

Education
Family Life and Alternative
Health and Welfare Civil Rights
Care
Leisure, Play and Culture
Justice
Juvenile
Protection



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1.1 Introduction

This introductory chapter briefly outlines the background to this review, the aims and objectives of the review and the methodology employed to realise these. The chapter also contains a participant overview and a brief consideration of the ethical issues involved in progression of the review. The chapter concludes with an overview of both the remit and structure of the remainder of the report.

1.2 The Role of NICCY

The role of the Northern Ireland Commissioner for Children and Young People (NICCY) was established in 2003 in accordance with the provisions of 'The Commissioner for Children and Young People (Northern Ireland) Order' 2003.

The first Commissioner for Children and Young People, Nigel Williams, was appointed in June 2003 and held the post until his untimely death in March 2006. Barney McNeaney (the Chief Executive) then acted as Interim Commissioner until January 2007, when the current Commissioner, Patricia Lewsley, took up post.

The principal aim of the Commissioner, as defined in article 6 of the Order, is that of safeguarding and promoting the rights and best interests of children and young persons. According to article 3 of the Order, this includes all children and young people under the age of 18 (ie 17 and under) and those children aged 18 to 20 inclusive who have been 'looked after' and/or have a disability.

Article 6 of the Order establishes some guiding principles for the exercise of the Commissioner's powers and functions, notably those of:

- paramount consideration for the rights of the child or young person
- regard for the ascertainable wishes and feelings of the child and young person (considered in light of their age and understanding)
- regard for statutory provision and rule of law
- regard to the role of parents in the upbringing and development of their children
- regard for any relevant provisions of the United Nations Convention on the Rights of the Child (UNCRC).¹

The Commissioner is further tasked with a series of specific duties under article 7 of the Order. These can be summarised as:

- promoting awareness and understanding of the rights of children and young persons
- keeping under review the adequacy and effectiveness of law and practice relating to the rights and welfare of children and young persons
- keeping under review the adequacy and effectiveness of services provided for children and young persons by relevant authorities²
- advising government on matters concerning the rights or best interests of children and young persons
- making children and young persons and their parents aware of the role of the Commissioner and the ways in which they can communicate with them.

1. An overview of the UNCRC can be found in chapter 2.

2. A list of 'relevant authorities' is contained within Schedule 1 of the 2003 Order.



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The range of other powers available to the Commissioner is outlined in articles 8 to 23 of the Order. Within the specific stipulations and parameters contained in the Order, these include the power to:

- undertake or commission research concerning the rights or best interests of children and young persons or the exercise of the Commissioner's functions (article 8)
- issue guidance on best practice in relation to the rights or best interests of children and young persons (article 8)
- conduct investigations in pursuit of the exercise of their functions (article 8)
- review the advocacy, complaint, inspection or whistle-blowing arrangements of relevant authorities (articles 9/10)
- provide assistance to a child or young person making a complaint to a relevant authority (article 11)
- investigate complaints against relevant authorities (articles 12/13)
- bring, intervene in or assist in, legal proceedings concerning the rights or welfare of children and young persons (articles 14/15)
- conduct a formal investigation into matters arising under articles 9, 10 or 12 of the Order (articles 16–23).

1.3 Background to the Review

Upon taking up post as Northern Ireland (NI)'s first Children's Commissioner in late 2003, Nigel Williams commissioned a major research study on the state of children's rights in NI. This work was carried out by a team of academics from

Queen's University Belfast (QUB) and published by NICCY as Kilkelly et al (2004) 'Children's Rights in Northern Ireland'. The findings of this research, together with the subsequent SHOUT consultation, directly informed the Commissioner's priorities and first corporate plan from 2005–2008. It has also proved to be an invaluable reference tool both for NICCY staff and other people studying or working in the field of children's services within NI.

Given the proven value of the 2004 report, and the impending task of determining NICCY's second corporate plan (2008–2011), the Interim Commissioner identified a need for an updated overview report on the state of children's rights in NI. It was anticipated that the findings of this new work would both inform the 2008–2011 corporate plan and produce an up-to-date comprehensive resource for NICCY staff and others working in the field.

1.4 Aims and Objectives of the Review

The overall aim of the review was that of determining the state of children's rights in NI in 2007/2008 within the framework of rights outlined within the UNCRC, in order to inform both the future work of NICCY³ and that of others interested in the effective realisation of children's rights within NI.

