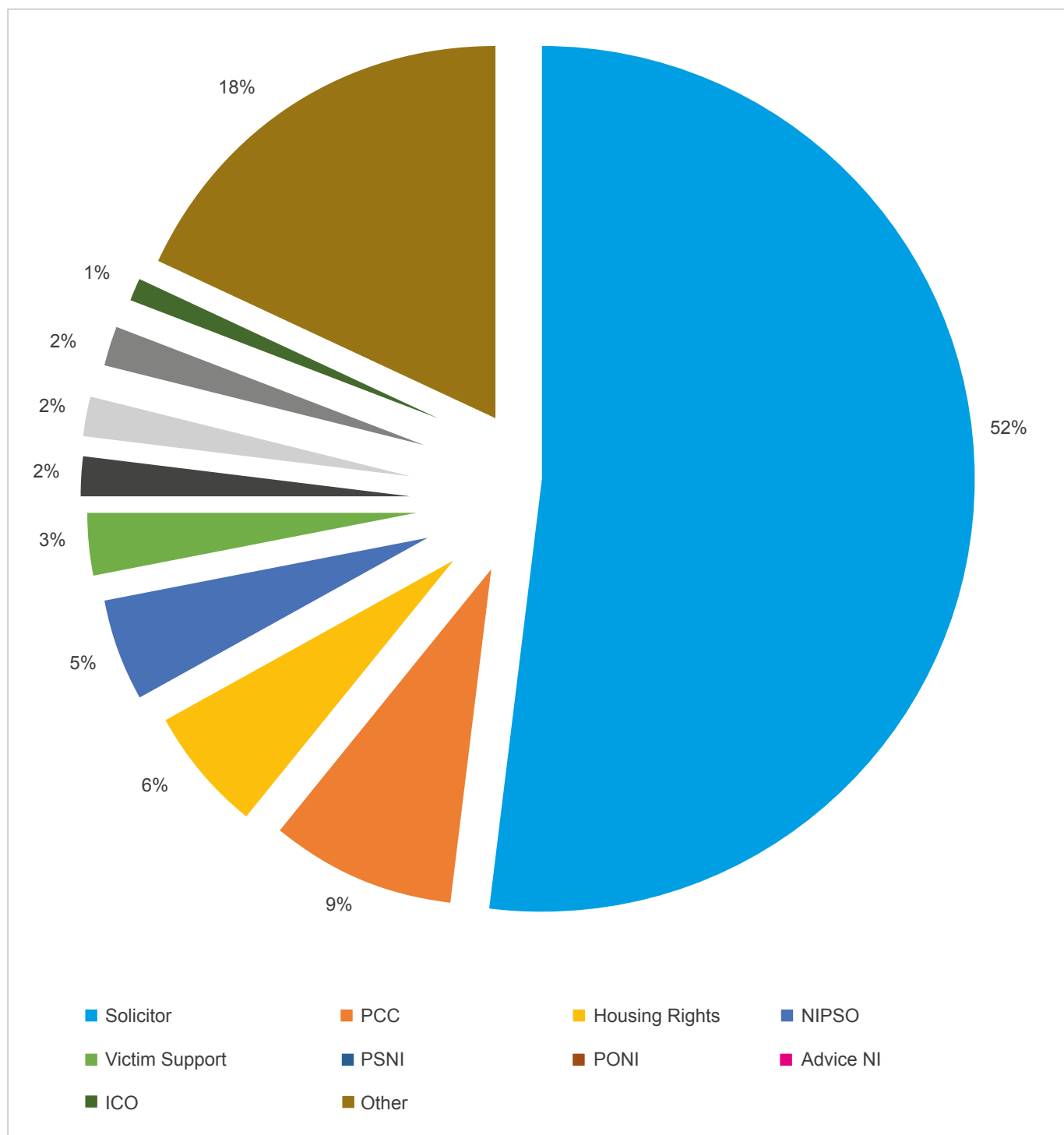
### Chart 3 Social Care Enquiries



A significant proportion of the Social Care issues that are highlighted through our casework relate to access to services. Some services have been reduced due to staffing levels and cuts to budgets and resources. Waiting lists for diagnosis continue to rise and this impacts upon a child or young person’s ability to access other services and support.

