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## **Final Report:**

Tailored Review of the Northern  
Ireland Commissioner for Children  
and Young People, NICCY  
Commissioned by The  
Department for Communities

September 2022



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# 1. Executive Summary.

- 1.1. The New Decade New Approach agreement (2020) committed Departments to reviewing their Arm's Length Bodies (ALBs). The Department for Communities (DfC) commissioned a Tailored Review of two of its ALBs, the NI Commissioner for Children and Young People (NICCY) and the Commissioner for Older People in Northern Ireland (COPNI). NICCY is the subject of this report.
- 1.2. The aim of the Review is to take a holistic look at NICCY “to determine whether its NDPB and Corporation Sole status continues to represent the optimum mode of delivery for the desired policy and strategic outcomes in comparison with other options, alongside looking at governance efficiencies for better partnership working focussed on a strategic and proportionate approach”.
- 1.3. The Commissioner for Children and Young People was established by the Children and Young People (Northern Ireland) Order 2003, with the remit “to safeguard and promote the rights and best interests of children and young people”. NICCY is a Non-Departmental Public Body (NDPB) and is sponsored by the Department for Communities. The post of Commissioner is appointed for four years, renewable once. NICCY’s budget in 2021-22 was £1.73m which supported a team of 21 staff.

- 1.4. The review was carried out between May and August 2022. We reviewed NICCY documentation and consulted with a range of stakeholders via interviews, panels and postal questionnaires. We also sought to adapt our design to employ remote data collection technologies using Zoom and other online platforms.

## Form and function

- 1.5. The Review clearly demonstrates the continuing need for the statutory functions ascribed to the Commissioner. Whilst viewed against the three Cabinet Office criteria for ALBs, the Commissioner’s statutory responsibilities include those where it (a) performs a technical function, (b) needs to be politically impartial and (c) needs to act impartially to establish the facts. We have considered whether there are alternative structures which could deliver these functions effectively and efficiently.
- 1.6. In accordance with Article 24 of the Order (2003) the Commissioner has undertaken a series of reviews on the working of the Order and made recommendations for amendments. The proposed recommendations include: an amendment to facilitate NICCY taking an “own motion” case while not being a victim; and a proposed change of status of Commissioner to become an Officer of the NI Assembly. The Department of Communities has sought comment from other NI Departments on the proposed

amendments. While it is a matter for the Department to determine whether to accept NICCY's proposals and to propose amendments to the legislation to the Executive, we have attempted to evaluate the evidence in support of each recommendation.

1.7. NICCY is a Non-Departmental Public Body (NDPB), sponsored by the Department for Communities (DfC), while the appointment of the Commissioner rests with The Executive Office (TEO). While appointments by the First and deputy First Ministers give the post political legitimacy which would not necessarily be the case if it were made by a specific Minister, it is important that TEO ensures the appointment process satisfies the requirements of DAO DoF 05/17 in relation to Accounting Officer responsibilities.

1.8. Originally the Commissioner was appointed, and the office sponsored by OFMdFM. When new First and deputy First Ministers are appointed and an Executive in place, the possibility of sponsorship reverting to TEO should be considered. Furthermore, there is scope within the new Partnership Agreement for the sponsor Department to have a greater focus on strategy and impact.

1.9. In common with some other Commissioners' offices, the post of Commissioner in NICCY has Corporation Sole status, which affords the Commissioner significant independence to carry out their duties

and challenge functions. However, while the Corporation Sole model has many strengths, it does place a significant administrative overhead on what is a relatively small organisation and there is an argument for considering designating the Commissioner as a Statutory Officer of a Department (in effect a Ministerial appointee with statutory functions) which would continue to embed the independence of the Office in statute while significantly reducing the administrative requirements associated with being an NDPB. However, this would be a deviation from the norm, as both the English<sup>1</sup> and Welsh<sup>2</sup> Commissioner Reviews concluded that Corporation Sole status should be retained as essential to the effective functioning of the office.

## Control and Governance

1.10. The Audit and Risk Committee comprises 3 members although there are currently two vacancies for which recruitment is in hand. While the Committee seems to be working well, and the Chair of ARAC reports positively on the support provided by NICCY officials, we make a number of recommendations which we consider will enhance the independence and improve the effectiveness of ARAC.

1.11. The Commissioner has established a range of stakeholder groups which include young people, statutory and voluntary and community-based organisations. There was strong support for the work of NICCY from all of these

<sup>1</sup> Tailored Review Report on the Office of the Children's Commissioner March 2019, Conclusions Page 5.

<sup>2</sup> An Independent Review of the Role and Functions of the Children's Commissioner for Wales, 2014. Recommendations page 14



groups and a sense among statutory bodies that relationships had matured over recent years.

- 1.12. NICCY has well developed financial accountability processes, but the Corporation Sole status cannot provide the equivalent quality of assurance about the strategy or impact of the office. We considered the option of a Board, as is the norm in other ALBs, or an Advisory Board as is the case for the Children’s Commissioner in England. We also examined an alternative option, which was for NICCY to develop a more formal relationship with the NI Assembly Communities’ Committee. We have concluded that, whether as a Corporation Sole or as a Statutory Office of the Department, the establishment of an Advisory Board strikes the best balance for NICCY.

### Efficiency

- 1.13. As a small organisation, NICCY has limited scope for demonstrating efficiency savings or for providing a career structure for staff. We considered possible alternative models of staffing including merging back-office support with another ALB or drawing staff from the NICS. We do not consider that there are sufficient efficiencies to be gained from combining back-office functions to outweigh the potential disadvantages. However, as there are plans (subject to legislation) for establishing new Commissioner posts, further consideration should be given to Commissioners drawing on shared services with the NICS. This could be in the context where the Commissioner

is a Corporation Sole or becomes a Ministerial appointee with statutory functions (i.e., a Statutory Officer of the Department). The latter would however relieve the Commissioner of many of the administrative functions which are required of NDPBs and allow the post holder to focus time and resources on the key statutory priorities for the Office. At the same time this could potentially constrain the Commissioner’s capacity to operate independently and effectively hold government to account.

- 1.14. We appreciate it may take some time to tease out the implications of any change and there may be opportunities in the interim for experienced officers in other DfC ALBs to offer peer support to new incumbents in key posts such as finance.
- 1.15. There is considerable variation in how Commissioner led bodies are structured. This includes the Commissioner as Corporation Sole, linked to either an Executive Department or the NI Assembly, the Commissioner as a Statutory Officer of a Department, whether the bodies have a Chief Executive supporting the Commissioner and how back office and support services are sourced. We have noted that the management structure of Children’s Commissioners in other jurisdictions do not have the position of Chief Executive. Instead, senior posts report directly to the Commissioner. In the light of this the Department may wish to consider reviewing the appropriateness of the current management structure within NICCY.

1.16. In relation to efficiencies around accommodation, there are plans for the Commissioners located in Equality House to be relocated to new premises in James House. We understand that these plans have been subject to significant delay. In addition, Commissioners located in Equality House, including NICCY, have expressed concerns about colocation with bodies whom they may be scrutinising which might be perceived to compromise their independence. However, if hybrid working becomes the norm post-Covid, the need for the current office footprint should be reviewed with the aim of finding efficiencies in NICCY's accommodation costs.

### Effectiveness

1.17. To assist with an assessment of NICCY's broader impact we constructed a post-hoc outcomes framework and asked identified stakeholders to comment on NICCY's achievements against these outcomes. There is considerable descriptive evidence of NICCY delivering across these outcome areas.

- The Commissioner is very effective at public relations and getting the message out to the media. However, public awareness of children's rights and the work of Commissioners office could be improved.
- NICCY has carried out numerous rights-based reviews across Education, Health & Justice, providing detailed evidence of key issues and rights violations plus clear recommendations for relevant Departments and agencies.

- NICCY has only recently applied legislation to carry out its first formal investigation.
- There has been quite positive feedback from Government bodies and duty bearers complimenting NICCY on their challenge function and the contribution they make to the development of policy and practice with regard to children's rights.
- NICCY has built positive relationships with key decision makers allowing them to follow up and monitor implementation of review recommendations. However, it is unclear how much influence this wealth of material has on legislation, policies, strategies, service development or funding allocations.
- NICCY casework in addressing complaints of rights violations has made a significant difference to the individuals involved, (particularly their work with SEN provision).
- NICCY has promoted the engagement and consultation of Children and Young People in decisions which impact upon them.

1.18. Looking ahead it would be useful to revise and develop this outcome framework further to inform a more proactive (formative) approach to evaluation and impact reporting. This would involve NICCY clearly identifying and defining those outcomes that are within their remit and resource to deliver.

1.19. It can be argued that a key factor affecting successful influence on policy/practice development is the ability to

connect with and build constructive relationships with key decision makers, therefore we would propose that NICCY include the concept of ‘relationship building’ as a key outcome.

## Recommendations

### Form and function

- 1.20. The statutory functions ascribed to the Commissioner meet the Cabinet Office requirements and therefore must be retained to satisfy the requirements of the Children and Young People (Northern Ireland) Order 2003.
- 1.21. The Department for Communities has sought comments from other NI Departments on NICCY’s Article 24 proposed amendments to the 2003 Order. Recommendations in respect of the 7 proposed amendments are as follows:
  - 1.22. **A proposed change of status of Commissioner to become an Officer of the NI Assembly;** the Assembly Commission have affirmed their position that it would not be appropriate for the Commissioner to become an Officer of the Assembly.
  - 1.23. **An amendment to the 2003 Order to facilitate NICCY taking an “own motion” case while not being a victim;** this recommendation has implications for all Departments and as such requires further interdepartmental consideration.
  - 1.24. **The term of the Commissioner’s office changing from 4 years, renewable, to a single term of 7 years;** the current position provides more flexibility to release the Commissioner should their performance be deemed unsatisfactory or should they lose the confidence of the constituency.
- 1.25. **A statutory requirement on the Commissioner to report to the NI Assembly on the progress made by the NI Executive in protecting the rights and best interests of children;** as the Office with this role, it would be appropriate for NICCY to make periodic reports to the Assembly on progress; further consideration would be required as to how such a commitment would link with the existing reporting requirement in respect of the Children’s Services Cooperation legislation.
- 1.26. **A requirement for the Executive to provide a comprehensive response to the report in a timeframe of no more than 6 months;** there is a case for placing a requirement on the Executive to respond to reports within a defined time frame; the extent to which a comprehensive response is possible would depend to the number and complexity of the recommendations made.
- 1.27. **Placing a requirement on government to consult with NICCY before progressing legislation, strategies or policies which impact on children and young people;** Departments value the role which NICCY increasingly plays in providing early advice on new initiatives and the emphasis should be on strengthening these lines of communication; placing a requirement to consult in legislation could restrict a department’s ability to respond when urgent action was required.



1.28. **Removing “duplication clauses” from the 2003 Order;** subject to robust MoUs being developed with bodies where duplication might be an issue, and kept under review, these “duplication clauses” could be removed.

### **Governance and Control**

1.29. We recommend that TEO should continue to appoint the Commissioner which, by virtue of requiring the endorsement of the First and deputy First Ministers, will confer added political legitimacy on the appointee.

1.30. We recommend that the Department for Communities (DfC) should engage with TEO when Ministers and an Executive are in place to consider whether, in addition to appointing the Commissioner, TEO should also be the sponsor Department for NICCY. Whichever Department sponsors NICCY, the new Partnership Agreement should be focussed on organisational strategy and demonstration of impact.

1.31. Notwithstanding decisions about sponsorship arrangements, we recommend that consideration is given to whether the Commissioner should remain as a freestanding Corporation Sole or become a Statutory Office of a Department. However, removing Corporation Sole status would represent a deviation from the norm for other UK Children’s Commissioners and raise concerns about the Commissioner’s perceived independence and actual detachment from government. Any proposed change in the Commissioner’s status would need to address how to

guarantee the Commissioner’s continued independence and capacity to effectively hold government to account.

1.32. In view of the importance of ARAC should the Commissioner remain a Corporation Sole, we recommend:

- that the sponsor Department is included in the appointment arrangements for ARAC members
- the ToR are reviewed annually
- an effectiveness review is undertaken annually
- NICCY agrees an annual work programme with the Committee
- Regular meetings of the IA, EA and the Department continue but in the absence of the Commissioner/ Accounting Officer or other NICCY staff.
- DfC and NICCY consider using the NICS IA group to provide IA services when the current contract terminates

1.33. We recommend that NICCY establish an Advisory Board in consultation with the Department in order to provide the Commissioner with independent advice and review.

### **Efficiency**

1.34. There is limited scope for NICCY to find efficiencies through possible mergers with another NDPB. We recommend that the Department give consideration to the current senior management structure which currently has two posts at NICS Grade 5 level.

1.35. There could also be the potential for efficiency savings if the Commissioner were to be designated a Statutory Officer of a NI Department. While we would recommend that consideration is given to the Commissioner becoming a Statutory Officer of the Department, particularly in terms of efficiency, this could have implications for the Commissioner's independence and capacity to effectively hold government to account.

1.36. In the event of hybrid working becoming the norm, we would recommend that opportunities are explored for finding efficiencies in NICCY's accommodation costs.

### **Effectiveness**

1.37. There is considerable descriptive evidence of NICCY delivering effectively across identified outcome areas. Looking

ahead we recommend that NICCY revise and develop the outcome framework to inform a more pro-active (formative) approach to evaluation and impact reporting.

1.38. This would involve NICCY clearly identifying and defining those outcomes that are within their remit and resource to deliver. Page 58 illustrates that targets and indicators could be devised for each outcome and appropriate evidence, data collection methods identified.

1.39. In addition, identifying that good relationships with key decision makers can be a key factor affecting successful influence on policy/practice development, we would recommend that NICCY include the concept of 'relationship building' as a key outcome.

## 2. Introduction.

2.1 The New Decade New Approach agreement which was published in January 2020 restored the institutions of government in Northern Ireland and made a number of commitments, including that Departments should undertake a review of their Arm's Length Bodies (ALBs). It is in this context that the Department for Communities (DfC) commissioned independent consultants to undertake a review of two of its ALBs, the NI Commissioner for Children and Young People (NICCY) and the Commissioner for Older People in Northern Ireland (COPNI). NICCY is the subject of this report.

### **Background and role of the Commissioner**

2.2 The Commissioner for Children and Young People was established by the Children and Young People (Northern Ireland) Order 2003, with the remit “to safeguard and promote the rights and best interests of children and young people” (the age range is up to 18 years or 21 if the young person has a disability or has been in care). The Commissioner has a wide range of responsibilities which include advising government and its agencies on policies, legislation and services provided for young people, reviewing service provided for children and young people and challenging government actions for improvement and correction when they fall short.

2.3 NICCY is a Non-Departmental Public Body (NDPB) and has been sponsored by the Department for Communities since 2016. It was originally established under the Office of the First and deputy First Minister whose successor, the Executive Office retains responsibility for appointing the Commissioner. The post of Commissioner is appointed for four years, renewable once. NICCY's budget in 2020-21 was £1.595,881m which supported a team of 22.7 staff (Annual Report and Accounts 2020-21).

2.4 The remit of Children's Commissioners is grounded in the United Nations Convention on the Rights of the Child (UNCRC) to which the UK Government is a signatory. The work of the Commissioner is also informed by the Programme for Government Outcome 12 to “give our children the best start in life”, the NI Executive's 10 year ‘Children's and Young People's Strategy’ and the Children's Services Co-operation Act (2015).

2.5 In addition to the international dimension of the Children's Commissioner role located within the UNCRC, there are strong international links both with similar bodies in the UK and Ireland (the British and Irish Network of Children's Commissioners (BINOCC)) and the European Network of Ombudspersons for (ENOC), which the NI Commissioner formerly Chaired.

## Tailored Reviews

2.6 The Review was conducted in the context of the Cabinet Office Guidance on Tailored Reviews (which the Department of Finance has amended to suit the needs of the NI Executive). The aim of the Review is to take a holistic look at NICCY “to determine whether its NDPB and Corporation Sole status continues to represent the optimum mode of delivery for the desired policy and strategic outcomes in comparison with other options, alongside looking at governance efficiencies for better partnership working focussed on a strategic and proportionate approach”.