This review contributes to the fulfilment of the Commissioner's article 7 duty to keep under

3. Though decided prior to the publication of this final report, the priority work areas identified in NICCY's 2008–2011 corporate plan were based on initial analysis of both the primary and secondary data collected in this review.

review the adequacy and effectiveness of law and practice relating to, and services provided for, children and young people. The undertaking of the review also contributed to the accompanying article 7 duties to promote awareness and understanding of the rights of children and young persons and make children and their parents aware of the role of the Commissioner. It is hoped that the findings of the review will better enable the Commissioner to advise the government on matters concerning the rights and best interests of children, as per the final element of her article 7 duties.

There were two distinct, but interrelated, strands to the review:

- (i) an in-depth review of secondary data sources
- (ii) primary data collection with children and young people, their parent/carers and professionals working in the field.

Although sharing the same overall aim, both strands of the review had distinct specific objectives, given their different nature and the different personnel undertaking them. These are briefly summarised in sections 1.4.1 and 1.4.2 below.

1.4.1 Review of Secondary Data

The initial review of secondary data sources was externally tendered and, following a selection process, awarded to two external consultants. The objectives of this work included:

- a comprehensive review of current, and where identifiable, planned legislation/policies impacting upon children and young

people in NI and any research/literature relating to their lives produced post 2004

- on the basis of this, the identification of key areas in which children's rights (as defined in the UNCRC) are not being adequately realised within NI.

The report of secondary data produced by McMahon and Keenan in the spring of 2008 is available to download on NICCY's website. Readers are encouraged to source and use this document as, while all the areas covered by McMahon and Keenan (2008) appear in this overview report, the authors provide more detail on some of the developments referred to here.

1.4.2 Primary Data Collection

The second strand to this review was that of primary data collection with children and young people, their parents/carers and professionals working in the field. The overarching objective of this element of the work was that of eliciting the views of a range of key stakeholders on the current state of children's rights within NI, using appropriate methodologies and a clear rights-based framework. A number of subsidiary objectives were identified within this, including adherence to ethical standards, engagement of young people in the delivery and oversight of the work, inclusion of traditionally marginalised groups as participants in the review and identification of recently emerging issues. This strand of the review was overseen by a Project Board of NICCY staff and youth panel members and carried out by a team of NICCY staff and peer researchers, led by the Research, Policy and Service Review team. It was conducted between the spring and autumn of 2007.



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1.5 Participant Overview and Methodology

A range of methodologies were employed in the conduct of this review, including literature reviewing and policy analysis within the secondary data strand and interviewing, focus groups and questionnaires within the primary data strand. This section focuses on the methodologies employed in the latter of these, presenting a brief overview of these by participant type.⁴

1.5.1 Professionals

In April/May 2007 NICCY ran a series of group-based professional stakeholder workshops across NI. The focus of these workshops was 'the current state of children's rights in Northern Ireland' as understood from participants' experience, knowledge and perspectives.

These workshops were semi-structured in nature: a standard list of discussion points was used, but scope existed to reorder the schedule of these as required. Each of these sessions was recorded and subsequently transcribed, with the permission of participants.

A total of 87 delegates attended these workshops, representing a wide variety of statutory, voluntary and community sector agencies involved with children and young people in NI.

Professionals' views were also elicited via a semi-structured questionnaire, circulated to all existing contacts and placed on the NICCY website. A total of 63 agencies completed a questionnaire: 44.4% of these identified themselves as from the voluntary sector, 7.9% as from the community sector, 42.9% as from the statutory sector and 4.8% as 'other'.

Taking into consideration the fact that 19 professionals and/or agencies both attended a workshop and completed a questionnaire, a total of 131 different professional perspectives were directly elicited in this element of the review. A number of other professional perspectives were also ascertained by McMahon and Keenan (2008) in their work.

1.5.2 Parent and Carers

The views of parents and carers were primarily elicited through a questionnaire, which was placed on the NICCY website and distributed to parents/carers who have used the NICCY Legal and Complaints service.

A total of 101 parents and carers, with over 300 children in their care between them, completed questionnaires. Two parents from Autism NI submitted their views orally, whilst a further 36 parent/carers contributed their views through discussion groups facilitated by Parenting Forum NI on behalf of NICCY.

1.5.3 Children and Young People

The views of children and young people were elicited through both online/postal

4. Copies of all questionnaires and focus group schedules used in this work can be found in the 'Additional Resources' section of this report at www.niccy.org.

questionnaires and face-to-face small group sessions run in schools, youth groups, support groups and summer schemes across NI between late May and September 2007.