We engage with the relevant authorities to address issues in individual cases, and we also meet regularly with relevant authorities to ensure they are taking appropriate action to mitigate the impact of the issues on children and young people across Northern Ireland. We ask them to account for what actions they have taken once concerns are raised by NICCY and that they continue to provide feedback when changes have been made.

## Chart 4 Signposting



NICCY’s legislative remit is such that we are required to signpost clients as/when appropriate. We refer clients to statutory and voluntary agencies such as PONI, NIPSO, Advice NI, ICO and the Patient Client Council.

When the circumstances arise, we liaise with other agencies to ensure the rights of children and young people are being upheld, and we have worked closely with the Children’s Law Centre.



## **COMPLAINTS: SAMPLE CASES**

The following gives an indication of the types of complaints our L&I department has received in the past year. Although NICCY has statutory powers to bring and intervene in legal proceedings, the legal team, where possible, seek to successfully address matters without the need for recourse to legal action as this is often in the best interests of the children and young people involved.

### **Case study 1: Special Educational Needs**

A distressed father contacted NICCY after receiving a special educational needs statement from the Education Authority. The final statement noted that his daughter, Joan, should attend a special needs setting with the wording:

‘... should attend a Special School. However, until a suitable placement can be secured,... will attend the current nursery unit.’

However, the Education Authority communicated to the father that there were no spaces available in a special school. Joan’s current nursery school could not manage her behaviours and she was, therefore, not receiving a full education.

The parent appealed to the Special Educational Needs and Disability Tribunal (SENDIST) with the help of NICCY. The result was that Joan gained entry into a special needs nursery and, in addition, it was confirmed that she would have a place in Primary 1 at the same school, starting a few months later.

### **Case Study 2: Special Educational Needs**

NICCY were contacted in respect of Darren, a young boy who had been struggling in school for many years. His father was concerned that he may have dyslexia and had requested an assessment and support from the school. We assisted Darren’s father in writing a complaint to the school over what he identified as a failure to assess Darren.

Following submission of this complaint, a meeting was held with the school. The matter was resolved as the child received an assessment and diagnosis with appropriate school-based support.

### **Case Study 3: Special Educational Needs**

NICCY were contacted by the parent of Pauline who was awaiting an Autism Assessment.

Pauline was struggling with severe anxiety and had been vomiting from fear before going to school. Pauline had missed a lot of school and her parents were considering withdrawing her from school as the stress was debilitating for the child.

NICCY wrote to community paediatrics to obtain clarity as to when an appointment for assessment would take place. We also advised the parent to make a parental request for statutory assessment to have Pauline's needs assessed and provision made for those needs by way of a statement of special educational needs.

Pauline received her assessment and, through the statutory assessment process, was provided with a statement of special educational needs. As a result, Pauline was able to return to school with the appropriate resources and support.

### **Case study 4: Special Educational Needs**

The parent of Edel contacted us as Edel had a diagnosis of ASD and could only tolerate certain meals, including sandwiches. As a result, she could not eat the free school meals for which she was eligible, and her parents were making her lunch each day.

Rather than escalate the matter through the complaints process, NICCY contacted the school principal, highlighting the obligations of the school under the relevant legislation and their responsibility within this. The child was thereafter made a sandwich for her midday meal in school. This ensured the child's needs were met in this regard and reduced the pressure, including the financial pressure, the previous position placed on the family.

### **Case study 5: Bullying**

NICCY was contacted by a mother about her daughter, Laura, who had experienced years of bullying in school. Laura had a diagnosis of Autism. The young girl was exposed to incidents such as being hit, name calling, taking photographs with no consent and having her personal items destroyed. The parent had contacted the school to complain many times but never in written form.

NICCY supported the child's mother to write to the principal to outline all incidents and to use the school's anti-bullying policy as a guide. Thereafter, the incidents were taken seriously and the bullying stopped.

### **Case study 6: Bullying**

A concerned parent contacted NICCY about ongoing bullying incidents which took place over three years in respect of their daughter Hannah. The parent explained that they had written to the principal, but no reply was received, and they felt like the school was not taking their concerns seriously.