2.7 Tailored reviews are required to provide a robust challenge to and continuing need for individual organisations and where an organisation is being retained, that it is operating effectively and efficiently and that assurance processes are in place to make such assessments. In addition, the Tailored Review should ensure that appropriate governance and control measures are in place and that the organisation, and its sponsor Department are complying with recognized principles of good corporate governance.

2.8 Our Terms of Reference specifically require us to consider and make recommendations on the following areas:

**Form and function** – the status, form, function and continuing requirement for the Commissioner role

**Control and Governance** – consider whether NICCY and the Department for Communities in its sponsor role is complying with recognised principles of good corporate governance to ensure strong and robust governance arrangements are in place

**Efficiency** – the review will examine the current operational structure, corporate functions and related costs and will consider options for operational efficiencies

**Effectiveness** – the review will consider overall effectiveness of NICCY in delivering on its objectives and will look at comparisons with other jurisdictions in order to make recommendations that will enhance effectiveness and provide increased clarity and accountability for stakeholders.

**Democratic accountability** – the review will consider current and alternative delivery arrangements in the context of democratic accountability.

## 3. Methodology

### Review of documentation

3.1 We reviewed a range of documentation which included comprehensive background briefing provided by DfC:

- The Commissioner for Children and Young People (Northern Ireland) Order (2003) NICCY Reports, including:
- NICCY Management Statement / Financial Memorandum
- NICCY “What We Do”
- NICCY Annual Report and Accounts
- NICCY Business Plan and Risk Register
- NICCY Corporate Plan 2020/23
- NICCY Business Plan 2021/22
- NICCY Corporate Risk Register 2021/22
- NICCY ARAC Terms of Reference.
- Reports to Those Charged with Governance, 2019/20 and 2020/21

3.2 We familiarised ourselves with the Cabinet Office guidance on Tailored Reviews of Public Bodies and the NI Code of Good Practice on Partnerships between Departments and Arm’s Length Bodies.

3.3 We also identified a number of external reports and references including

- Review Report of Children’s Commissioner for England, by John Dunford (2010)
- An Independent review on the role and functions of the Children’s Commissioner in Wales, by Dr Mike Shooter December (2014)
- Response to the independent review into the role and functions of the Children’s Commissioner for Wales, NSPCC Cymru/Wales (November 2015)
- Department of Education Review of the Office of the Children’s Commissioner (England) (2019)
- Department of Education Children and Young People Strategy 2020 – 2030
- NI Assembly Briefing 2021 – Children’s Rights and Educational Policy in NI – Implementation of the UN Convention on the Rights of the Child.
- UN Report of UK Commissioners December 2020



## Design of data collection tools

- 3.4 For this review we endeavoured to design data collection instruments that would address the terms of reference and extract relevant information from as wide a range of stakeholders as possible. Given the ongoing concerns around Covid we also sought to adapt our design to employ remote data collection technologies using Zoom and other online platforms.
- 3.5 Based on the terms of reference we developed a series of questions designed to explore respondent's knowledge, views and experiences of NICCY. We also referenced and adapted items from the interview schedule used in the independent review on the role and functions of the Children's Commissioner in Wales, (December 2014). These were in the main qualitative with some rating scales included.
- 3.6 Furthermore, based on the documentation provided, we designed a draft logic model for NICCY, which sought to link the Commissioner's role and functions to a series of proposed high level outcomes. We consulted with the Commissioner and senior staff, for their feedback and endorsement of the final set of outcomes produced. This outcomes framework was then incorporated into the questionnaire issued to different stakeholders. Respondents were asked to rate NICCY's performance against each of the outcomes (on a 1 to 10 scale) as well as provide examples/evidence

to illustrate their rating. This assisted in assessing the wider impact and effectiveness of NICCY's work. These questionnaires/interview schedules were adapted to suit the needs of the different categories of stakeholders i.e. Government Departments or NGOs.

## Fieldwork

- 3.7 Fieldwork was carried out over the period of May to August 2022 and consisted of the following:
- Stakeholder interviews either face to face or remotely via online platforms
  - Stakeholder questionnaires completed and returned via email
  - Panel/focus groups with user groups and external stakeholders
- 3.8 We conducted a wide range of interviews, (mainly remotely) with key officials in governance and sponsorship in DfC, the EA Corporate Leadership team, the Children's Commissioner, Chief Executive and senior staff, and with the Chair of the NICCY Audit and Risk Committee (ARAC). The Ombudsman for Children in the RoI was interviewed remotely and subsequently provided some additional information in writing.
- 3.9 We also had in person meetings with the Chief Executive of the Equality Commission for NI (ECNI) and the Chief Commissioner and Chief Executive of the NI Human Rights Commission (NIHRC).

3.10 Questionnaires were sent out via email to stakeholders identified by NICCY. These included identified individuals in Government Departments, statutory bodies and NGOs the Commissioner and their office has had contact with.

3.11 So that young people themselves would have an opportunity to input to the Review, we conducted a focus group session with the NICCY Youth Panel.

3.12 In order to make comparisons with arrangements in other Commissioners' offices within DfC we interviewed the Commissioner for Discretionary Support and his Office Manager and the Secretary to the Local Government Boundary Commission. We also met with the Chief Executive of the Commission for Victims and Survivors

to understand an alternative model for the division of responsibilities between the Commissioner and CE and had a remote interview with the Head of Corporate Services at the Office of the Children's Commissioner for England

3.13 Finally, we interviewed the Police Ombudsman and a senior official of the Public Service Ombudsman to identify if there were lessons for NICCY from other NI NDPBs with similar investigatory responsibilities.

#### **Challenge panel**

3.14 DfC established a Challenge Panel to oversee the review and robustly test and challenge the assumptions of the review. The review team will provide their findings to the Challenge Panel prior to finalisation of their report.

## 4. Cabinet Office Tests and Delivery Options

### Children’s Commissioners in the UK and the Ombudsman in Ireland

4.1 Table 1 provides some comparisons between NICCY and similar organisations in England, Scotland, Wales and the RoI. The scale and staffing of the respective offices in the UK and RoI differ significantly with the most recently published Annual Reports and Accounts showing per capita expenditure ranging from less

than 20p in England to £3.44 in NI. Similarly, the staffing of the respective offices varies from 16 in Scotland to 37 in the Children’s Ombudsman in the RoI which has the largest staff complement, two thirds of whom are engaged in investigating complaints.

**Table 1 Budgets, staffing and per capita spend in Commissioners’ offices in the UK and the Children’s Ombudsman in the RoI**

	Wales	England	Scotland	RoI	NI
Population under 18 1Mid year estimates June 2020 2 CSO Census Office	663.6k <sup>1</sup>	12.7m <sup>1</sup>	1.1m <sup>1</sup>	1.25m <sup>2</sup>	463.4k <sup>1</sup>
Budget/Expenditure 2020-21	£1.7m	£2.56m	£1.31m	£2.9m (€3.5m)	£1.6m
Expenditure per child/young person 0-18	£2.56	19p	£1.21	£2.33	£3.44
Number of staff (inc Commissioners/Ombudsman)	20.46	31	16 (Inc. 4 p/t)	37	25 (22.7fte)

### The need for NICCY

4.2 There is a clear legislative requirement for a Children’s Commissioner in NI. The Children and Young People (Northern Ireland) Order 2003 made provision for the Office to “safeguard and promote the rights and best interests of children and young people”. The NI Children’s Commissioner Office is also necessary for Northern Ireland to support the UK government’s obligations to fulfil its commitments to the UNCRC. The important role which NICCY plays

in promoting the rights of children was emphasised by all statutory and voluntary stakeholders with whom we consulted. NI has arguably a more pressing need for a commissioner to advocate for the needs of children as a consequence of the inter-generational effects of the Troubles, high levels of child poverty, exacerbated by the current cost of living crisis, and the pressures on children’s education and health (including mental health) services. There is therefore undoubtedly a strong and continuing requirement for NICCY.

## The “Three Tests”

4.3 The Cabinet Office guidance identifies three tests which must be considered in any Tailored Review. These are:

**Does the ALB perform a technical function?**

**Does it need to be politically impartial?**

**Does it need to act independently to establish the facts?**

4.4 We consider that the statutory functions ascribed to the Commissioner meets all three tests. Some of NICCY’s functions, for example its investigatory work, requires specialised legal skills and training which satisfies the “technical” question in part. It is self-evident that the Children’s Commissioner needs to be politically impartial as much of its work will require it to exercise an independent challenge function. And to do this

NICCY must be capable of uncovering the facts surrounding the topics under investigation thus satisfying the second and third test.

## Delivery options

4.5 The Cabinet Office Guidelines require Tailored Reviews to consider alternative delivery options for ALBs under review. The range of Options is considered in Table 2. Reviewing all the options, it is clear that only two of the options require further consideration i.e., the Commissioner becoming a Statutory Officer of a Department, or remaining as an ALB sponsored by a NI Department. In the Control and Governance Chapter we look in more detail at the question of introducing a Board to support the statutory functions ascribed to the Commissioner.

**Table 2. Delivery Options for NI Children’s Commissioner**

Option	Comment
Abolish	The NI Children’s Commissioner was established by legislation to safeguard and promote the wellbeing of children and young people and fulfils a UK Government commitment in respect of the UNCRC.
Bring in-house as a Directorate of DfC	While this option would reduce costs, the Commissioner needs to demonstrate that she is independent from government so as to have the freedom to challenge on behalf of their client constituency. This could not be achieved if Children’s Commissioner was incorporated as a Directorate of the Department.
Merge with another body	We have considered whether NICCY could merge with another body while retaining a clear focus on children’s issues. The possibilities are joining with COPNI to create a single Office with two Directorates, merge with the ECNI or the NIHRC with whom there is some overlap of functions. We have concluded that all of these options pose considerable challenges and are not currently viable. The merger options are discussed further below.
Commercial model- delivery by the private sector or delivered under contract by the voluntary or private sector.	The Children’s Commissioner does not attract private funding and is unlikely to do so in the future. Devoting resources to finding private or voluntary sector support would divert the organisation from its primary focus of safeguarding and promoting the rights of children and result in a loss of democratic accountability.

Option	Comment
Move out of central government e.g. to local government	To disperse this important function across 11 local Councils would result in fragmentation, confusion and inefficiencies.
Deliver via a Ministerial appointee with statutory functions	While there are examples of Commissioners working this way, they tend to be narrower in focus than is the case with NICCY. However, this model would relieve the Commissioner of many of the administrative overheads of an NDPB. This is considered in more detail below.
Deliver via a Statutory Office holder (Parliamentary)	This option is favoured by the Commissioner and members of the Advisory Forum who responded to the stakeholder survey. However, it is not supported by the Assembly Commission. (See 5.5 and following)
Continued delivery as an ALB with the Commissioner as Corporation Sole	The status quo. The initial policy rationale for creating a Children's Commissioner office as a Corporation Sole was to afford the level of independence envisaged by the UNCRC. The issue of the Commissioner having a statutory or advisory Board to enhance accountability is discussed at 6.29-6.37.

## Merger options

### 4.6 Merge NICCY and COPNI into a single organisation

Advantages	Disadvantages
Combined back office which would provide more resilience	Efficiency savings minimal
Reduce duplication e.g., single set of core policies	Potential conflict of priorities
Create larger pool of investigators	

### 4.7 Merge NICCY with Equality Commission NI

Advantages	Disadvantages
Both organisations have Equality/Human Rights obligations in respect of children	The two organisations have distinct roles and very different structures
ECNI already provide ICT services for NICCY with whom they also share accommodation	Risk of dilution the focus which NICCY has on promoting the welfare of children
Combined back office for HR and Finance would be a development of these shared services	ECNI has a small back office which is already stretched
	Transfer of functions legislation would be required as they are currently sponsored by different Departments



## 4.8 Merge NICCY with NIHRC

Advantages	Disadvantages
Both organisations are concerned with the rights of children.	The status of the 2 bodies is different as NIHRC is a National Human Rights Institution answerable to Parliament while NICCY is answerable to the NI Assembly
Single body could, arguably, provide a more effective voice for children.	NIHRC's responsibilities include Reserved and Excepted matters – currently, in respect of children, these matters are the responsibility of the English Commissioner which are exercised through MoUs with the Children's Commissioners in devolved countries.
Possible efficiencies by combining back offices (although NIHRC have just 4 support staff so would require additional resources if they were to take on another function).	NIHRC is sponsored and funded by a UK Department (NIO) while NICCY is sponsored by a NI Executive Department
	Their roles, while overlapping, are quite different – NICCY is grounded in the UNCRC while the NIHRC must report on all UN Treaties
	While NICCY's role is to advocate for children and young people, NIHRC are required to evaluate state action against clear objective criteria.
	As an NHRI, NIHRC has a broad remit and must have equal regard to the rights of all while NICCY has a sole focus on the rights of children and young people

## 5. Issues Arising from Article 24 Reports

5.1 NICCY was established through the Commissioner for Children and Young People Order (Northern Ireland) 2003. Article 24 of the Order requires the Commissioner to keep under review the working of the Order and to make reports on its adequacy and effectiveness, along with recommendations for amendment which are deemed to be necessary or desirable. In accordance with Article 24, successive Commissioners undertook a series of reviews, supported by academic research.

5.2 The Commissioner advises that reports were submitted in 2007 to OFMDFM and subsequently in 2013, the latter informed by the comprehensive Review of the Duties and Powers of the NI Commissioner for Children and Young People by Professors Barry Fitzpatrick and Brice Dickson. However, these have not resulted in any amendments to the 2003 Order.

5.3 The current Commissioner endorsed and re-issued her predecessor's Article 24 Report in March 2015. A further Article 24 report was issued by the Commissioner in April 2019 and while no formal reply has issued from DfC, the Department has sought comment from the NI Departments which is reviewed below.

5.4 In summary, the 2019 Section 24 Review made 7 proposals for amending the legislation. These proposals, which are

discussed in this Section of the Report, address issues which are directly or indirectly relevant to the ToR for the Review.

### Compliance and Structural Changes

#### **Confer upon it the independence required by the Paris Principles as an Independent Human Rights Institution by making NICCY an institution of the NI Assembly.**

5.5 This recommendation arises from concerns that NICCY's independence is compromised by being an ALB of a Government Department rather than being accountable to the NI Assembly. The Commissioner argues that NICCY's current ALB status is incompatible with the Paris Principles which are a set of international guidelines to which Human Rights Bodies are required to adhere and which have been adopted by the United Nations Human Rights Commission and the United Nations General Assembly.

5.6 The 2003 Order has been reviewed in separate studies by Dr Deena Hayden and by Professors Brice Dickson and Barry Fitzpatrick who support the Commissioner's view that the current legislation falls short of compliance with international standards in terms of the degree of independence it confers on NICCY. Members of the Advisory Forum of stakeholders who responded to our questionnaire were supportive of the argument for NICCY to become an organisation of the NI Assembly.

5.7 We have reviewed the legal advice supplied to DfC on the recommendation. The advice is that compliance with the Paris Principles does not require the level or degree of independence implied by the Commissioner becoming a designated officer of the Assembly. Comparison is made with NIHRC which is an example of a National Human Rights Institution which has been accredited A status by the Global Alliance of Human Rights Institutions while not being an institution of Parliament.

5.8 It is further noted that NICCY is a member of the European Network of Ombudspersons for Children (ENOC) which includes in its membership criteria that:

“(iii) There are no provisions in the legislation which limit the institution’s ability to set its own agenda in relation to this function, of which prevent it carrying out significant core functions suggested in the Paris Principles and ENOC’s standards.”

Departmental comments	Assembly Commission
<p>5.9 While there was some support (in principle) for Recommendation 1 among NI Departments it was recognized that any change would require Executive endorsement and could have implications for other NDPBs, some of which have also significant human rights or equality responsibilities. For example, concern was expressed that changing the status of NICCY in this way may give the organisation more powers than the Equality Commission and would require a broad review of similar other Commissioners’ Offices which might also make a claim for sponsorship by the Assembly. It was also noted that if the Assembly was non-operational there would be a risk of critical decisions affecting the work of NICCY being subject to unacceptable delay.</p>	<p>5.10 The Assembly Commission first considered this proposition in 2015 and agreed that it was not appropriate for NICCY to come under its remit. The Commission is concerned that for the Commissioner to become an officer of the Assembly would be considered a precedent for other Commissioners also seeking this status. This would significantly impact on the Assembly as it would then have to undertake a monitoring role for these bodies.</p>

### Power to bring Legal Proceedings

**Insert a clause stating that in relation to bringing legal proceedings, the Commissioner need not be a victim or potential victim of the act in question.**

5.11 This issue arises following a High Court ruling that the Commissioner does not have the power to safeguard and promote children’s rights through strategic litigation as she cannot claim

victimhood. The ruling was that “The Commissioner herself is not a victim and the fact that she is empowered to bring proceedings under the 2003 Act does not of itself confer upon her a power to bring proceedings to challenge legislation or draft legislation”. This amendment would permit the Commissioner to bring cases which would challenge legislation [and policies] which she considered infringed children’s rights in the absence of a specific victim.