NICCY advised on the requirement to apply the anti-bullying and complaints procedure, and NICCY also contacted the school. The school apologised to the family and confirmed that they had forwarded the matter to the Board of Governors and procedures would be reviewed.

### **Case study 7: Bullying**

NICCY were contacted by the parents of Alexa, who was distressed as she had fallen out with a friendship group in school and they had been making fun of her, isolating her from others in her class and taunting her. The school had not acknowledged these behaviours as bullying, instead, treating them as a 'fall out among friends'.

We advised the parents of the definition of bullying in the relevant legislation and advised that this behaviour was defined as bullying. The parent used the information provided to successfully advocate on the child's behalf. The matter was resolved with measures being put in place to protect the child.

### **Case Study 8: Medical Condition In School**

The family of teenager Amelia contacted NICCY. Amelia had an ongoing, clinically confirmed medical condition that meant she often needed urgent access to a WC. The nature of her condition meant she would be embarrassed if other students were in a communal WC at the same time. Her school were not factoring her needs into any of these matters to make appropriate arrangements for her.

NICCY engaged directly with the school, advising them of the relevant legislation with which they had a duty to comply with. As a result, a meeting took place with the school and a suitable resolution was reached for the child.

### **Case study 9: School Complaint**

A school had decided to remove the name of Luca from the school register, leaving him with no school to attend. The school made this decision due to the amount of time Luca had missed because of medical reasons. NICCY advised the family on how to challenge this decision. The decision was reversed by the school.

### **Case study 10: Housing**

A young person, Paul, contacted NICCY and confirmed that he was homeless after his family had asked him to leave his home. NICCY contacted the Northern Ireland Housing Executive (NIHE), and they confirmed that Paul's case, which was opened when he was younger with the help of a social worker, was now closed. In these circumstances, where an application for housing is rejected, it cannot be lodged again for another 12 months under strict criteria. The NICCY legal team negotiated that his case be reopened due to his recent 18th birthday. He now had the option of using the emergency accommodation if he wished.

### **Case Study 11: Housing**

A father with an autistic child, Claire, had an application for a housing adaption and extra space turned down twice. He was losing hope and knew he needed extra space for his daughter to continue to be able to live comfortably in the home.

The father contacted NICCY. We advised the father to request, from the appeal team, the criteria and guidance relating to the application. NICCY reviewed the documentation and made suggestions. A meeting was organised between the parent and the Trust who had rejected the previous applications. The result was that the Trust were sympathetic, stated that the criteria was outdated due to emphasis on physical disabilities and agreed that a further application could be lodged.

Currently, the parent is making a further application and is equipped with the guidance he received from NICCY to support the application.

### **Case study 12: Housing**

Aimee, a child who resided in a property with very steep steps at the front of the property, was having difficulties. She used respiratory equipment and was a pushchair user. The family were worried what the consequences might be in an emergency whilst exiting the property. NICCY contacted NIHE. A meeting was convened at the property, and it was explained that NIHE would progress adaptations to the back garden for a safe exit.

### **Case study 13: Access To Services**

A young person, Noah, with a diagnosed eating disorder was being treated as an inpatient in a hospital that could not meet his clinical needs. NICCY were contact by his family who were extremely concerned about the provision received.

NICCY contacted the Health and Social Care Trust to ask what planning was being done to address this. The young person was soon after admitted to a specialist setting where his clinical needs could be met.



### **Case Study 14: Mental Health Services**

NICCY was contacted by the family of a young person, Ava, as there was a lack of clarity as to what assessments were to be done for a young person with confirmed mental health difficulties, with a view to accessing services.

NICCY engaged directly with the Health and Social Care Trust who thereafter gave more information to the family, who were able to plan accordingly.

### **Case Study 15: Mental Health Services**

A young person in residential care was presenting with suicidal ideation and their parents were not sure how to respond.

NICCY gave advice as to what services could help, and also made direct contact with social services to ensure to urgent safeguarding of the young person. Social services directly checked with staff in the residential care setting and confirmed the safety of the young person.