## Departmental comments

5.12 The NIHRC was given the right to undertake own motion cases, i.e., the Commission can take a legal case of public interest in its own name, without having to rely on an individual to bring forward legal proceedings, through an amendment of the Northern Ireland Act 1998 by the Justice and Security (Northern Ireland) Act 2007 and Schedule 3 of the European Union (Withdrawal Agreement) Act 2020. The NIHRC is the only human rights organisation in Northern Ireland with such power.

5.13 A Department expressed concerns that this power, if conferred on NICCY, could result in increased judicial reviews which would delay the implementation of policies and impose additional costs on the Department. A more general concern is that courts will be asked to consider issues at a theoretical level which they have previously expressed reluctance to do. One Department commented that, when dealing with a particular reference from the Attorney General for Northern Ireland, the Supreme Court said that it was preferable for legal questions to be determined against the background of a clear factual matrix, rather than as theoretical or academic issues of law.\*\*

\*\* Reference by the Attorney General for Northern Ireland of devolution issues to the Supreme Court pursuant to Paragraph 34 of Schedule 10 to the Northern Ireland Act 1998 (No 2) (Northern Ireland)

## Term of Office

**Enable greater focus on longer term outcomes and strategic aims of the organisation by providing that the Commissioner should have a single term of 7 years.**

5.14 The Commissioner is currently appointed for 4 years with the possibility of one extension for a further 4 years. She considers that a longer, single term of office of 7 years would enable a greater

focus on longer term strategic aims, outputs and outcomes for Children and Young People. The terms of office for other Children’s Commissioner posts and for some other Commissioner posts in NI are shown in Table 3. Clearly there is considerable variation in the term of appointment and whether appointments may be renewed (both for Children’s Commissioners and more generally) although the rationale for the different arrangements is not obvious.

**Table 3 Duration of appointment for Children’s Commissioner posts in the UK and Ireland; and for other Commissioner posts in NI.**

Post	Term of Office (Years)	Renewable (Yes/No)
Children’s Commissioner NI	4	Yes
Children’s Commissioner Scotland	6	No
Children’s Commissioner Wales	7	No
Children’s Commissioner England	6	No
Children’s Ombudsman Rol	6	Yes
Chief Commissioner NIHRC	5	2-year extension
Chief Commissioner ECNI	5	2-year extension
Commissioner Victims and Survivors	4	Yes
Commissioner for Survivors of Institutional Childhood Abuse	5	No
Ni Public Service Ombudsman	7	No
Victims of Crime Commissioner	3	Potential 1 year extension

## Departmental comments

5.15 The TEO (which is responsible for appointing the Children’s Commissioner) are aiming to increase diversity and are encouraging a norm of 4 or 5 years for public appointments across NI. The bar for removing the Commissioner is set very high so the current arrangement of 4 years plus a second term of 4 years would facilitate the release, rather than removal, of the Commissioner if he/she is underperforming, or should the Commissioner lose the confidence of the constituency.

## Periodic Reporting

**Include a requirement upon NICCY to produce a periodic report on the progress by the NI Executive to the NI Assembly regarding the protection of rights and best interests of children in Northern Ireland, together with a duty on the Executive to provide a comprehensive response to each of the points raised in the report within a timeframe of no more than 6 months.**

5.16 The Commissioner considers that a key part of NICCY’s monitoring and

advisory role is to report periodically to the NI Assembly on how the NI Executive has progressed the promotion and safeguarding of the rights and best interests of children and young people, with particular emphasis on children living in vulnerable and marginalised situations. It is further proposed that there should be a statutory requirement on the Executive to respond to the issues raised in the Commissioner’s report within a timeframe of no more than 6 months.

## Departmental comments

5.17 There is an argument that as a funded ALB it would be appropriate for NICCY to report to the Assembly and for it to receive a response to issues raised. However, this would place NICCY in a unique position in NI as there is not an equivalent requirement on similar bodies. Depending on the issues, 6 months may be insufficient to make a substantive response, as there may be a requirement for consultation both within and outside government and there will almost inevitably be resource issues. Some Departments commented that such statutory requirements could be a blunt instrument and that more might be achieved through the development of strong working relationships between NICCY and Departments. The Children’s Champions Network was cited as an effective forum for engaging with NICCY and an example of the value of investing in personal relationships. It was also noted that Departments have an existing requirement to report on progress under the Children’s Services Cooperation Act (Northern Ireland) 2015 and it would be important to avoid duplication.

## Respond to Commissioner’s report

**Stipulate (at Article 24) a timeframe of no more than 6 months - to include the report being laid before the Assembly, within which time a comprehensive response to this report shall be received by the Commissioner.**

5.18 Article 24 places a duty on the Commissioner to report on the adequacy and effectiveness of the Order after

the third anniversary of the making of the Order and subsequently “at such time as the Commissioner thinks fit, not being than three years after the making of the previous report”. The Commissioner has noted that while a number of reports have been submitted by herself and her predecessors, there has been no substantive progress on the recommendations included in the reports.



## Departmental comments

5.19 There is a recognition that there is an imbalance in requiring the Commissioner to report on the Order without a reciprocal duty on government to respond. It is noted that placing a six-month timeframe could be insufficient, particularly if there was a significant number of recommendations or there was a requirement to consult. Any response would therefore be, at least in part, provisional. It was also noted that the requirement could be repercussive for other ALBs.

## Advisory role

### Duty on Government Departments to consult

**The 2003 Order be amended to place a duty on government to consult with NICCY before progressing new legislation, strategies or policies which impact on children and young people. Such consultation to take place prior to any general consultation period.**

5.20 The 2003 Order sets out an advisory role for the Commissioner in Articles 7 (4), 8 (2) and 8 (6). The purpose of this recommendation is to provide in legislation for NICCY to have an early opportunity to provide advice which will shape subsequent legislation, policies or strategies. The Commissioner cites examples of where early consultation has influenced significant pieces of legislation to ensure children's rights compliance.

## Departmental comments

5.21 Departments for whom this recommendation would be most relevant were supportive of early consultation with NICCY and described positive benefits from such consultation. However, it was noted that early consultation would not be practical in every situation; for example, in responding to the Covid pandemic decisions had to be made at pace; or in the case of a court judgement or other crisis, a statutory requirement to consult would delay the Department taking action. The practice of early consultation with stakeholders, including NICCY, is becoming well embedded in Departments and there is stronger support for promoting early engagement with NICCY on relevant policy development as a best practice approach rather than creating a statutory requirement which is not available to other, similar bodies.

## Updating remit provision

### Duplication clauses

**The 2003 Order be amended to remove the "duplication clauses" at Articles 9(4), 10(3), 11(4), 12(2)(b), 12(3), 13(1) and 15(3).**

5.22 The Commissioner questions the continued need for these clauses which were inserted to ensure that there

would be no duplication between the responsibilities of NICCY and existing organisations working in similar areas. She reports that there have been no instances of direct or indirect challenge from other bodies about overlap or duplication since NICCY was established and that relationships with organisations working in related fields are managed through a suite of MoUs.

## Departmental comments

5.23 With the exception of one Department which advocated retaining the clauses, there were no substantive comments from Departments on this recommendation.

5.24 In summary, we have reviewed the recommendations in the Commissioners Article 24 report our assessment is as follows:

- **a proposed change of status of Commissioner to become an Officer of the NI Assembly;** the Assembly Commission have affirmed their position that it would not be appropriate for the Commissioner to become an Officer of the Assembly.
- **an amendment to the 2003 Order to facilitate NICCY taking an “own motion” case while not being a victim;** this recommendation has implications for all Departments and as such requires further interdepartmental consideration.
- **the term of the Commissioner’s office changing from 4 years, renewable to a single term of 7 years;** clearly there are arguments for both scenarios, however the current position provides more flexibility to release the Commissioner should their performance be deemed unsatisfactory or should they lose the confidence of the constituency.
- **a statutory requirement on the Commissioner to report to the NI Assembly on the progress made by the NI Executive in protecting the rights and best interests of children;** as the Office with this role it would be appropriate for NICCY to make periodic reports to the Assembly on progress; further

consideration would be required as to how such a commitment would link with the existing reporting requirement in respect of the Children’s Services Cooperation legislation.

- **a requirement for the Executive to provide a comprehensive response to the report in a timeframe of no more than 6 months;** there is a case for placing a requirement on the Executive to respond to reports within a defined time frame; the extent to which a comprehensive response is possible would depend to the number and complexity of the recommendations made.
- **placing a requirement on government to consult with NICCY before progressing legislation, strategies or policies which impact on children and young people;** Departments value the role which NICCY increasingly plays in providing early advice on new initiatives and the emphasis should be on strengthening these lines of communication; placing a requirement to consult in legislation would restrict a Department’s ability to respond when urgent action was required.
- **removing “duplication clauses” from the 2003 Order;** subject to robust MoUs being developed with bodies where duplication might be an issue, and kept under review, these “duplication clauses” could be removed.

## 6. Governance and Control

### Arrangements for appointing Commissioners (UK) and Ombudsman (RoI)

6.1. NICCY is a non-departmental public body (NDPB), sponsored by the Department of Communities (DfC) from which it receives funding and to which it accounts for its expenditure. The Commissioner has been designated as Accounting Officer for NICCY by the Permanent Secretary in DfC, the Principal Accounting Officer for DfC

expenditure. Prior to the restructuring of NI Departments in 2016, NICCY was sponsored by OFMdfM however the appointment of the Commissioner continues to rest with The Executive Office (TEO), the successor to OFMDFM while sponsorship lies with DfC. Arrangements for the appointment of Children’s Commissioners in the UK and the Children’s Ombudsman in the ROI are summarised in Table 4.

**Table 4 Appointing authorities for Children’s Commissioners in the UK and the Children’s Ombudsman in the RoI**

	Wales	England	Scotland	RoI	NI
Appointment	First Minister after taking account of (i) the views of children; and (ii) advice of any selection panel	Secretary of State who must (as he thinks fit) involve children	By His Majesty on the nomination of Parliament	Presidential appointment on the advice of the Oireachtas	By the First and deputy First Minister acting jointly
Term	7	6 years	Not more than 8 years	6 years	4 years
Re-appointment	No	No	No	Option of reappointment for further 6 yrs	Option of further 4 years
Early removal	First Minister	Secretary of State	May be removed by His Majesty	By the President	First and deputy First Minister

6.2. We understand that the appointing authority for the Children’s Commissioner was retained by TEO following the restructuring of Departments to ensure that the appointee enjoyed cross community support. While it does appear anomalous that the sponsor Department is not responsible for making the appointment, (with the exception of COPNI, we are not aware of other

examples of the appointment and sponsorship roles being split between Departments), and has the potential to be a source of tension around appointments and reappointments, we consider that making the appointment through TEO increases the democratic accountability of the appointment as it brings the authority of the First and deputy First Minister to the process.

6.3. We have also considered whether DfC is the most appropriate sponsor Department for NICCY. We understand that the rationale for OFMdfM sponsoring the Children's Commissioner initially was that FM/dFM was the lead on equality and also led on the first Children's strategy, which was subsequently transferred to DE, and that there had been an assumption that the Commissioner would move out of OFMdfM when established. When Departments were reorganised in 2016, the aim was to give the new Executive Office a sharper focus in supporting the Executive and DfC was identified as an alternative sponsor as it had other equality functions (although the Equality Commission and Race remained with TEO).

6.4. Possible alternatives to the current arrangements include returning to sponsorship by TEO, transferring sponsorship to the Department of Education which is the custodian of the Children and Young People's Strategy 2020-2030, or the Department of Health which carries responsibility for a range of services to children and young people. However, there is undoubtedly merit in not aligning NICCY with Departments which have a strong policy and service delivery role in respect of children and young people. TEO has a cross cutting role in overseeing the coordination of Executive policies and would be a credible alternative sponsor for NICCY (as noted elsewhere, TEO currently appoints the Commissioner). In addition, TEO aims to "deliver a peaceful, fair,

equal and prosperous society" and has a specific objective on Tackling Disadvantage and Promoting Equality of Opportunity, which includes an objective of "promoting and protecting the interests of children". TEO led Delivering Social Change policy which also includes as an Aim "to improve children and young people's health, well-being and life opportunities". There is therefore an argument for aligning responsibility for appointing the Commissioner with the sponsorship role. However, this matter cannot be progressed in the absence of TEO Ministers and an Executive which has the ultimate responsibility for allocating or reallocating functions between Departments. The appropriate time to address the issue is when a new Executive is in place.

### **Internal management**

6.5. The Commissioner has a legal duty to promote and protect the rights of all children and young people in Northern Ireland, and as Accounting Officer, is personally responsible for propriety and regularity in the management of public money and for maintaining a robust system of internal control. The Chief Executive reports directly to the Commissioner and has delegated authority for day-to-day management of the organisation, staff, finances, strategic planning, resources and governance arrangements and for implementing the Corporate and Business (Annual Report and Accounts 2020-21).

6.6. Internal operational management is principally through the Senior Management Team (SMT) comprising the Commissioner, Chief Executive and Heads of Policy and Participation and of Legal and Investigation. SMT meets quarterly. A Leadership and Management Team (LMT) sits beneath the SMT and meets monthly. Membership of LMT comprises the CE, Head of Policy and Participation and Senior staff responsible for Corporate Services, Policy and Research, Legal and Investigations and Participation.

#### **Audit and Risk Committee**

6.7. An effective Audit and Risk Committee plays a critical role in the governance framework of an ALB. The NICCY Audit Committee consists of 3 independent members, recruited through public advertisement. Appointment is for a term of 3 years with the possibility of an extension for a further 3 years. The outgoing ARAC members included 2 qualified accountants. The current, recently appointed, Chair previously served as a member of the Committee which has provided continuity while NICCY seek to appoint 2 new Members to the Committee. Members receive a formal letter of appointment and are remunerated on a sessional basis. The Chair described the induction and training for the Committees as excellent and noted that, as a new Chair, the Commissioner and CE provided her with comprehensive briefing on the work of NICCY, including emerging issues. Declarations of Interest are signed by Committee Members and are updated regularly, and meeting Agendas routinely

include an opportunity for Members to declare any Conflicts of Interest.

6.8. The ToR for the ARAC do not appear to have been reviewed recently. These require updating and should be reviewed annually. It is also good practice for the ARAC to undergo a periodic effectiveness review and we recommend that this is undertaken within the current financial year and during the lifetime of each ARAC subsequently. In addition, while the ARAC has a specimen meeting Agenda, we recommend that NICCY officials provide the Committee with an annual plan which is tailored to the annual work of the Committee.

6.9. The ARAC Chair was supportive of the Corporation Sole model of governance under which NICCY operates. The absence of a Board has resulted in the ARAC taking a broader role in reviewing NICCY performance, including reviewing progress on the Business Plan against Key Performance Indicators and receiving briefing from the Commissioner on significant operational issues.

6.10. The Chair noted that ASM have been appointed as NICCY's Internal Auditors following external procurement. NIAO perform the external audit role. ARAC meetings are attended routinely by ASM, NIAO, DfC and the Commissioner and Finance Officer.

6.11. We reviewed the Reports to Those Charged with Governance for 2019-20 and 2020-21. In both financial years NICCY's Accounts were unqualified. However, in 2020-21, there was a

Priority 2 recommendation due to inadequate quality checking of the draft accounts submitted to the NIAO. The issue arose as a result of the member of staff undertaking the work being unfamiliar with public sector accounting and auditing requirements. The Chair noted that there had been a number of changes of personnel in the Finance post which had contributed to a lack of continuity for NICCY which can be an issue for smaller organisations.

6.12. The IA, NIAO and DfC representatives meet privately with the ARAC annually. While the Commissioner also attends these meetings in her Accounting Officer role, it is not considered best practice for executive members to attend these meetings and this practice should be reviewed.

6.13. The ARAC Chair and senior officials were positive about the service they had received from their Internal Auditors and had not considered using the IA services provided by the NICS. By availing of the NICS IA Group services ALBs do not need to tender separately for their IA services. We therefore recommend that NICCY in consultation with the DfC review their procurement of IA services before the current contract expires.

6.14. A consequence of the Corporation Sole status is that the ARAC is not a committee of a Board as is the case for other ALBs. Members are appointed by the Commissioner and the Department is represented on the appointment Panel for the Chair. The Chair's ARAC's appraisal is undertaken

by the Commissioner. We consider that, to further demonstrate the independence of ARAC, the Department should be represented on the appointment Panel for ARAC members. The Department might also have an input into the appraisal of the NICCY ARAC Chair.

### **Risk management**

6.15. The Commissioner and her team take a systematic approach to risk management. The 2020-21 Annual Report and Accounts notes that the Commissioner has overall responsibility for ensuring risks are identified and managed and that the Senior Management Team and the Leadership and Management Team implement the Risk Management Strategy as approved by the Commissioner. The Corporate and Departmental Risk Registers are kept under review by the SMT quarterly and by the LMT monthly. ARAC are updated on risk management at each meeting.

### **Departmental sponsorship**

6.16. NICCY's relationship with the Department is managed by the Sponsor Team whose role is to support effective governance of NICCY in line with the relevant Management Statement/ Financial Memorandum (MSFM) and Departmental guidance. Key governance arrangements are actioned through the Quarterly Accountability Meetings structure and include:

- Evaluation and progress monitoring of Corporate and Business Plans (although the Commissioner has autonomy to determine her own business objectives)



- Financial Management /Budget considerations including business cases
- Risk management
- Scrutiny and Laying of Annual Report and Accounts
- Quarterly Assurance
- Strategic Issues.

6.17. The Head of Sponsorship Branch has advised that Governance arrangements in NICCY are effective. Monitoring reports are submitted on time (financial reports such as consumption reports, drawdowns and prompt payment reports are made monthly to Sponsor Team). On a quarterly basis, prior to Accountability Meetings, the Sponsor Team receives Assurances in the form of an Accountability checklist, Assurance Statement and Performance Report where issues are highlighted. Issues identified are addressed in a timely manner.

6.18. We have reviewed the Department's partnership with NICCY against the 5 Principles as set out in the NI Code of Good Practice (March 2019). The 5 Principles include Leadership, Purpose, Assurance, Value and Engagement. We consider that, while there have been a number of changes in DfC officials involved, the partnership relationships between NICCY and DfC are effective and that governance requirements are proportionate.

6.19. However, the current MSFM (December 2017) is due to be replaced by a Partnership Agreement between the

NICCY and the Department which will be an opportunity to further develop the sponsorship role to become more focussed on strategy and impact. This will be supported by the revised (currently draft) appraisal arrangements where the Commissioner is invited in their self-assessment to provide evidence of impact and effectiveness, constructive engagement with stakeholders and leadership of the organisation.

6.20. As the appointee acts as Accounting Officer for the organisation, it is important that the requirements of DAO DoF 05/17 are satisfied at recruitment i.e., when appointing a commissioner appropriate criteria are included in the application form, questions on governance and Accounting Officer responsibilities are included in the interview, and employment letters clarify the roles and responsibilities of Accounting Officers. DfC should ensure that Accounting Officers receive the induction and ongoing training necessary for the individual to perform effectively.

## External reference groups

### Youth Panel

6.21. In addition to the formal accountability structures, and in the absence of a Board, the Commissioner has made provision for a series of more informal arrangements. These include a Youth Panel made up of around 40 young people (aged 12-18 years or up to 21 years for young people who are disabled or have had experience of care), who share their experiences and views with



the Commissioner and her staff and help NICCY make decisions about issues that affect children and young people. Members of the Panel meet regularly, either by Zoom or face to face to bring their perspective on the issues which NICCY are engaged.

### Advisory Forum

6.22. A further source of external reference is the NICCY Advisory Forum whose membership includes a wide range of voluntary children's and youth organisations and academics from the two local universities. The primary role of the NICCY Advisory Forum is to offer advice on matters affecting the rights and best interests of children and young people living in Northern Ireland. Members of the Advisory Group, which meets two or three times per year, are appointed by the Commissioner.

### Children's Champions

6.23. Members of the Children's Champions group are drawn from those NI Departments identified by NICCY as having a critical role in safeguarding and promoting the rights of and services provided to children and young people and reflect the focus of NICCY's priorities.

### Participation Forum

6.24. Finally, the NICCY Participation Forum has representatives from Government Departments, Statutory Bodies, NGOs and Community/Voluntary Organisations with interests in the participation of young people in the issues that affect them. The Forum's primary role

is to address matters affecting the participation of children and young people living in Northern Ireland with NICCY. Its purpose is to provide input and share information with NICCY on promoting the participation of children and young people in decision making affecting their lives and to:

- i. Provide a Forum in which relevant issues and concerns of the attending agencies can be discussed with the Commissioner;
- ii. Enable NICCY to discuss relevant aspects of their work with members of the group;
- iii. Provide a Forum where information/ ideas/experiences can be exchanged and collaborative working opportunities can be explored.

6.25. The Commissioner is called regularly to present to Committees of the Assembly relevant to her remit and work, and to meetings with Ministers. She is also a frequent media commentator and plays a significant role internationally in both the British and Irish Network of Ombudsman and Children's Commissioners and the European Network of Commissioners of which she has acted as Chair.

## The Delivery Model

### Corporation Sole

6.26. In common with Children's Commissioners offices in England and Wales (but not in Scotland where continuity is through the Parliamentary corporation), the post of Commissioner in NICCY has Corporation Sole status. "Corporation sole" is a device for

conferring legal corporate status on an office in which there will only be one incumbent at a time. The corporation sole has continuous legal existence thus ensuring continuity from one office holder to the next.

6.27. The Corporation Sole model affords the Commissioner significant independence reflecting her statutory responsibilities to provide a challenge function to government and to conduct sensitive investigations. Corporation Sole also provides for agility and flexibility to respond quickly to emerging issues. It therefore places considerable responsibility on the post holder who fulfils the role not only of Commissioner but also “Board”, and Accounting Officer. While the Commissioner has not experienced any challenge to her independence under the current sponsorship arrangements, she can anticipate circumstances in the future where, for example through budgetary constraints, the work of the office could be curtailed. However, while the current model seeks to strike a balance between on the one hand the Commissioner’s independence and on the other the democratic accountability of the office to an Executive Minister through the sponsor Department, it results in NICCY carrying all the administrative overheads of a larger ALB.

6.28. NICCY is not unique in having this delivery model; both the English and Welsh Children’s Commissioners are corporation sole, as are some Northern Ireland Commissioners including the C&AG, the Public Service Ombudsman,

the Commissioner for Older People and the Commissioner for Victims and Survivors. Similarly, the police and crime commissioners in England and Wales are corporation soles as is the Commissioner for Older People in Wales.

### **The Case for a Board?**

6.29. While the Corporation Sole model provides for independence and flexibility, it lacks the formal accountability arrangements which are associated with statutory Boards which are the norm in most ALBs. As noted above, while the Commissioner has put in place a range of assurance and advisory mechanisms e.g., an ARAC, Advisory and other fora, including a Young People’s Panel, and the Department through its sponsorship arrangements ensures that NICCY meets its governance requirements, we have considered whether a statutory Board would add value to the governance model for NICCY.

6.30. The current governance arrangements mean that there is limited formal and systematic external scrutiny of NICCY’s performance. As is the case with other ALBs, a properly constituted Board could support the Commissioner and the work of her office through offering guidance and expertise on setting strategic priorities and monitoring and evaluating the impact of their work. The Assembly Audit Committee, following a recent review, have recommended that the NIAO appoint a statutory Board to monitor the exercise of the C&AGNI’s functions and have a power to advise the C&AGNI about these functions. The C&AGNI would, in turn, be duty bound to

have regard to any advice given.

6.31. The Assembly Audit Committee at the same time reviewed governance arrangements for NIPSO and concluded that NIPSO should have an Advisory Panel which, while having no executive powers, would “improve governance and accountability and supplement the work of the NIPSO ARC” (Recommendation 19). The Panel could make recommendations to the Ombudsman and if these were not accepted, this would be recorded in the Panel’s minutes and published.

6.32. We are not persuaded that a statutory Board is the most appropriate option for NICCY. Such a development is not the norm for other Children’s Commissioners (nor indeed Commissioners more generally). Furthermore, the appointment and management of a Board would impose additional costs (actual and opportunity) on NICCY and the Department at a time when resources are already under pressure.

6.33. We have also considered whether an Advisory Board would be better placed to both support and challenge the work of the Commissioner. We have consulted with the Office of the Children’s Commissioner in England (OCCE) where the Commissioner must appoint an advisory board to provide strategic challenge to the Commissioner and to advise on how her powers “can be used to best effect to promote children and young people’s rights, thereby improving outcomes for children and young people in England” (Advisory Board Terms

of Reference). Membership is drawn from the Children’s and wider sectors and comprises 10 members, including the Chair who is appointed by the Commissioner.

6.34. A NICCY Advisory Board would be recruited through a formal public appointments process. The Advisory Board’s ToR would include advising on the strategic direction of NICCY, as well as monitoring and reviewing organisational performance and impact. While the proposed Advisory Board would not direct the Commissioner, he/she would be required to have regard to (but would not be bound by) the Board’s advice. This would mean that there would be two bodies with distinctive roles. The Advisory Board would complement, but be distinct from, the ARAC which would focus on issues of financial management, accountability, internal and external control and risk management.

6.35. We considered an alternative proposal in which NICCY develops a more formal relationship with the relevant Assembly scrutiny Committee. This could take the form of the Committee receiving and commenting on reports from NICCY on performance and impact with respect to the Corporate Plan and Business Plan. However, it is up to each Assembly Committee to set its own Agenda and it would be unusual for an Assembly Committee to take such a “hands on” approach with an ALB. Furthermore, at times when the Assembly Committees were not meeting, a gap in governance would be created.

6.36. Having considered the options we have concluded that the appointment of an Advisory Board representative of the sector would support the Commissioner in shaping the strategic direction of NICCY and reviewing performance and impact.

6.37. In the next section we draw attention to different models of Statutory Office Holders. The Cabinet Office define a statutory office as a position established under legislation, sometimes as a separate legal entity or corporation sole, with a specific remit to conduct activities or deliver services within the public sector but which is an individual and not an organisation. The statutory office is held by one person who is appointed by a Minister(s), the statutory office holder.

## Comparisons with other Commissioner models

### Discretionary Support Commissioner

6.38. To make some comparisons with other Commissioner led organisations in DfC, as required in our ToR, we interviewed the Discretionary Support Commissioner for Northern Ireland (ODSC) and his Office Manager, and the Secretary of the Local Government Boundary Commission (LGBC) as contrasting models of how Commissioners' offices work.

6.39. The Discretionary Support Commissioner, ODSC, delivers an independent review service on Discretionary Support decisions made by the Department for Communities. The Commissioner is an independent statutory office holder appointed by the

Minister. The Department provides for the running costs of the Commissioner's office through the normal Departmental allocation process. The Office draws its staffing and all support services, including Internal Audit, from the Department.

6.40. The independence of both the Commissioner and of his reporting is of vital importance to the role. A Relationship Statement between the DSC and the Department has been agreed and governs the interaction between the two entities. The Relationship Statement records the statutory basis for the post of Commissioner and sets out the functions of the Office, together with planning and reporting arrangements operated by the Commissioner. (ODSC Report for the period 1 April 2021- 31 March 2022) The Commissioner is satisfied that the Department fully respects the independence of his Office.

### The Local Government Boundary Commissioner

6.41. The Local Government Boundary Commissioner provides an independent review of boundaries and names of the 11 local government districts in Northern Ireland, and the number, boundaries and names of the wards into which each local government district is divided. The Commissioner is appointed by the DfC Minister through public appointment and is supported by a small secretariat seconded from the NI Civil Service which also provides the Commissioner with other support services. The post is time limited and concludes when a Final

Recommendations Report is made to the Department for Communities.

6.42. The responsibilities of the ODSC and the LBGC are more narrowly defined than are NICCY's. The functions of both the ODSC and the LBGC are discrete, and time bound, focussed on responding to public interest on a single issue and providing reports recommending improvements to statutory provision or delivery. They do not have legal investigatory powers to hold government to account, nor do they have an advocacy role to represent and lobby on behalf of a client group. NICCY's core focus is on children and young people as a client group, and it has investigatory powers to challenge decision makers and influence change in the best interests of children and young people.

6.43. The Assembly Commission's position, first articulated in 2015, that it was not appropriate for NICCY to come under its remit has been reiterated in recent correspondence from the Clerk to the Assembly on behalf of the Assembly Commission and can therefore be ruled out. In the following tables we compare the advantages and disadvantages of the two remaining shortlisted delivery model options.

- i) The status quo – the Commissioner remains Corporation Sole;
- ii) The Commissioner becomes a Ministerial appointee with statutory functions but is not established as a Corporation Sole.

### Commissioner remains a Corporation Sole sponsored by a Department of the NI Executive

Advantages	Disadvantages
As an independent entity NICCY continues to be an agile organisation, capable of responding at pace to new pressures	As an NDPB, and independent entity, NICCY carries significant administrative overheads which are onerous for a small body
Commissioner enjoys independence consistent with the UNCRC recommendations and Paris Principles	Limits on scrutiny of Commissioner in terms of setting priorities/ strategic direction and assessing performance and achievement.
Children's Commissioners in England and Wales have Corporation Sole status and proposals to change this have not been accepted	As a small organisation NICCY is susceptible to staff turnover, particularly in posts where the labour market is tight, (however, this is not necessarily unique to small organisations)
Staff are focussed and passionate about promoting the rights of children and young people	NICCY is unable to provide a career structure for staff which may contribute to staff turnover.
Staff identify with and are committed to the organisation	

## The Commissioner becomes a Ministerial appointee with statutory functions

Advantages	Disadvantages
NICCY relieved of many of the administrative overheads of being an NDPB e.g would not be required to have an ARAC or produce separate Annual Reports and Accounts	Perception that NICCY is less independent Potentially conflicts with NICCY's role in holding government to account
Independence protected by legislation	Option not replicated in other Children's Commissioners' offices
Commissioner freed to focus on key priorities	Potentially restrict the pool of job applicants for NICCY positions
Potential for savings	Extent of potential savings unknown

6.44. There are inevitable diseconomies of scale with small bodies which enjoy a significant degree of autonomy. They are required to carry the administrative overheads of larger organisations without the same resilience to absorb staff absence or turnover. As a Ministerial appointee with statutory functions, the Commissioner would have a greater capacity to focus on their legislative priorities while administrative functions would be dealt with by the Department. However, the essential purpose of the Commissioner is to oversee implementation of “rights” legislation and, where necessary, to be critical of government and public service delivery if they fall short. Fulfilling

this role effectively, requires a degree of separation and detachment from government which is more consistent with Corporation Sole status.

6.45. While the NICS could also provide an efficient HR service and recruit specialist staff internally, the issue about independence and detachment from Government also arises. The Commissioners office may be better placed to select those specialist staff with attributes best suited to the demands of the organisation. Furthermore, staff recruited directly by the Commissioner’s office are more likely to identify with and have a commitment to the aims and ethos of the independent organisation.



## 7. Efficiency

7.1 Our Terms of Reference required us to “examine the current operational structure, corporate functions and related costs” and to “consider options for operational efficiencies such as those potentially presented through shared services and models such as the Office of the Discretionary Support Commissioner where staffing is provided by the Department with access to HR, IT and other services from the Northern Ireland Civil Service”.

### Staffing and Organisational structure

7.2 NICCY has a complement of 25 posts, as of September 2022 (See Appendix 1, Organisational Chart). Fourteen posts fall within the Legal and Investigative, Policy and Research and Participation Teams with the balance covering HR, Finance and Communication and providing administrative support across the organisation. All staff are directly recruited, although there is also a requirement to draw on Agency staff to temporarily fill vacancies while awaiting permanent replacements. NICCY rely on the ECNI to provide ICT services and have also a MoU with ECNI for accommodation.