### **Case study 16: Mental Health Services**

NICCY was contacted by the parents of Julie, who was an inpatient in Child and Adolescent Mental Health Unit. The parent had concerns around aspects of her care and the communication between Child and Adolescent Mental Health Unit and Julie's parents.

Advice was given to Julie's parents, and they directed their concerns to the appropriate person within the facility and the concerns were addressed and alleviated.

### **Case Study 17: School Transport**

NICCY were contacted by the parent of Lily, who had been allocated a place at a Special Educational Needs school. However, transport was not in place for the start of the school term. The parent worked and could not bring and collect her child to and from school without it affecting her working hours.

NICCY contacted the Education Authority transport department to advocate on behalf of the young person, and the transport was put in place two working days later.

### **Case Study 18: Post-primary Placement**

Cian did not get a place at any of his preferred post primary schools. The child has a visual impairment and, while very independent, his parents believed that he would benefit from a place in the same school as an older sibling.

NICCY completed the Exceptional Circumstances Body application form to assist the family to challenge the placement decision. The hearing was held online, as Cian's mum was in hospital, and was successful with the child securing a place at her first preference school.



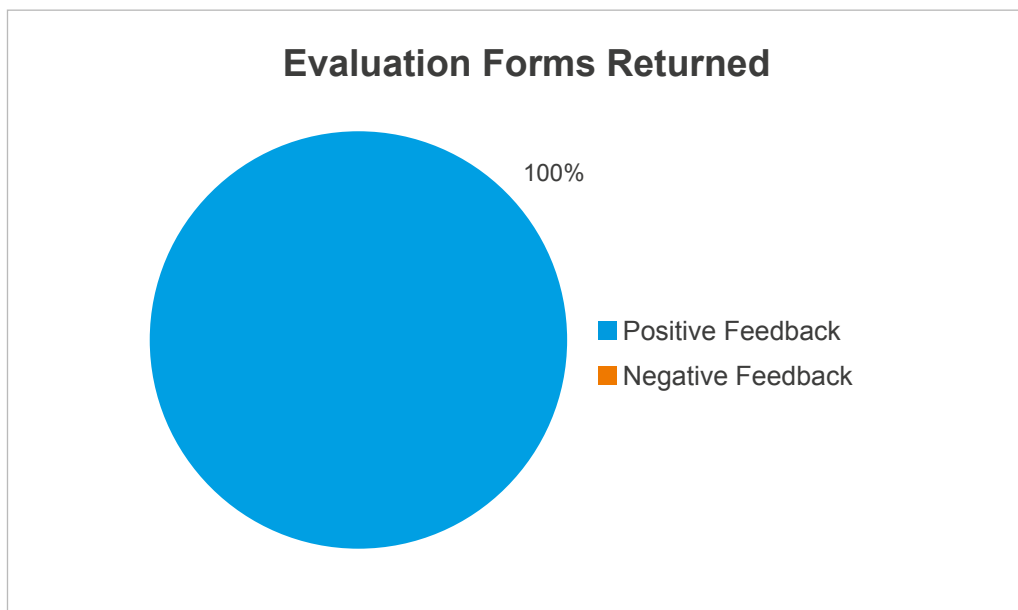
## **EVALUATION FEEDBACK**

## Evaluation Report 2022-23

We send an evaluation form to the complainant so that feedback can be provided on our work. We welcome both positive and negative comments, as they are an opportunity for further learning and ensuring we provide a better service. Evaluation is gathered anonymously to allow the clients to be open and honest in their assessment of our service.

We would ask that if a client is not satisfied to please let us know as soon as possible to give us the opportunity to resolve or rectify any complaint they may have. In addition, we have a complaints process.