7.3 The two most senior posts in NICCY are the Commissioner and Chief Executive (CE) – both posts are at Grade 5 equivalent. The Commissioner, as Accounting Officer, is personally responsible for propriety and regularity in the management of public money and for maintaining a robust system of

internal control. The Chief Executive reports directly to the Commissioner and has delegated authority for day-to-day management of the organisation, staff, finances, strategic planning, resources and governance arrangements and for implementing the Corporate and Business (Annual Report and Accounts 2020-21).

### Organisational arrangements in a sample of other Commissioner led Bodies

7.4 The Office of the Children’s Commissioner in England (OCCE) represents an alternative model of governance for a Corporation Sole. The OCCE had a head count of 29 in 2020-21, 12 of whom are at Grade 7 or above. As noted above, the OCCE has an Advisory Board in addition to an Audit Committee. The OCCE had a Chief Executive post until 2014 when the post was abolished. The Tailored Review of OCCE published in 2019 reported that the Senior Management Team (SMT) consisted of the Commissioner and two Directors (Strategy and Policy and Evidence) and an Extended Senior Management Team (ESMT) which, in addition to SMT, included Heads of Service (Business, Policy and Advocacy and Communication and External Affairs). The OCCE Annual Report for 2020-21 notes that the remit of the SMT, which meets monthly, is both strategic and operational while the ESMT meets bi-monthly to review and take forward delegated operational issues. Similarly, the Scottish Commissioner has 4



Directors reporting directly to him while the Welsh Commissioner is the direct report for the 5 Heads of Directorates (with AO responsibilities delegated to the Head of Finance).

7.5 We also consulted the Commission for Victims and Survivors (CVS) which is a Non - Departmental Body of the Executive Office. The Commissioner's status is Corporation Sole. He sets the strategic direction, provides government with advice and Chairs the Victims and Survivors Forum. The Chief Executive is the designated Accounting Officer and is responsible for managing the performance of the organisation, ensuring good governance, and looking after the operational needs of the organisation

7.6 As noted earlier, we also looked at the Discretionary Support Commissioner for Northern Ireland (ODSC) and the Local Government Boundary Commission (LGBC) as contrasting models of how Commissioners' offices work. The ODSC Commissioner is appointed by the DfC Minister, and the Department provides for the running costs of the Commissioner's office through the normal Departmental allocation process. The Office draws its staffing and all back-office services, including Internal Audit, from the Department. Likewise, the Local Government Boundary Commissioner is appointed by the DfC Minister through public appointment and is supported by a small secretariat seconded from the NI Civil Service which also provides the Commissioner with other back-office services.

7.7 Clearly different Commissioner led bodies have been established with different management structures – drawing back-office staff from the NICS or recruiting directly; the Commissioner or Chief Executive acting as AO; whether or not there is a Chief Executive. A number of Commissioners in Northern Ireland have a management structure where they are supported by a Chief Executive. Typically, Chief Executives are the most senior post holder with overall responsibility for direction and management of an organisation, whereas in NICCY both the Commissioner and CE posts are at Grade 5 level. We have noted that the management structure of Children's Commissioners in other jurisdictions do not have the position of Chief Executive. Instead, senior posts report directly to the Commissioner. In the light of this the Department may wish to consider reviewing the appropriateness of the current management structure within NICCY.

7.8 As the government plans to establish further Commissioner posts it is timely to consider which alternative models might provide more cost - effective solutions while preserving Commissioners' independence. Some bodies will require specialist skills, for example policy and legal posts in the case of NICCY, but there is an argument for looking again at whether it would be more efficient for Commissioners to draw on NICS back - office services which would free them to have a sharper focus on the core functions of the organisation.

- 7.9 We are aware that the possibility of shared services has been considered previously (and rejected) but we believe that it should be revisited in the current financial climate. Commissioners view the ability to recruit their own staff as an important dimension of being independent of government and this will need to be addressed as part of any consideration to draw on NICS staff (and services), as will the ability of the NICS to provide a reliable, cost - effective service to Commissioners.
- 7.10 In terms of securing significant efficiency savings, the more radical option would be to change the status of the Commissioner from Corporation Sole to a Ministerial appointee with statutory functions which would align the organisation more closely with the Department. Under this delivery model the Department would assume many of the administrative functions currently carried by NICCY. For example, NICCY would avail of the Department's support services for HR, Finance, IT and Accommodation and would not be required to have a separate ARAC or IA function, or to prepare an Annual Report and Accounts. This would free up the Commissioner to focus on the strategic role of delivering the statutory functions of the Office unencumbered by many of the administrative responsibilities associated with being a separate entity. However, removing Corporation Sole status would represent a deviation from the norm for other UK Children's Commissioners, and raise concerns about the Commissioner's perceived independence and actual detachment from government. Any proposed change in the Commissioner's status would need to address how to guarantee the Commissioner's continued independence and capacity to effectively hold government to account.
- 7.11 Finally, for so long as current arrangements prevail DfC, as the sponsor of a number of larger ALBs, might also consider the merits of establishing peer mentor relationships for a time, for example in areas such as Finance and HR, between experienced officials in these organizations and their counterparts in smaller ALBs.
- 7.12 In relation to efficiencies around accommodation, there are plans for the Commissioners located in Equality House to be relocated to new premises in James House which is part of the NICS estate and as such could potentially lead to reductions in accommodation costs. We understand that these plans have been subject to significant delay. In addition, Commissioners located in Equality House, including NICCY, have expressed concerns about co-location with organisations whose operations they may be required to scrutinise. However, if hybrid working becomes the norm post-Covid, the need for the current office footprint should be reviewed with the aim of finding efficiencies in NICCY's accommodation costs.
- 7.13 To summarise, having rejected options which would involve NICCY merging with other organisations, and which would in any case, have delivered marginal

efficiencies, we have made high level judgements about how 3 potential scenarios might contribute to achieving the key aims of independence and efficiency.

1. Our assessment is that the Status Quo (NICCY remains a Corporation Sole and is responsible for most back-office services) would score high on perceived independence and on the capacity to effectively deliver the statutory functions but would not deliver meaningful efficiencies.
2. If NICCY were to remain a Corporation Sole but were to rely on the NICS for back-office support, this could impinge on perceived independence, but could deliver some limited efficiencies as NICCY would still be required to bear the administrative overheads of an ALB e.g. preparing Annual Accounts, recruiting an ARAC, generating a suite of HR policies etc.
3. Finally, should the Commissioner become a Statutory Officer of a Department, then the scope for efficiency savings would be increased, potentially allowing available resources to be more focused on meeting the Commissioner's core aims. However, as pointed out above, NICCY is different from ODSC and LBGC in that it has investigative powers and advocacy functions that they do not. Removing corporation sole status could impact negatively on NICCY's perceived independence and so limit its capacity to deliver its statutory functions effectively. Any proposed change in the Commissioner's status would need to address how to guarantee their continued independence and capacity to effectively hold government to account.

## 8. Effectiveness and Impact

### Introduction

- 8.1 The Northern Ireland Commissioner for Children and Young People, as an ‘Arms-Length’, ‘Non Departmental Body’, does not have a delivery function in the traditional sense; its core focus is influencing decision makers and those in power to generate systematic change in children’s best interest as directed by UNHR legislation and Paris principles.
- 8.2 As it stands, the NI Commissioner for Children and Young People is appointed by The Executive Office and the office is sponsored by the Department for Communities Previously (OFMdfM). Under a management agreement the Office is held to account via a range of external and internal audit and financial accountability mechanisms. While the corporate/business plan does reference the Programme for Government Outcomes (No. 12. ‘Our children and young people have the best start in life’), the Commissioner would argue that they are not actually bound by departmental or Programme for Government outcomes. Instead, NICCY is linked to a wider international legal instrument, so a higher level of accountability applies. Furthermore, Corporation Sole status provides the Commissioner with an independence such as they are not subject to any formal external scrutiny or accountability for their performance while in office.
- 8.3 That is not to say that the Commissioner does not report on or provide evidence of their impact. The Annual report does include a section illustrating how performance, impact and outcomes are measured against the achievement of annual objectives and targets. Rather, the legislative framework and corporation sole status means that the Commissioner alone decides what their priorities or outcomes should be and how they should report on their achievement without reference to a board or funder.
- 8.4 Every three years NICCY produces a Corporate Plan, which outlines its high level objectives over that period. It also produces an annual Business Plan which outlines the work it will do that year to contribute towards the Corporate Plan objectives. Before agreeing her Corporate Plan the Commissioner speaks to a wide range of stakeholders – including children and young people, Government and statutory bodies, NGOs, as well as domestic, national and international rights bodies - who advise her on areas that they wish to see included.
- 8.5 The outworking of NICCY’s Corporate Plan is through High Level Corporate Objectives (HLCOs). In addition, there are key priority areas identified by the Commissioner for the focus of NICCYs work - these include: Reducing Child Poverty; Educational Inequality; and Mental Health and Well-being.

- 8.6 NICCY reports internally on progress against annual Business Plan objectives and targets on a monthly and quarterly basis and externally on a quarterly basis to the Sponsor Department – Department for Communities. This Annual Report details the outputs, broad outcomes and achievements over the course of the business year. In addition, the Commissioner also presents to the NI Assembly Committee evidence sessions and at an international level to UN Committee on the Rights of the Child; and UN Bodies as/when necessary e.g. UN CRPD, CEDAW.
- 8.7 NICCY met all targets in the 2020-21 business year in relation to the 6 high level Corporate Objectives and 48 Business Plan targets / sub targets – increasing to 51 following review and revision of the Business Plan in Q3. Due to the impact of Covid-19 NICCY changed focus in some areas of work.
- 8.8 Due to the nature of their work NICCY does face a significant challenge in quantifying the impact of its work and the outcomes achieved. This is compounded by the need to focus on longer-term challenges, while maintaining an impactful public presence and responding to current issues.
- 8.9 Therefore, to help assess the impact and effectiveness of NICCY, we consulted with the Commissioner to identify a range of higher level outcomes that would represent the outcomes of NICCYs work. We then sought to gather (mainly qualitative) data from a range of sources that could be used to assess NICCYs performance against this agreed set of post-hoc outcomes.
- 8.10 The NICCY Corporate Plan 2020-23 sets out the statutory duties, statutory powers and strategic objectives for the period of the plan. For the purposes of this review we developed the outline for a basic logic framework for NICCY, which attempted to link all the elements within the strategic plan to a proposed set of high level outcomes. The diagrams on pages 7 and 8 of the plan very helpfully illustrate the key statutory duties and statutory powers of NICCY. Taking this as the starting point we aligned these with the five strategic objectives. Although not strictly linear, as some of these will obviously overlap, they do line up relatively well. This then allowed us to specify proposed outcomes aligned to these duties, objectives and powers. We identified some eight high level outcomes. This outline ‘framework’ was shared with the Commissioner and senior staff and went through a number of iterations before we arrived at a final version, see over.
- 8.11 We then incorporated these agreed outcomes into a questionnaire which was distributed to stakeholders identified by NICCY and the Department. Respondents were asked to rate NICCYs performance against each outcome (on a 1 to 10 scale), but more importantly they were also asked to provide evidence or examples of NICCYs achievement against these outcomes. In the section over, we present an analysis of these

responses. It should be pointed out that this analysis is not intended as a measurement or definitive judgment on NICCY's performance, but rather a

means to present and assess NICCY's effectiveness in a structured format against a set of post-hoc outcomes.

## NICCY - Proposed Logic Model/Outcomes Framework

NICCY Role/Duties	Objectives (from Corporate Plan)	Actions/Powers	Proposed Outcomes	Goals
<p><b>Advise Communicate</b></p> <p>Advise and support children and young people directly on their needs, rights and access to services</p> <p>Advise government and all its agencies on policies, legislation, on services provided for young people</p>	<p>4. Raise awareness of C&amp;YP Rights, the UNCRC and the functions of the Commissioner</p>	<p>Issue Guidance concerning the Rights or Best Interests C&amp;YP</p> <p>Make Representations to any Body relating to the Rights of C&amp;YP</p>	<p>1. children and young people are better informed of their Rights</p> <p>2. Public are better informed of Children's and Young People's Rights</p> <p>3. The design of Policy, legislation, and services for C&amp;YP are better informed</p>	<p>PfG Outcome: Our children and young people have the best start in life</p> <p>A Society where:</p> <p>The rights of all children and young people are respected and realised</p>
<p><b>Investigate Challenge</b></p> <p>Government actions for improvement and correction when they fall short</p>	<p>2. Highlight and address critical issues which adversely affect Children and Young People.</p> <p>3. Address breaches of Children's and Young People's rights.</p>	<p>Conduct Investigations to meet duties</p> <p>Challenge, provide advice and publish information Assist with Complaints to/ or against Relevant Authorities</p>	<p>4. The performance of government with respect to provision of C&amp;YP services is investigated and assessed</p> <p>5. Shortfalls in provision for C&amp;YP are identified and changes recommended</p>	<p>The rights and best interests of children and young people are safeguarded</p>
<p><b>Advocate Represent</b></p> <p>Review, monitor what government does for children and young people and ensure it is in their best interests</p>	<p>1. Ensure that C&amp;YP rights are respected, promoted and protected in the work of all duty bearers</p> <p>5. Promote the participation of Children and Young People in decision making processes</p>	<p>Bring, intervene in, or assist Legal proceeding</p> <p>Undertake Research concerning the Rights best Interests of C&amp;YP (oversee appointment of C&amp;YP reps to decision making bodies?)</p>	<p>6. C&amp;YP are legally represented and protected</p> <p>7. Policy, legislation, and services for C&amp;YP are improved</p> <p>8. C&amp;YP participate or are represented in decision making</p>	<p>The rights and best interests of children and young people are promoted</p>



## Advise, Communicate

NICCY Role/Duties	Objectives	Actions/Powers	Proposed Outcomes	Goals
<p><b>Advise Communicate</b></p> <p>Advise and support children and young people directly on their needs, rights and access to services</p>	<p>Raise awareness of C&amp;YP Rights, the UNCRC and the functions of the Commissioner</p>	<p>Issue Guidance concerning the Rights or Best Interests C&amp;YP</p> <p>Make Representations to any Body relating to the Rights of C&amp;YP</p>	<ol style="list-style-type: none"> <li>children and young people are better informed of their Rights</li> <li>Public are better informed of Children's and Young People's Rights</li> <li>The design of Policy, legislation, and services for C&amp;YP are better informed</li> </ol>	<p>PfG Outcome 12: C&amp;YP have the best start in life</p> <p>A Society where: the rights of all children and young people are respected and realised</p>

8.12 A key role for NICCY is to communicate with and provide advice to a range of audiences on the needs and rights of children and young people. Basically, this breaks down to three key groups as represented by the outcomes above i.e. Children and young people, the general public and policy makers and legislators.

8.13 In reviewing the responses to the stakeholder questionnaires we realised that the wording for outcome 3 was somewhat ambiguous and potentially overlapped with outcome 7. In hindsight we consider that the outcome 3 should possibly have read 'Policy makers, legislators, and service providers are better informed of Children's and Young People's Rights'. Therefore, we have decided to remove the responses to outcome 3 from this section and combine with responses to those for outcome 7.

### Outcome 1: Children and young people (C&YP) are better informed of their Rights

8.14 NICCY has stated that one of the main functions of the organisation is to promote awareness of children's rights and the services NICCY provides directly to C&YP. NICCY believe they are achieving this in several ways:

- NICCY Youth Panel made up of C&YP from across the country
- Engagement with schools, youth clubs and other organisations
- Webinars delivered to schools
- Events to include participation in Annual Human Rights Festival
- Use of social media platforms to reach target audience directly

8.15 Feedback from their Youth Panel indicated that NICCY has provided a very good space for young people to voice their concerns and has always been very responsive to these concerns raised. Stakeholders consider that



NICCY do a good job in terms of informing children and young people of their rights.

- 8.16 Respondents commented that when NICCY speak to children and young people they do become more aware of their rights and that it would be good to see this work expanded. NGOs praised the work NICCY has done with schools ensuring children are aware of their rights through their pupil participation in schools. This has led to more effective pupil voice in school structures. There is always more that can be done, particularly with certain groups of children, including very young children and marginalized groups
- 8.17 However, many believe that there is still a considerable lack of public awareness (including children and young people) of children's rights. While members of the youth panel feel that the young people within the youth panel are very aware of their rights, they also think NICCY should try to spread more awareness of their rights to young people outside the panel. This could be better achieved via those social media platforms more commonly used by young people, such as TikTok, as this is where young people spend a lot of their time.
- 8.18 One of the stakeholders consulted for this review, Dr Deena Haydon, referred to a very recent 2022 Youth @CLC survey which found that there was still very limited awareness of children's rights and the UNCRC among young people.

Just 51% replied 'Yes (and I knew what children's rights meant)'; 25% replied 'Yes (but I wasn't sure what children's rights meant)' while almost a quarter: 24% replied 'No (I hadn't heard of children's rights)'.

- 8.19 The survey also found that some 70% of the respondents had not heard of the NI Commissioner for Children and Young People; 15% replied 'Yes (and I knew what it was)', 15% replied 'Yes (but I wasn't sure what it was)'. Among those who had heard about NICCY, for 45% this was at School or College, 23% had heard of NICCY via the internet, 21% on the media (TV, radio, social media), 15% from their parents/ guardians, and 8% at a youth club or community group.<sup>3</sup>
- 8.20 Dr Haydon concluded there should be mandatory education in all schools and Colleges about children's rights, the UNCRC and independent human rights institutions (including NICCY). There should also be increased provision of this information in locations used by children and young people of different ages, including: organisational websites and social media; libraries; youth centres; and via events organised for children and young people.
- 8.21 In line with UNCRC Article 42, training for all professionals working with/for children and young people should include information about children's rights, the UNCRC and other international Treaties, independent human rights institutions (including NICCY) and their roles.

<sup>3</sup> Haydon, D. (forthcoming) Rights Here, Right Now. Children and Young People's Report about children's rights in Northern Ireland, due to be submitted by the Children's Law Centre to the UN Committee on the Rights of the Child in December 2022 (emphasis added).

## **Outcome 2: Public are better informed of Children's and Young People's Rights**

8.22 In general, NICCY appears successful in accessing mainstream media and using it to communicate its message. NICCY are a public facing organisation and make the general public aware via social media and TV interviews e.g. Nolan Show. NICCY are regularly referred to in print and TV media. The Commissioner has built up a good profile through her continuous engagement with the media over a range of children's rights issues.

8.23 NICCYs Communications department use social media as another avenue for promoting their work and raising child rights issues. The numbers of followers on their social media platforms continue to increase as do interactions on those platforms, often leading to new Legal & Investigation cases being opened on behalf of a member of the public. NICCY participates in high profile public events such as the Human Rights Festival and Pride, taking the opportunity to promote both children's rights and the organization

8.24 The Commissioner has improved the profile and accessibility of the Commission and in particular she has communicated the role of the commission to a wider audience. 'Having a dedicated commission which focuses on the rights of all children is in itself unique and given there is no focus for children within government here, it plays a very important role'.

8.25 While, Stakeholders are largely positive about NICCYs promotional activities and levels of public awareness, there is a recognition both by NICCY and its stakeholders that this a difficult task. 'I don't think we have achieved the reach across NI'.

8.26 Statutory respondents welcomed how NICCY were working across government to raise awareness of children's rights, and providing useful information, resources and support for officials. While more could be done to promote the role of NICCY across government, they felt that this was not necessarily a weakness of NICCYs making.

8.27 However, there was also an acknowledgement that despite NICCYs efforts there has been an increase in negative, uninformed comments regarding children's rights across social media platforms. This is something beyond NICCYs control but does perhaps reflect a worrying trend with regard to general public's views on human rights in general.

## Investigate Challenge

Role/Duties	Objectives	Actions/Powers	Proposed Outcomes	Goals
<p><b>Investigate Challenge</b></p> <p>Government actions for improvement and correction when they fall short</p>	<p>Highlight and address critical issues which adversely affect Children and Young People.</p> <p>Address breaches of C&amp;YP rights.</p>	<p>Conduct Investigations to meet duties</p> <p>Challenge, provide advice and publish information Assist with Complaints to/ or against Relevant Authorities</p>	<p>4. Performance of government with respect to service provision investigated and assessed</p> <p>5. Shortfalls in provision for C&amp;YP are identified &amp; changes recommended</p>	<p>the rights and best interests of children and young people are safeguarded</p>

### Outcome 4: The performance of government with respect to provision of C&YP services is investigated and challenged

8.28 The Commissioner for Children and Young People (NI) Order 2003 outlines the duties and powers of the Office, which includes the authority to investigate breaches of the rights of children and young people. The Commissioner can invoke the investigative functions of the office in order to identify the most pressing breaches of children’s rights with the intention of ensuring that public authorities accept their responsibilities to children and young people.

8.29 The NICCY Legal and Investigations team provide both casework and investigation services. The 2003 Order outlines when NICCY can provide assistance to children and young people. NICCY assesses if a complainant falls within their remit and they are then processed as either a casework complaint, an investigation, a SENDIST (Special Education Needs) matter or a legal case. In practice most complaints

are now to be treated as investigations. The Legal and Investigations team use these powers to try to help children and young people in a number of different ways.

- One example is the power to start or help with legal proceedings, which involve law or practice concerning the rights or welfare of children or young people. The legislation sets out when NICCY can use this power.
- Another example is the power to intervene (join) in legal proceedings. The Commissioner will only do so if she can add value to the proceedings.

8.30 NICCY also has the authority to conduct a full formal investigation as outlined in the legislation. Formal investigations give the Commissioner specific powers regarding the production of documents and witnesses in relation to the matter and the power to report those who do not co-operate to the High Court. However, due to the complexity and costs involved in bringing a formal investigation, NICCY only initiated its first formal investigation in 2019-2020.

Furthermore, the Commissioner would argue that NICCY has difficulty in bringing legal proceedings to challenge legislation because the Commissioner does not have ‘victim status’. The Article 24 report contains a recommendation on ‘own motion’ which seeks to address this, however, this remains unresolved.

### Conduct Investigations to meet duties

- 8.31 NICCY provides support to challenge on issues when they feel the trusts or government departments are not delivering on their statutory responsibilities. NICCY has focussed its work on casework investigations, responding to complaints of potential breaches of individual’s rights by relevant authorities.
- 8.32 NICCYs challenge function with regard to provision of children’s services includes the publication of the Commissioner’s Statement on Children’s Rights in Northern Ireland (SOCRNI), which provides an analysis of the state of key children’s rights across NI. The Statement is informed by current contexts, the UN Committee’s Concluding Observations and NICCY’s work with stakeholder on key priorities and makes a range of ‘Calls to Government’.
- 8.33 NICCY has conducted and published a number of rights-based reviews in the fields of Education, Health & Justice. Two key examples would include NICCYs work on investigating provision for

children with special educational needs (SEN) and access to education, mental health for children and young people.

### Educational Needs (SEN) provision - Special Educational Needs Paper

- 8.34 The ‘Too Little, Too Late’ report (2020) reviewed SEN provision in mainstream schools in NI.<sup>4</sup> Its aim was to identify barriers that prevent children and young people from realising their right to an effective education in the context of SEN provision in mainstream. This provided detailed evidence of key issues and rights violations across a range of topics. The report set out 40 recommendations for relevant Departments and agencies aimed at addressing weaknesses in the system.
- 8.35 Some two years on since its publication, the report’s recommendations have been accepted by the Education Authority, EA, and a formal monitoring report has been published. NICCY considers this to be a particularly positive example of how their relationship with a statutory agency moved from that of an adversarial to a more cooperative role. The Education Authority interacts regularly with NICCY. Engagement covers many of the statutory and service delivery, particularly Admissions, Home to School Transport, Free School meals, Children and Young People’s Services and safeguarding matters, considering operational and strategic issues.

<sup>4</sup> NICCY (2020) ‘Too Little, Too Late’ A Rights Based Review of Special Educational Needs Provision in Mainstream Schools. Main Report. Available at: <https://www.niccy.org/media/3515/niccy-too-little-too-late-report-march-2020-web-final.pdf>

## Still Waiting Report into Mental Health

8.36 In September 2018 the Commissioner published the 'Still Waiting' report – A rights based review of mental health services and support, this assessed the adequacy and effectiveness of mental health services for children and young people in NI<sup>5</sup>, and the report included 50 recommendations for change. In response, the Department for Health established an Interdepartmental Group to take forward the recommendations and developed the 'Still Waiting Action Plan'. NICCY is committed to monitoring the implementation and progress of the recommendations and to publish an annual monitoring report. The final monitoring report is due to be published in Feb 2023.

8.37 The Commissioner also supported the NI Policing Board in reviewing how it monitors PSNI compliance with the Human Rights Act and submitted a response highlighting needs when officers are engaging with children and young people throughout the justice system. Specifically, in relation to spit and bite guards, the Commissioner set out concerns regarding their use on children, resulting in a number of recommendations contained within the Report.

## Outcome 5: Shortfalls in provision for C&YP are identified and changes recommended

8.38 Government departments and public bodies do not have a statutory requirement to respond to NICCY reviews and advice. The recommendations on the

Article 24 Report includes the inclusion of a requirement upon NICCY to produce a periodic report on the progress by the NI Executive to the NI Assembly regarding the protection of rights and best interests of Children in NI together with a duty on the Executive to provide a comprehensive response. NICCY believe that this would enable them to formally challenge the Executive on performance and allow monitoring based on responses.

8.39 NICCY does continue to advise and monitor on implementation of recommendations from their reviews and report that there has been some important but limited improvement. An Inter-Departmental Project Group [IDG] was established to take forward the recommendations from the 2020 Still Waiting Monitoring Report. NICCY has ongoing engagement with Duty Bearers and other Stakeholders to ensure decisive action is taken to address areas of concern identified in Monitoring Report. Three monitoring reports have been published to date, with a fourth due.

8.40 Likewise, NICCY continue to oversee the monitoring and implementation of their Review of SEN provision, 'Too Little, Too Late'. An Action Plan is in place designed to hold relevant authorities to account in implementing recommendations. There is regular engagement with these authorities including ongoing representation on the SEND Strategic Programme Board. Ongoing advice is provided on revised regulations and draft SEN Code of Practice at the various stages of the legislative process.

<sup>5</sup> NICCY (2018) 'Still Waiting' A Rights Based Review of Mental Health Services and Support for Children and Young People in Northern Ireland. Main Report. Available at: <https://www.niccy.org/media/3114/niccy-still-waiting-report-sept-18-web.pdf>

8.41 Respondents were generally positive about NICCY's challenge role, and interestingly it is Departmental Stakeholders, (who are also the subject of NICCY challenges) that have expressed most positive views about NICCY's challenge role. Most report that despite some early difficulties their relationship is now a positive and mutually beneficial one. Once NICCY's role was and powers were better understood Departments now saw NICCY less as an interference, but more as a 'critical friend' supporting them to improve their services and take more consideration of children and young people.

8.42 The Education Authority, reported that despite earlier difficulties, the relationship with NICCY is now professional and respectful. They considered that the recommendations from NICCY's reviews were relevant and necessary and have helped to support the transformation of SEN provision.

8.43 The Department of Health respondent indicated that the challenge function and advice offered by NICCY 'may be their most positive contribution'. The Commissioner has engaged with policy officials, mainly on an informal basis, which has enabled such challenge to progress constructively. At the same time the respondent goes on to describe that, on occasion

... 'the Commissioner has made contributions which do not appear to fully reflect the realities of service

planning and provision, which has impacted negatively on the morale of staff providing such services...' In addition... 'interventions by the Commissioner have, at times, led to the introduction of additional administrative and monitoring demands on those involved in developing and delivering children's services'.

8.44 The Department for Education commented how NICCY's work with children and young people allows them to bring a distinct perspective and provide constructive criticism and advice to government that might otherwise be difficult to obtain. If there is a negative aspect it is that some of their suggestions in advocating for the rights of children and young people may not always be fully achievable. However given their role this is to be expected.

8.45 The NGO respondents, while also positive, would welcome greater use of powers for formal investigations with some believing that the Investigate Challenge function has been underused. The Children's Law Centre commented that NICCY is an important institution and while the Commissioner has some powers (which were hard fought for at the time) these could be better used. They suggest these could be improved in two ways (i) using current powers more effectively and (ii) increasing current powers of the Commissioner (for example, taking cases without a named individual victim).



## Advocate, Represent

Role/Duties	Objectives	Actions/Powers	Proposed Outcomes	Goals
<p><b>Advocate Represent</b></p> <p>Review, monitor what government does for children and young people and ensure it is in their best interests</p>	<p>Ensure that C&amp;YP rights are respected, promoted and protected in the work of all duty bearers</p> <p>Promote the participation of Children and Young People in decision making processes</p>	<p>Undertake Research concerning the Rights best Interests of C&amp;YP</p> <p>Bring, intervene in, or assist Legal proceeding (appointment of C&amp;YP reps to decision making bodies?)</p>	<p>6. C&amp;YP are legally represented and protected</p> <p>7. Policy, legislation, and services for C&amp;YP are improved</p> <p>8. C&amp;YP participate or are represented in decision making</p>	<p>the rights and best interests of children and young people are promoted</p>

8.46 As explained earlier, the similarity of the wording of outcome 3 and outcome 7 is such that we have decided to combine the responses for both.

### **Outcome 3. The design of Policy, legislation, and services for C&YP are better informed**

### **Outcome 7. Policy, legislation, and services for C&YP are improved**

8.47 As with all advocacy bodies it is not possible to attribute any policy development or strategic decision to a single source of influence. The interaction of a range of complex factors, including, environmental, political, financial etc. all influence and inform the development of government policy. Certainly government pays attention to NICCY and is cognisant of including reference to the rights of children and young people in the design of policy.

8.48 There are a number of mechanisms whereby NICCY facilitates engagement with officials. NICCY hosts a Participation Forum which brings together government representatives,

the voluntary and community sector and academia to share best practice, latest developments in engaging with children and young people which highlights the benefits of their participation in the design of policy, legislation and decision making across government. NICCY also hosts a meeting with NICS Children’s Champions which provides an opportunity to discuss important issues with senior officials from NICS Departments.

**“NICCY do great work in statutory committees in the Northern Ireland Assembly. Their evidence has been key in shaping some important legislation that has progressed through the Assembly.”** Charlene Brooks Parenting NI

### **Informing Policy, Improving Services**

8.49 One of NICCY’s key roles has been to push and advocate for the inclusion of children’s rights in the development and delivery of legislation, strategies or policy. Since its inception NICCY has promoted knowledge and incorporation



of the UNCRC as well as advocating for the inclusion of Child Rights in the development and delivery of legislation, policy etc. A key tool in this mission has been the promotion of the UNCRC and the rights contained therein.

8.50 The NICCY Business Plan 2021/22 cites how NICCY’s work influences Government and its Agencies to more effectively deliver in compliance with children’s rights and best interests at local, national and international levels while progressing the implementation of UN General Measures of Implementation. The actions listed include:

- Advise Government on the development of an Anti-Poverty Strategy that will effectively reduce child poverty;
- Advise and Monitor implementation of recommendations from NICCY’s Rights Based Review- Still Waiting;
- Provide advice to government on legislation, policy and practice relevant to Child and Adolescent Mental Health & Wellbeing.

8.51 Feedback from Departmental stakeholders indicates that there is regular engagement from NICCY on a range of issues in respect of policy, legislation and services for children and young people. The main policy areas NICCY contribute to are Health, Education and Justice.

8.52 NICCY had a vital advisory role in the development of the Children’s Services Cooperation Act (2015) and reference to the UNCRC within it. The CSCA places

statutory obligations on Government Departments and all statutory agencies to co-operate with each other in order to contribute to the improvement of wellbeing for children and young people.

8.53 The Department of Health stated that on the whole, the Commissioner has made very positive contributions to policy/strategy development in a number of areas, including:

- **The Child Protection Senior Officials Group (CPSOG).** NICCY has influenced the CPSOG, including its paper “Child Criminal Exploitation - Safeguarding Children and Young People from Abuse and Exploitation” (July 2021) CPSOG subsequently established a Child Criminal Exploitation (CCE) Task & Finish Group
- **The Mental Health Strategy 2021-31.** NICCY played a role in the development of the strategy, through the Strategic Advisory panel subgroup which looked at the mental health and wellbeing of children and their families.
- **Looked After Children Strategy** Department officials received expert advice on assessing the potential impacts of the Strategy and the proposals for a new regional model for service for separated and unaccompanied asylum seeking children against the Articles of the UNCRC, and domestic human rights and child wellbeing frameworks.
- **Adoption and Children Bill.** NICCY’s input was critical in informing the Department’s policy and strategy and ensuring a focus on children’s rights, adopting a “whole child” approach;

keeping children's voices central to policy and service development, monitoring & review

- **Children's Social Care** (Temporary Modification of Children's Social Care) Regulations (NI) 2020 during the COVID 19 pandemic, including the monitoring arrangements and the timing for the revocation of the Regulations;
- **Regional Care and Justice Programme**, the Commissioner has acted as a 'critical friend'. Through formal responses to public consultation, written correspondence and face to face meetings with Programme Directors.