**We received 100% positive feedback in the evaluation forms returned in 2022-23.**



Here is a selection of comments that clients made on the returned forms:

*"I really want to thank the service, in particular Deborah. She left me a voicemail out of hours and assured me she would be in touch the next morning. True to her word, she rang early and sent the email we needed to be sent. It was really detailed and thorough – she had obviously spent time familiarising herself with the information I had provided about the case, which really added to the legitimacy of her communication. I could confidently say that, without the intervention of NICCY, we would not be in the position we are now."*

*"All the services I have engaged with in the last few long frustrating months claim to have the child at the centre of their work. NICCY is the only service I have engaged with that actually sees what is hidden in plain sight – the actual child. A distressed child – an isolated child, a kid that just wants to go to school. And now she can. I can't thank the service enough."*

*"NICCY advised me re: appealing the statement and supported me throughout the Tribunal process. This ended in a very positive outcome for my son, which I don't think would have happened otherwise."*

*"Your thoughts appreciated and many thanks again for your support over the years. You've always been there to answer our queries when we've needed help."*

*"Thanks again for the information and advice that you have provided re: my son's case. It really helped my communication with the school, so that I could be clear on what his needs were. I'm hopeful that I can work with the school to improve on his progress through his educational journey."*

*"Fantastic service, the matter was resolved quickly with the help from Deborah. This was my first time using this service and I have had fantastic help, which is greatly appreciated."*

*"You need to advertise your company more – I would never have heard of you, only I attended an Add N.I support group, and someone had recommended your company to me. There is a lack of support for parents and children out there with regards to these sorts of issues and, by advertising your company, you would be helping a lot of people."*

*"Shari Holmes was amazing at identifying the criteria that we needed to meet to apply for this grant via the Trust. Without Shari's help, we couldn't be where we are now."*

*"The role and authority of NICCY is vital to protect our children, especially those most vulnerable. Its staff are one in a million – almost literally, which is not enough. Of all the money we spend on government agencies, I cannot think of any better way it could be spent than protecting our most vulnerable children."*

## **Conclusion**

This year, we have again received 100% positive feedback on our evaluation forms. We constantly strive to ensure we provide an effective service to everyone who contacts us and ensure that the rights of children and young people are upheld in every area. When the matter is outside our remit, we can signpost them to an appropriate agency that can assist.



## **LEGAL PROCEEDINGS SUMMARY**

It has been one of our aims over recent years that the Legal and Investigations Department increase involvement in external legal proceedings, such as through Judicial Reviews interventions and strategic litigation. Through involvement in legal proceedings, we aim to address breaches of children's rights and, in so doing, benefit greater numbers of children as well as raising awareness of this statutory function of NICCY. We also wish to continue to raise the profile of our work among the legal community, with the aim of increasing impact.

NICCY has a unique role as the statutory body established to safeguard and promote the rights of children and young people in Northern Ireland. We aim to add value to those cases in which we intervene, bringing the expertise of the Office to bear. During this year, we continued to take such actions as appropriate to raise the issues pertaining to children's rights.

In our experience, NICCY's contributions through interventions have been welcomed by the Courts in highlighting relevant issues in proceedings.

This year, we have continued our involvement in several Judicial Review cases regarding the delayed discharge of young people from secure health facilities. This has been at the request of the families involved and their legal representatives, who are keen for expertise, input and advocacy from NICCY in their Court proceedings. We continued to receive requests for NICCY to intervene from practitioners and assessed all applications using our legal policies and procedures.

## Interventions

1. We continued our work in a range of Judicial Review interventions concerning a number of young people with significant learning/mental health difficulties in secure care. Issues included lack of suitable residential accommodation for detained young people; insufficient clarity (including between public authorities) as to which statutory agencies are/were responsible for particular aspects of care and planning; unsuitable care arrangements and unclear communication with families. Unfortunately, there was and continues to be considerable delay in discharge and transition planning by the relevant authorities in formulating long-term, patient-driven care packages outside the secure facilities for the young people involved. These delays had and continue to have adverse impacts upon the emotional and mental wellbeing of the young people, as well as causing significant stress to their families. Three of the judicial reviews have been satisfactorily completed; however, two are still ongoing and have developed into multi-annual legal actions.

The involvement of NICCY in these matters has been in support of the children and families and has provided further support and assurance to those involved on the specific 'child rights approach'. The contribution of NICCY to this suite of cases to date has helped focus attention on the need for child-rights centred strategies, policies and approaches. The judiciary has been welcoming of our involvement, and consistently comments to that effect.