8.54 NICCY has assisted PSNI in the development of their children and young people strategy. This includes issues such as "Spit and Bite guards" and ongoing "Stop and Search" policy. While there have been good robust and professional exchanges of views, there is a perception that '... NICCY may lack some understanding around the reality of operational policing and the demands that exist on police officers to balance children's rights with the need to prevent crime and protect others etc'.

8.55 NICCY is currently (June 2022) working with NICS HR Learning and Development to design and develop training for NICS and NDPBs staff on children's rights. This will include training packages on an Introduction to Children's Rights and on Child Rights

Impact assessments. These training packages will provide a valuable resource to inform and support public sector staff.

8.56 While there is considerable evidence of NICCYs engagement with Government and how they have advised Government about numerous issues affecting children and young people, some stakeholders commented that it is less clear how much influence this wealth of material has on legislation, policies, strategies, service development, or funding allocation.

8.57 Dr Deena Haydon has reflected that '... Government responses to the issues affecting children, young people and their families are often slow, lack flexibility, reflect a resistance to change and limited awareness of the complex range of difficulties faced by the most disadvantaged.'

8.58 As referenced above NICCY has published number of rights-based reviews, An Inter-Departmental Project Group [IDG] was established to take forward the recommendations from the 2020 Still Waiting Monitoring Report. But it seems slow progress has been made by the IDG in the months after the publication of 'Still Waiting'.<sup>6</sup> While recognising that having no Executive in place was 'challenging', NICCY commented that: 'If additional funding is not found to implement the Still Waiting recommendations then we will continue to fail our young people and expose them to the risk of serious harm'.<sup>7</sup>

<sup>6</sup> NICCY (2020) 'Still Waiting' Monitoring Report, p15, p13 (emphasis added). Available at: <https://www.niccy.org/publications/2020/february/06/still-waiting-monitoring-report/>

<sup>7</sup> Ibid, p11-12 (emphasis added)

8.59 The 2022 ‘Too Little, Too Late’ Monitoring Report noted that, despite an initially positive response, ‘NICCY did not see much action or progress taken to address the recommendations in the months following publication’ of the initial report in 2020. In fact, ‘worryingly’ during the COVID-19 pandemic, NICCY ‘saw a marked decline in the availability of supports and services for children and young people with SEN as a result of restrictions imposed during the pandemic’, leading NICCY to conclude that the ‘already difficult situation’ faced by children and young people with SEN in accessing their right to education before the onset of the pandemic ‘was exacerbated by the response to the pandemic’.<sup>8</sup>

### **Outcome 6: C&YP are legally represented and protected**

8.60 At present NICCY’s Legal & Investigation Department intervene on legal proceedings impacting on Children and Young People. NICCY’s analysis of the impact of its legal and investigations work over the ten years between 2003 and 2013 demonstrated the difficulty of bringing legal proceedings to challenge existing or draft legislation because the Commissioner does not have ‘victim status’ and therefore has been unable to proceed to argue incompatibility with the European Convention on Human Rights [ECHR] or UN Convention on the Rights of the Child [UNCRC]. The Article 24 review (2007 and 2013) aimed to address this by recommending the insertion of a clause in NICCY’s legislation stating that,

in relation to bringing legal proceedings, the Commissioner need not be a victim or potential victim of the act in question.

8.61 The limited use of NICCY powers to conduct a formal investigation is reflected in the fact that NICCY only initiated its first formal investigation in 2019–2020. This is a complex and lengthy process which has involved the engagement of an ‘expert panel’ comprising a QC, Social Worker, Psychiatrist and Paediatrician to assist analysis of the ‘voluminous nature of documentation under disclosure - which encompasses the span of the young person’s life while in the care of the State’.

8.62 NICCY has focussed its work in casework responding to enquiries or complaints from children, young people, their parents/carers about potential breaches of individual’s rights by relevant authorities, particularly in relation to education (including special educational needs and disabilities Tribunals, provision of medical support in school, bullying, suspension, expulsion, school transport, school placement, school closures, progression, use of seclusion, complaints about teachers, and the impacts of COVID-19 arrangements)

8.63 NICCY has also been involved in legal proceedings external to its complaints casework - in support of stakeholders and at the request of families, focusing on the need for child-centred and rights-compliant policies and practices. This has included intervening in judicial review cases regarding delayed discharge of

<sup>8</sup> NICCY (2022) ‘Too Little, Too Late’ Monitoring Report, p6-7 (emphasis added). Available at: <https://www.niccy.org/media/4089/niccy-ttl-monitoring-report-15-march-2022.pdf>

young people from secure health facilities; supporting cases involving use of restraint or isolation; admissions criteria of some post-primary schools; the role of the SEN and Disability Tribunal.

8.64 Again Dr Haydon commented that NICCY involvement in casework and external legal proceedings in support of other organisations has made a significant difference to the individuals involved, (particularly their work with educational provision) there is a need for similar responses in other areas, including mental health. The most disadvantaged and vulnerable children and young people, and those unknown to or who have limited contact with public agencies, are not likely to have the resources or capacity to access the Commissioner.

### **Outcome 8: Children & Young People participate or are represented in decision making**

8.65 NICCY has promoted the engagement and consultation of Children and Young People in decisions which impact upon them. NICCY has established a Youth Panel to support and inform its own work as well as engage with public agencies about issues affecting young people. NICCY's Youth Panel are regularly asked to present at Committees and meet Ministers to discuss important policy areas. Children and Young People often accompany the Commissioner to meetings with Ministers and other

meetings with relevant authorities. NICCY support the Youth Panel in these engagements and believe it crucial that Children and Young Peoples voices are heard when policies are developed that will directly impact upon them.

8.66 NICCY has also commissioned research on participation, including in 2014, research to evidence the impact of direct participation with children and young people in the development of departmental policies and services. While providing some examples of good practice, this identified that 'more work still needs to be done to create a more systematic and consistent approach to participation across all government departments'.<sup>9</sup>

8.67 NICCY also commissioned the NI Youth Forum in 2015 to conduct a study about pupil participation in schools. Its Director stated: 'Whilst strides have been made over recent decades in terms of promoting the voices of young people there have also been significant contradictions. Often the rhetoric does not reflect the reality and whilst there appears to be a political will, there are also glaring omissions in our "participation landscape" locally'.<sup>10</sup>

8.68 In 2018 NICCY produced guidance for public bodies stating: 'Having monitored the way in which government is meeting its obligations in relation to the participation of children and young people in schools, at community, local government and national levels, we

<sup>9</sup> Keenan, P. (2014) Walking or Talking Participation? p8 (emphasis added). Available at: <https://www.niccy.org/media/1202/niccy-participation-report-web-oct-14.pdf>

<sup>10</sup> Northern Ireland Youth Forum (2015) #Pupil's Voice: Making a Difference, p3 (emphasis added). Available at: [https://www.niccy.org/media/2486/niyf\\_pupils-voice-nov-2015.pdf](https://www.niccy.org/media/2486/niyf_pupils-voice-nov-2015.pdf)

have found that there is considerable inconsistency in the degree to which this occurs'. It continued: 'Moreover, we have identified little evidence of outcomes of any engagement with children and young people in the development of legislation, policies, strategies, action plans and service delivery'.<sup>11</sup>

- 8.69 During the Covid pandemic young people also raised the lack of participation as an issue. A youth led research project in July 2020, reported that respondents 'Overwhelmingly ... highlighted huge concern that they had no say on issues related to the pandemic'.<sup>12</sup>
- 8.70 NICCY reports, the 2021 ARK Young Life and Times survey responses, the NI Youth Assembly priorities, and the 2022 NI Youth Forum Manifesto for Change: Enough is enough!, identify the issues as being the most significant to children and young people, these include:
- Human/ children's rights, including participation, equality and inclusion
  - Education
  - Mental health
  - Climate change and the environmental crisis

## Impact Conclusions

- 8.71 While there is considerable descriptive evidence of NICCY delivering activities across the outcome areas, it should be remembered that this analysis is based on a post-hoc overview of responses from stakeholder's and NICCYs own reports. Looking ahead it would be useful to revise and develop this framework further to inform a more proactive (formative) approach to evaluation and impact reporting.
- 8.72 NICCYs most recent Annual report provides detailed and comprehensive reporting against its high level Corporate Objectives (HLO). This lists 6 HLO with 48 Business Plan targets / sub targets (which increased to 51 following review and revision of the Business Plan in Q3). While comprehensive and useful for monitoring progress against tasks and targets, it is more difficult to assess actual impact and change delivered.
- 8.73 Therefore we would propose that the draft outcomes framework produced for this review be revised and further developed. Based on the analyses of responses and feedback, we would reconfigure the original outcomes down to seven high level outcomes as shown in P.58 overleaf. In addition, this illustrates that targets, indicators could be devised for each outcome and appropriate evidence, data collection methods identified.

<sup>11</sup> NICCY (2018) Participation with Children and Young People: Advice to Public Bodies, p15 (emphasis added). Available at: <https://www.niccy.org/media/2979/niccy-participation-advice-to-public-bodies-jan-18.pdf>

<sup>12</sup> Northern Ireland Youth Forum (2020) Our Voices: "Speaking Truth to Power", p2. Available at: <http://www.niyf.org/wp-content/uploads/2020/11/NIYF-OUR-VOICES-SPEAKING-TRUTH-TO-POWER-1.pdf>

8.74 For organisations like NICCY - who seek to influence decision makers, but with limited powers and resources – it is not only difficult to define outcomes, but even more difficult to isolate and measure the actual changes delivered. Therefore, it is important that NICCY clearly identify and define the outcomes they can actually deliver i.e. those outcomes they control and take responsibility for. For instance, it is not within NICCYs remit or resource to deliver major policy changes at government level. They can advise and inform, but NICCY is not responsible for the design and delivery of Government policy. Therefore indicators, evidence and measures should be developed that reflect this capacity.

8.75 Reviews of Commissioners in other jurisdictions have commented on the difficulty of assessing and measuring the impact of the Commissioners work. All refer to the issue of attribution, and how the work undertaken, particularly engagement across government, may not be directly attributable to Commissioner<sup>13</sup>. What's more, policy changes may take many years to achieve and the outcome of those changes may take even longer to be felt. This may fall well outside the normal time-frame for evaluation, hence the importance of setting interim goals to assess the general direction of travel<sup>14</sup>.

8.76 Dr Deena Haydon comments that It would be helpful if a comprehensive analysis of impact could be conducted, highlighting the factors affecting successful influence on policy/ practice development as well as what needs to be done to ensure implementation of rights-based legislation/ policies/ strategies and interventions by government departments and agencies.

8.77 We would suggest that a key factor affecting successful influence on policy/ practice development is the ability to connect with and build constructive relationships with key decision makers. If NICCY is to successfully inform and influence Government policy, then establishing relationships, both formal and informal with key decision makers is a vital factor. While NICCY is already doing this quite successfully, it would be important to recognise and articulate this as a formal outcome.

8.78 Therefore we would recommend that 'relationship building' become a key outcome for NICCY. This could be incorporated into the outcome framework at a number of levels including: building relations with children and young people; building relationships with stakeholders and peer bodies; as well as building relationships with decision makers. Outcomes could be specified for each level with targets/ indicators and appropriate evidence, data collection identified.

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<sup>13</sup> Tailored Review Report on the Office of the Children's Commissioner March 2019

<sup>14</sup> An Independent Review of the Role and Functions of the Children's Commissioner for Wales, 2014



## Proposed Revised NICCY Logic Model/Outcomes Framework

NICCY Role/Duties	Objectives (from Corporate Plan)	Actions/Powers	Proposed Outcomes	Goals
<p><b>Advise Communicate</b></p> <p>Advise and support children and young people directly on their needs, rights and access to services</p> <p>Advise government and all its agencies on policies, legislation, on services provided for young people</p>	<p>4. Raise awareness of C&amp;YP Rights, the UNCRC and the functions of the Commissioner</p>	<p>Issue Guidance concerning the Rights or Best Interests C&amp;YP</p> <p>Make Representations to any Body relating to the Rights of C&amp;YP</p>	<ul style="list-style-type: none"> <li>children and young people are better informed of their Rights</li> <li>Public are better informed of C&amp;YPs Rights</li> <li>Policy makers, Duty Bearers are better informed of C&amp;YPs Rights</li> </ul>	<p>PfG Outcome: Our children and young people have the best start in life</p> <p>A Society where: the rights of all children and young people are respected and realised</p>
<p><b>Investigate Challenge</b></p> <p>Government actions for improvement and correction when they fall short</p>	<p>2. Highlight and address critical issues which adversely affect Children and Young People.</p> <p>3. Address breaches of Children's and Young People's rights.</p>	<p>Conduct Investigations to meet duties</p> <p>Challenge, provide advice and publish information Assist with Complaints to/ or against Relevant Authorities</p> <p>Bring, intervene in, or assist Legal proceeding</p>	<ul style="list-style-type: none"> <li>The performance of government with respect to provision of C&amp;YP services is investigated and changes recommended</li> <li>C&amp;YP are legally represented and protected</li> </ul>	<p>The rights and best interests of children and young people are safeguarded</p>
<p><b>Advocate Represent</b></p> <p>Review, monitor what government does for children and young people and ensure it is in their best interests</p>	<p>1. Ensure that C&amp;YP rights are respected, promoted and protected in the work of all duty bearers</p> <p>5. Promote the participation of Children and Young People in decision making processes</p>	<p>Bring, intervene in, or assist Legal proceeding</p> <p>Undertake Research concerning the Rights best Interests of C&amp;YP (oversee appointment of C&amp;YP reps to decision making bodies?)</p>	<ul style="list-style-type: none"> <li>The design of legislation, Policy and services for C&amp;YP are better informed</li> <li>C&amp;YP participate or are represented in decision making</li> </ul>	<p>The rights and best interests of children and young people are promoted</p>

## Proposed Outcomes, Indicators Framework

NICCY Role/Duties	Proposed Outcomes	Target / Indicators	Evidence / Measures
<b>Advise Communicate</b> Advise and support C&YP directly on their needs, rights and access to services  Advise government and its agencies on policies, legislation, services provided for C&YP	<ul style="list-style-type: none"> <li>children and young people are better informed of their Rights</li> </ul>	% C&YP aware of their rights	Surveys
	<ul style="list-style-type: none"> <li>Public are better informed of C&amp;YPs Rights</li> </ul>	% public aware of C&YP rights	Surveys
	<ul style="list-style-type: none"> <li>Policy makers, Duty Bearers are better informed of C&amp;YPs Rights</li> </ul>	% duty bearers aware of C&YP rights	Surveys
<b>Investigate Challenge</b> Government actions for improvement and correction when they fall short	<ul style="list-style-type: none"> <li>The performance of government with respect to provision of C&amp;YP services is investigated and changes recommended</li> </ul>	# and types of investigations	Survey/Case studies
	<ul style="list-style-type: none"> <li>C&amp;YP are legally represented and protected</li> </ul>	# and types of cases	Case studies
<b>Advocate Represent</b> Review, monitor what government does for children and young people and ensure it is in their best interests	<ul style="list-style-type: none"> <li>The design of legislation, Policy and services for C&amp;YP are better informed</li> </ul>	# and types of legislation, policy informed	Survey/Case studies
	<ul style="list-style-type: none"> <li>C&amp;YP participate or are represented in decision making</li> </ul>	# and types of fora C&YP represented on/engaged in	Case studies
<b>Build Relationships</b> To inform and influence policy/practice development	<ul style="list-style-type: none"> <li>Children &amp; Young People</li> </ul>	# and type of arrangements	Survey/Case studies of formal/informal relationships
	<ul style="list-style-type: none"> <li>Stakeholders/Peer Bodies</li> </ul>	# and type of arrangements	Survey/Case studies of formal/informal relationships
	<ul style="list-style-type: none"> <li>Decision Makers</li> </ul>	# and type of arrangements	Survey/Case studies of formal/informal relationships

## 9. Conclusions

### Form and function

9.1 The Review clearly demonstrates the continuing need for the statutory functions ascribed to the Commissioner. Whilst viewed against the three Cabinet Office criteria for ALBs, the Commissioner's statutory responsibilities include those where it (a) performs a technical function, (b) needs to be politically impartial and (c) needs to act impartially to establish the facts. We have considered whether there are alternative structures which could deliver these functions effectively and efficiently.