2. NICCY intervened in a judicial review being taken on behalf of an 8-year-old Applicant against restrictions, introduced as part of the wider general COVID-19 restrictions, banning outdoor sports amongst children. Amongst the Applicant's arguments was the failure to consult with the Children's Commissioner prior to these regulations coming into effect. As the statutory agency tasked with promoting and safeguarding the best interests of children, we are in an ideal position to give Government departments advice and assistance on the impact of new measures or restrictions. The lack of consultation with our office was the central aspect of our involvement. The case was heard in October 2021, and we are awaiting judgement.

### Formal Investigation

Work on NICCY's first Formal Investigation, ['Looked After? A Formal Investigation into the Life of a Child in the Care of the State'](#), using our statutory powers under Articles 16 - 23 of the Order was completed and published in January 2023. The Order grants NICCY powers similar to those of the High Court in relation to the compelling of evidence and witnesses. While this was a complex and lengthy process, we wished to ensure the appropriate outcomes and that learning followed from the report for the relevant authorities. The case involved an examination of the life of 'Vicky', a child taken into care shortly after birth and failed by the care system throughout her life. The report made adverse findings against 4 relevant authorities and 45 recommendations. 42 of these recommendations relate to the system which failed 'Vicky' throughout her life and 3 recommendations relate to 'Vicky' and involve her return from England to an appropriate setting close to her home and family.

She currently remains in England and NICCY is focussed on the implementation of the final 3 recommendations stemming from the report, that involve her returning home to an appropriate setting in accordance with her needs.

Under the Order, NICCY is obliged to keep a register of the recommendations to monitor their implementation of the recommendations by the 4 relevant authorities. This process is now our focus following the completion of the formal investigation report. All relevant authorities attended the launch event in January 2023 and accepted that failings had occurred and improvements, including systemic improvements, were needed. It is our responsibility to ensure that these improvements are carried out to ensure that *'there are no more Vicky's'*.

### Legal Funding Support

NICCY has a small legal funding budget which it can make available, following an application to our Legal Funding Committee, to support cases if they meet the relevant criteria. During the year under report, we received one application for **financial assistance** to assist with initiating legal proceedings. A Legal Funding Committee was convened and a decision to fund the case was approved. However, on reverting to the legal practitioner, the matter had been settled and the funding was no longer needed.

## Strategic Litigation

Strategic litigation is defined as *'litigation that seeks to bring about positive legal and social change in terms of children's enjoyment of their rights.'*<sup>1</sup>

This underpins Articles 14 and 15 of NICCY's legislation. Such approaches often result in positive judgements, benefiting the child at the centre of the case – and setting a precedence or changes to practice for many others going forward.