9.2 In accordance with Article 24 of the Order (2003) the Commissioner has undertaken a series of reviews on the working of the Order and made recommendations for amendments. The proposed recommendations include: an amendment to facilitate NICCY taking an "own motion" case while not being a victim; and a proposed change of status of Commissioner to become an Officer of the NI Assembly. The Department for Communities has sought comment from other NI Departments on the proposed amendments. While it is a matter for the Department to determine whether to accept NICCY's proposals and to propose amendments to the legislation to the Executive, we have attempted to evaluate the evidence in support of each recommendation.

9.3 NICCY is a non-departmental public body (NDPB), sponsored by the Department for Communities (DfC), while

the appointment of the Commissioner rests with The Executive Office (TEO). While appointments by the First and deputy First Ministers give the post political legitimacy which would not necessarily be the case if it were made by a specific Minister, it is important that TEO ensures the appointment process satisfies the requirements of DAO DoF 05/17 in relation to Accounting Officer responsibilities.

9.4 Originally the Commissioner was appointed and the office sponsored by OFMdfM. When new First and deputy First Ministers are appointed and an Executive in place, the possibility of sponsorship reverting to TEO should be considered. Furthermore, there is scope within the new Partnership Agreement for the sponsor Department to have a greater focus on strategy and impact.

9.5 In common with some other Commissioners' offices, the post of Commissioner in NICCY has Corporation Sole status, which affords the Commissioner significant independence to carry out their duties and challenge functions. However, while the Corporation Sole model has many strengths, it does place a significant administrative overhead on what is a relatively small organisation and there is an argument for considering designating the Commissioner as a Statutory Officer of a Department (in effect a Ministerial appointee with statutory functions) which would continue to

embed the independence of the Office in statute while significantly reducing the administrative requirements associated with being an NDPB. However, this would be a deviation from the norm, as both the English<sup>15</sup> and Welsh<sup>16</sup> Commissioner Reviews concluded that Corporation Sole status should be retained as essential to the effective functioning of the office.

## Control and Governance

- 9.6 The Audit and Risk Committee comprises 3 members although there are currently two vacancies for which recruitment is in hand. While the Committee seems to be working well, and the Chair of ARAC reports positively on the support provided by NICCY officials, we make a number of recommendations which we consider will enhance the independence and improve the effectiveness of ARAC.
- 9.7 The Commissioner has established a range of stakeholder groups which include young people, statutory and voluntary and community-based organisations. There was strong support for the work of NICCY from all of these groups and a sense among statutory bodies that relationships had matured over recent years.
- 9.8 NICCY has well developed financial accountability processes, but the Corporation Sole status cannot provide the equivalent quality of assurance about the strategy or impact of the office. We considered the option of a

Board, as is the norm in other ALBs, or an Advisory Board as is the case for the Children's Commissioner in England. We also examined an alternative option, which was for NICCY to develop a more formal relationship with the NI Assembly Communities' Committee. We have concluded that, whether as a Corporation Sole or as a Statutory Office of the Department, the establishment of an Advisory Board strikes the best balance for NICCY.

## Efficiency

- 9.9 As a small organisation, NICCY has limited scope for demonstrating efficiency savings or for providing a career structure for staff. We considered possible alternative models of staffing including merging back-office support with another ALB or drawing staff from the NICS. We do not consider that there are sufficient efficiencies to be gained from combining back-office functions to outweigh the potential disadvantages. However, as there are plans (subject to legislation) for establishing new Commissioner posts, further consideration should be given to Commissioners drawing on shared services with the NICS. This could be in the context where the Commissioner is a Corporation Sole or becomes a Ministerial appointee with statutory functions (i.e. a Statutory Officer of the Department). The latter would however relieve the Commissioner of many of the administrative functions which are required of NDPBs and allow the post

<sup>15</sup> Tailored Review Report on the Office of the Children's Commissioner March 2019, Conclusions Page 5.

<sup>16</sup> An Independent Review of the Role and Functions of the Children's Commissioner for Wales, 2014. Page 14

holder to focus time and resources on the key statutory priorities for the Office. At the same time this could potentially constrain the Commissioner's capacity to operate independently and effectively hold government to account.

9.10 We appreciate it may take some time to tease out the implications of any change and there may be opportunities in the interim for experienced officers in other DfC ALBs to offer peer support to new incumbents in key posts such as finance.

9.11 There is considerable variation in how Commissioner led bodies are structured. This includes the Commissioner as Corporation Sole, linked to either an Executive Department or the NI Assembly, the Commissioner as a Statutory Officer of a Department, whether the bodies have a Chief Executive supporting the Commissioner and how back office and support services are sourced. We have noted that the management structure of Children's Commissioners in other jurisdictions do not have the position of Chief Executive. Instead, senior posts report directly to the Commissioner. In the light of this the Department may wish to consider reviewing the appropriateness of the current management structure within NICCY.

9.12 In relation to efficiencies around accommodation, there are plans for the Commissioners located in Equality House to be relocated to

new premises in James House. We understand that these plans have been subject to significant delay. In addition, Commissioners located in Equality House, including NICCY, have expressed concerns about colocation with bodies whom they may be scrutinising which might be perceived to compromise their independence. However, if hybrid working becomes the norm post-Covid, the need for the current office footprint should be reviewed with the aim of finding efficiencies in NICCY's accommodation costs.

### Effectiveness

9.13 To assist with an assessment of NICCY's broader impact we constructed a post-hoc outcomes framework and asked identified stakeholders to comment on NICCY's achievements against these outcomes. There is considerable descriptive evidence of NICCY delivering across these outcome areas.

- The Commissioner is very effective at public relations and getting the message out to the media. However, public awareness of children's rights and the work of Commissioners office could be improved.
- NICCY has carried out numerous rights-based reviews across Education, Health & Justice, providing detailed evidence of key issues and rights violations plus clear recommendations for relevant Departments and agencies.

- NICCY has only recently applied legislation to carry out its first formal investigation.
  - There has been quite positive feedback from Government bodies and duty bearers complimenting NICCY on their challenge function and the contribution they make to the development of policy and practice with regard to children's rights.
  - NICCY has built positive relationships with key decision makers allowing them to follow up and monitor implementation of review recommendations. However, it is unclear how much influence this wealth of material has on legislation, policies, strategies, service development or funding allocations.
  - NICCY casework in addressing complaints of rights violations has made a significant difference to the individuals involved, (particularly their work with SEN provision).
  - NICCY has promoted the engagement and consultation of Children and Young People in decisions which impact upon them.
- 9.14 Looking ahead it would be useful to revise and develop this outcome framework further to inform a more proactive (formative) approach to evaluation and impact reporting. This would involve NICCY clearly identifying and defining those outcomes that are within their remit and resource to deliver.
- 9.15 It can be argued that a key factor affecting successful influence on policy/practice development is the ability to connect with and build constructive relationships with key decision makers, therefore we would propose that NICCY include the concept of 'relationship building' as a key outcome.



# 10. Recommendations

## Form and function

- 10.1 The statutory functions ascribed to the Commissioner meet the Cabinet Office requirements and therefore must be retained to satisfy the requirements of the Children and Young People (Northern Ireland) Order 2003.
- 10.2 The Department for Communities has sought comments from other NI Departments on NICCY's Article 24 proposed amendments to the 2003 Order. Recommendations in respect of the 7 proposed amendments are as follows:
- 10.3 **A proposed change of status of Commissioner to become an Officer of the NI Assembly;** the Assembly Commission have affirmed their position that it would not be appropriate for the Commissioner to become an Officer of the Assembly.
- 10.4 **An amendment to the 2003 Order to facilitate NICCY taking an "own motion" case while not being a victim;** this recommendation has implications for all Departments and as such requires further interdepartmental consideration.
- 10.5 **The term of the Commissioner's office changing from 4 years, renewable, to a single term of 7 years;** the current position provides more flexibility to release the Commissioner should their performance be deemed unsatisfactory or should they lose the confidence of the constituency.
- 10.6 **A statutory requirement on the Commissioner to report to the NI Assembly on the progress made by the NI Executive in protecting the rights and best interests of children;** as the Office with this role, it would be appropriate for NICCY to make periodic reports to the Assembly on progress; further consideration would be required as to how such a commitment would link with the existing reporting requirement in respect of the Children's Services Cooperation legislation.
- 10.7 **A requirement for the Executive to provide a comprehensive response to the report in a timeframe of no more than 6 months;** there is a case for placing a requirement on the Executive to respond to reports within a defined time frame; the extent to which a comprehensive response is possible would depend to the number and complexity of the recommendations made.
- 10.8 **Placing a requirement on government to consult with NICCY before progressing legislation, strategies or policies which impact on children and young people;** Departments value the role which NICCY increasingly plays in providing early advice on new initiatives and the emphasis should be on strengthening these lines of communication; placing a requirement to consult in legislation could restrict a department's ability to respond when urgent action was required.

10.9 **Removing “duplication clauses” from the 2003 Order;** subject to robust MoUs being developed with bodies where duplication might be an issue, and kept under review, these “duplication clauses” could be removed.

## Governance and Control

10.10 We recommend that TEO should continue to appoint the Commissioner which, by virtue of requiring the endorsement of the First and deputy First Ministers, will confer added political legitimacy on the appointee.

10.11 We recommend that the Department for Communities (DfC) should engage with TEO when Ministers and an Executive are in place to consider whether, in addition to appointing the Commissioner, TEO should also be the sponsor Department for NICCY. Whichever Department sponsors NICCY, the new Partnership Agreement should be focussed on organisational strategy and demonstration of impact.

10.12 Notwithstanding decisions about sponsorship arrangements, we recommend that consideration is given to whether the Commissioner should remain as a freestanding Corporation Sole or become a Statutory Office of a Department. However removing Corporation Sole status would represent a deviation from the norm for other UK Children’s Commissioners and raise

concerns about the Commissioner’s perceived independence and actual detachment from government. Any proposed change in the Commissioner’s status would need to address how to guarantee the Commissioner’s continued independence and capacity to effectively hold government to account.

10.13 In view of the importance of ARAC should the Commissioner remain a Corporation Sole, we recommend:

- that the sponsor Department is included in the appointment arrangements for ARAC members
- the ToR are reviewed annually
- an effectiveness review is undertaken annually
- NICCY agrees an annual work programme with the Committee
- Regular meetings of the IA, EA and the Department continue but in the absence of the Commissioner/ Accounting Officer or other NICCY staff.
- DfC and NICCY consider using the NICS IA group to provide IA services when the current contract terminates

10.14 We recommend that NICCY establish an Advisory Board in consultation with the Department in order to provide the Commissioner with independent advice and review.

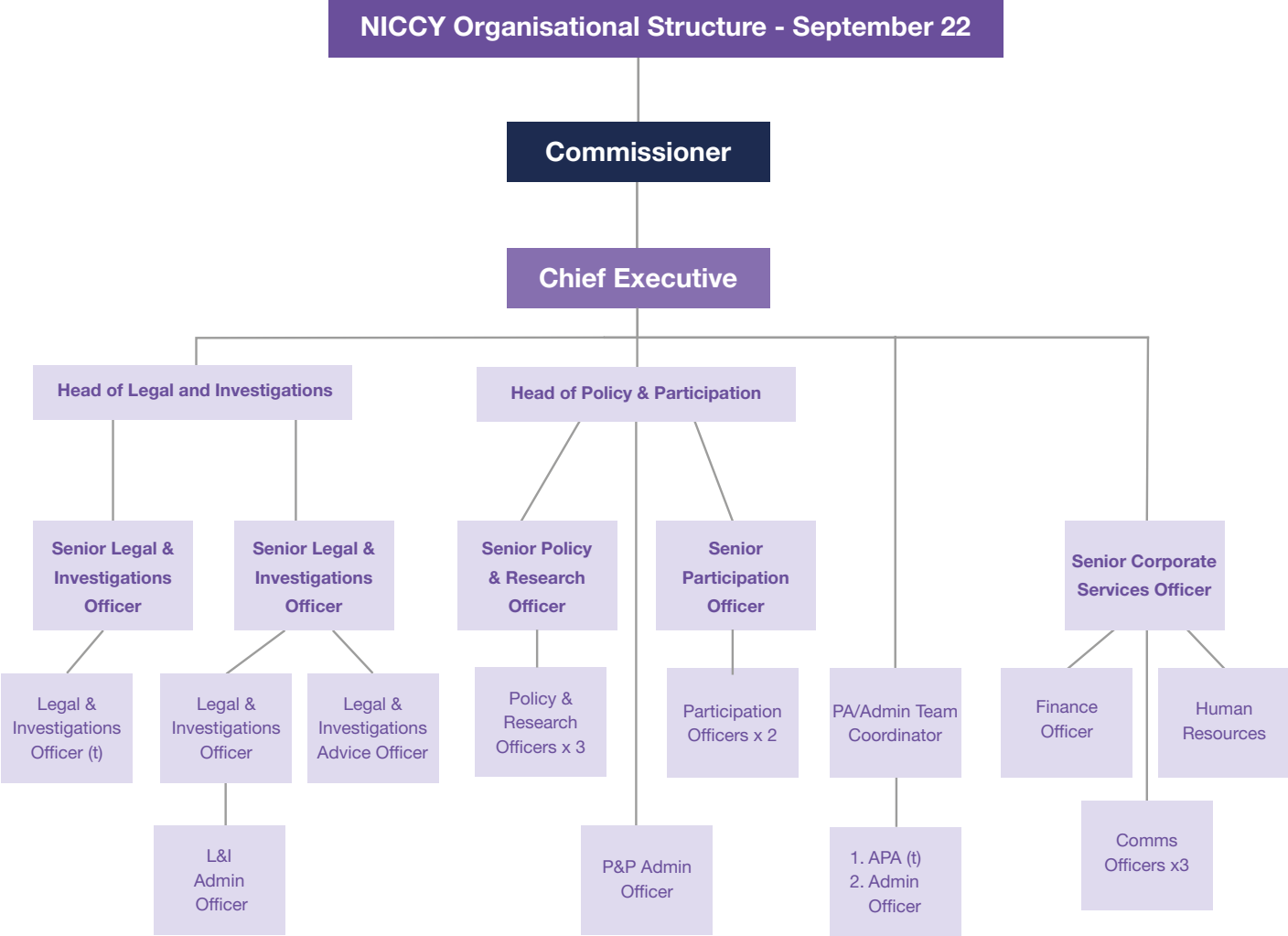
## Efficiency

- 10.15 There is limited scope for NICCY to find efficiencies through possible mergers with another NDPB. We recommend that the Department give consideration to the current senior management structure which currently has two posts at NICS Grade 5 level.
- 10.16 There could also be the potential for efficiency savings if the Commissioner were to be designated a Statutory Officer of a NI Department. While we would recommend that consideration is given to the Commissioner becoming a Statutory Officer of the Department, particularly in terms of efficiency, this could have implications for the Commissioner's independence and capacity to effectively hold government to account.
- 10.17 In the event of hybrid working becoming the norm, we would recommend that opportunities are explored for finding efficiencies in NICCY's accommodation costs.

## Effectiveness

- 10.18 There is considerable descriptive evidence of NICCY delivering effectively across identified outcome areas. Looking ahead we recommend that NICCY revise and develop the outcome framework to inform a more pro-active (formative) approach to evaluation and impact reporting.
- 10.19 This would involve NICCY clearly identifying and defining those outcomes that are within their remit and resource to deliver. Page 59, illustrates that targets and indicators could be devised for each outcome and appropriate evidence, data collection methods identified.
- 10.20 In addition, identifying that good relationships with key decision makers can be a key factor affecting successful influence on policy/practice development, we would recommend that NICCY include the concept of 'relationship building' as a key outcome.

# Appendix 1



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