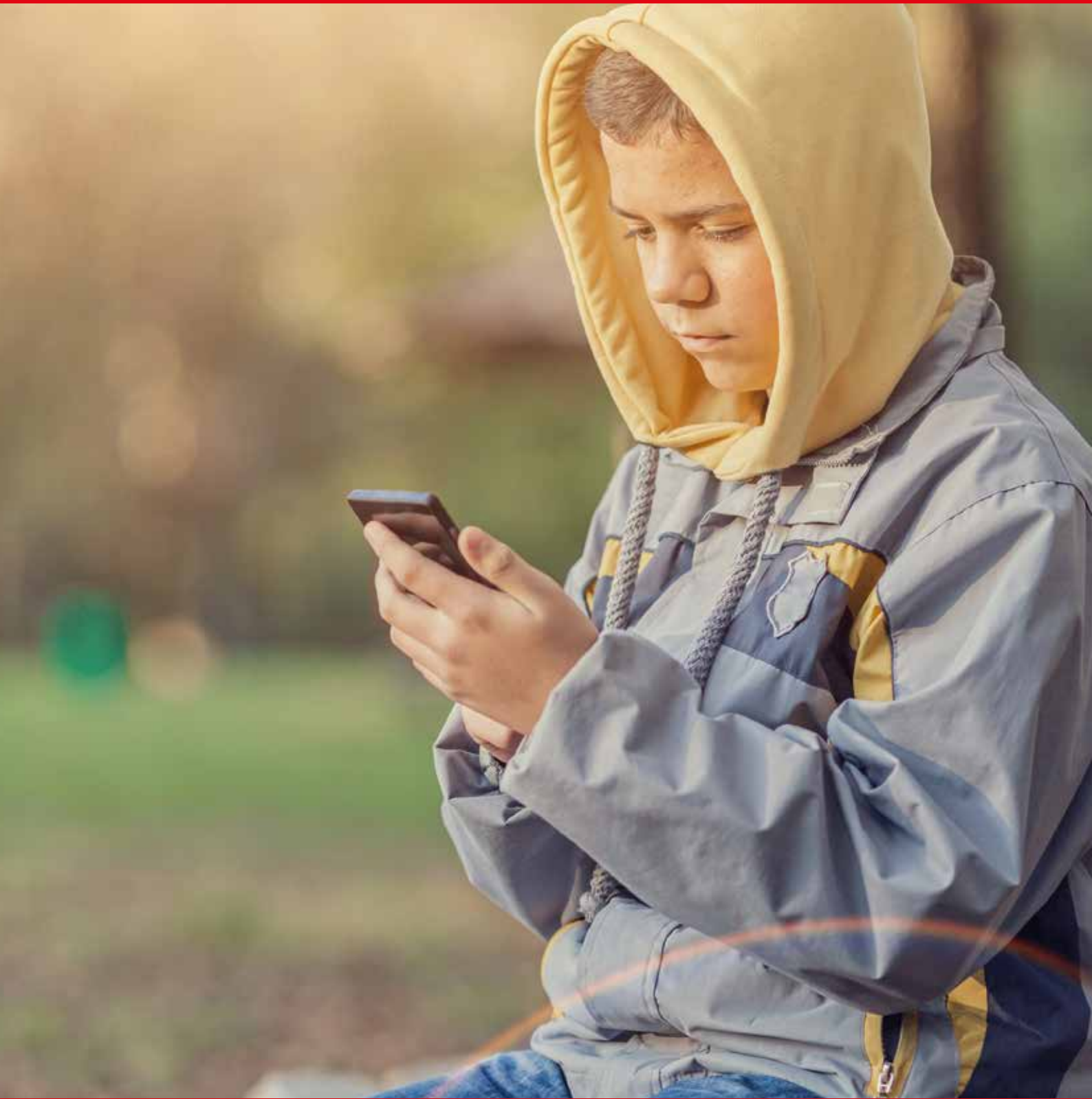
We are continuing to build and expand our strategic litigation work. We delivered further presentations this year to the ACRiSL Project in September 2022. This covered cases which were strategically focused on achieving judicial rulings and judgements which change practice, influence legislation and policy. Our strategic litigation works subsequently informs NICCY's advice to government. Following on the work of those involved in writing 'Advancing Child Rights-consistent Strategic Litigation Practice' we are currently working on a strategic litigation toolkit which can be utilised by professional colleagues, children and young people, and other stakeholders.

It will set out the definition of strategic litigation if/why/how NICCY decides to become involved in a case, and how our NICCY youth panel can assist in certain circumstances. Criteria will be central to decision making and maintain fairness and standardisation. We also wish to ensure timely response and appropriate approaches across all stages of strategic litigation: from initial analysis of information through to disseminating the litigation outcomes to the wider public. All our work in this area is closely linked to the 2003 Order and UNCRC.

As a result of our complaints casework and relevant to a strategic litigation approach, it is important to note that such also contributes to changes in policies and practice on the part of relevant authorities – and in turn creates positive outcomes for larger numbers of children.

<sup>1</sup> [www.acrisl.org](http://www.acrisl.org)





## **PROTECTED DISCLOSURES**

In accordance with the *Public Interest Disclosure (Northern Ireland) Order 1998* (as amended in 2014), NICCY is a “prescribed person” able to receive “protected disclosures” or whistle-blowing disclosures from workers when they have concerns in relation to the safeguarding of children’s rights and, as such, believe the behaviour of the person/body they work for breaches legislation.

NICCY may accept such reports when the safety and/or wellbeing of children and young people is at risk. Upon receipt, NICCY will review the allegations being made together with any supporting evidence to decide whether there are grounds to investigate further in accordance with the remit of our statutory authority.

To date NICCY has engaged with 16 protected disclosure matters, with one being closed in the 2022-2023 business year. Two are currently ‘live’. Recent matters have mainly focused on allegations of safeguarding risks within educational settings. Cases that remain ongoing are so because NICCY has yet to receive assurance of matters having been properly investigated or otherwise resolved. Historically, acceptable assurances have included confirmation of detailed reviews having been conducted, corrective action having occurred, and/or policies being reviewed and revised.

We are also obliged to report each year to our sponsor department the number and nature of protected disclosures received (but not the identity of the complainants): this is done via our annual reporting process.



## **CONTINUING PROFESSIONAL DEVELOPMENT EVENTS**

For some years now, NICCY have delivered continuing professional development (CPD) events for legal and other practitioners, to promote awareness of children's rights and their application to practice across the range of professions and disciplines. We also use our CPD events to highlight relevant legal proceedings and raise awareness amongst the profession of our work.

Our past events have included:

- ▶ *'UNCRC & domestic incorporation'* delivered by Tony McGleenan KC;
- ▶ *'SENDIST: A Practitioner's Guide'* delivered by the Tribunal Chair Mr Paul Shevlin;
- ▶ *'Better than that': The Family Justice Review* delivered by Sir John Gillen;
- ▶ *'The Coming of Age of the Children Order'* delivered by (then) Justice Keegan;
- ▶ *'Restraint & Seclusion in the educational context: a legal perspective for parents, educationalists and practitioners'* and delivered by Kevin Morgan BL.

Due to the volume of work carried out by the L&I Department including in finalising the Report on our Formal Investigation, no CPD event was held this year. Together with the ending of the second term of the Commissioner and the increase in complexity of cases, we necessarily focused our resources on ongoing work. We look forward to organising our next CPD event.

## Contact NICCY's Legal and Investigations Team

**Complaints Referral Form** – if you need advice, assistance or wish to make a complaint, please use the form on this page [www.niccy.org/referralform](http://www.niccy.org/referralform)

**Legal Funding Support** – The Commissioner can assist with the bringing of legal cases by providing legal funding to practitioners. The Commissioner has a dedicated, yet limited, budget to allow the funding of legal proceedings in certain circumstances. Practitioners can apply to the Legal and Investigations Department for funding for a case which concerns children's rights by emailing [legal@niccy.org](mailto:legal@niccy.org)

**Applications to intervene in legal proceedings** – The Commissioner can make an application to the Court to intervene in legal proceedings. Should you be taking legal proceedings and believe that it is important that NICCY consider intervening, please complete our [Intervention Request Form](#) and send it to [legal@niccy.org](mailto:legal@niccy.org) for consideration.

**Protected Disclosures** – Under the Public Interest Disclosure (NI) Order 1998 (*and subsequent amendments 2014*), NICCY is designated a 'Prescribed Person' to whom disclosures can be made by external employees in matters relating to safeguarding the rights and best interests of children and young people.

NICCY is committed to our role as a 'prescribed person' and will treat such 'raising concerns' matters seriously, investigating appropriately in line with our statutory duties, powers and functions.

[You can find out more on our website](#) [www.niccy.org](http://www.niccy.org) or you can email [mairead@niccy.org](mailto:mairead@niccy.org) for more information.







**You can contact the Northern Ireland Commissioner for Children and Young People using the following details:**

**Northern Ireland  
Commissioner  
for Children and  
Young People**

**Equality House**  
7-9 Shaftesbury Square  
Belfast  
BT2 7DP

**T:** 028 9031 1616  
**E:** [legalteam@niccy.org](mailto:legalteam@niccy.org)  
**W:** [www.niccy.org](http://www.niccy.org)  
**Facebook:** [www.facebook.com/  
nichildrenscommissioner](http://www.facebook.com/nichildrenscommissioner)  
**Instagram:** [niccy\\_yp](https://www.instagram.com/niccy_yp)  
**Twitter:** [@NICChildCom](https://twitter.com/NICChildCom)

**NICCY**  
PROMOTING THE RIGHTS OF  
CHILDREN & YOUNG PEOPLE

**Please contact the Communications team at NICCY if you require alternative formats of this material.**