Posters advertising the questionnaire were sent to every post-primary school in NI and circulated amongst a number of organisations working with children and young people. A total of 160 young people chose to express their views through online or postal questionnaires: 12.5% were of primary school age, the remaining 87.5% were of post-primary age or above.

A total of 2,054 children and young people participated in small group sessions run in schools and other settings. The children and young people who participated in this way ranged in age from 3 to 25 years. The age breakdown is presented in Table 1.1 below.

Table 1.1 Age Breakdown of Children and Young People who Participated in this Review

Age range	Number	Percentage
Preschool age	119	5.8%
Primary school age	703	34.2%
Post-primary or above	1,232	60.0%

The majority (1,705) of these children and young people participated in sessions run in a school setting. The remaining 349 participated in sessions run in other settings, including youth groups, summer schemes, support groups, advisory groups and drop-in centres.

Identification of, and Access to, Participants

For purposes of practicality, a number of the schools that participated were selected because of ease of access due to existing contacts. Random sampling was, however, employed in the identification of additional schools in order to ensure that each Education and Library Board (ELB) and each school type was represented in the review. For a breakdown of participating schools by ELB and school type, please see Appendix 1. The selection of the children and young people who participated within schools was largely beyond the control of NICCY, with most schools selecting which classes were eligible for participation. Other non-school settings included in the review were selected primarily through existing NICCY contacts, supplemented by snowball sampling with a particular focus on the identification of groups of marginalised children and young people.

A number of measures were adopted in order to increase the representativeness of the overall sample – ensuring representation of children of different ages and those from different socio-economic groups, those from both rural and urban settings and those from different school types across all five ELBs.

The vast majority of small group sessions were run directly by NICCY staff (and during the summer months by peer researchers) but in a few instances, other agencies with easier access to and/or established relationships with particular groups of young people ran sessions for NICCY based on our approach and materials. This



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was the case with young people in Woodlands Juvenile Justice Centre (JJC) and Hydebank Young Offenders Centre (YOC). This was also the case with younger preschool children.

The Structure of Sessions

The small group sessions run with children and young people as part of this review were largely unstructured in nature, with a degree of flexibility built in to allow staff to appropriately respond to the different needs and capabilities of the children and young people taking part.

Sessions run with primary and post-primary aged children, in both school and non-school settings, commenced with an introduction to the work, confirmation of participants' consent⁵ and facilitation of questions and concerns. Participants were then asked to consider their experiences of a number of different 'rights' and to share, through drawing, writing and/or verbal communication, the things they thought were good and bad about their experience of these things.

Participants were presented with eight different issues/themes for consideration, drawn from the rights contained within the UNCRC.

Depending on the nature and constraints of the group, participants were either taken through the themes one by one or given the option to choose those most important to them to talk, draw and/or write about in more depth. Themes were presented in either text or pictorial format, depending on the age and needs of the group.

A brief explanation accompanied each of the eight themes, which were as follows:

- play and leisure
- education
- having your say
- health
- home
- wellbeing
- protection
- discrimination.

The choice of language used to introduce and explain these issues varied according to the age and understanding of the children involved; with, for example, the language of 'rights' only used with those of upper primary and post-primary age.

Picture cards and drawings were used primarily, though not exclusively, with children of primary school age or those with additional learning needs. All methods were discussed with staff from the school/organisation ahead of the sessions to ensure that the most appropriate methodologies were used and that staff from NICCY were aware of any additional needs of children participating in the review.

Older young people, such as those in post-primary school sessions, were more likely to opt for discussion based sessions as opposed to writing and drawing. In this case the content of discussions was noted in large text on large sheets of paper so participants could see what was being recorded. This was done either by NICCY staff or by pupils themselves, according to their preference.

5. Initial consent had been obtained prior to the day of the session from the children and young people and, where appropriate, their parent or guardian.

The methods used with preschool and year one pupils differed somewhat, with NICCY staff using puppets to interact with these children and as a conduit for discussion around what life was like for them in their local community.

It is important to note that though eight potential themes for discussion had been pre-identified this did not in any way preclude discussion of other topics. The primary aim of the sessions was to facilitate a conversation and to allow children and young people freedom to talk about issues of importance to them, on their own terms, in keeping with article 12 of the Convention. Open-ended probing questions were consequently utilised, but with the clear understanding that there was no requirement for participants to talk about anything that they were not comfortable with.

While this, it is hoped, made the experience of participating in this review a safe and positive one for children and young people, it is important to recognise the implications this had for data collection. The freedom given to children and young people to choose the issues they most wanted to talk about meant that the amount of primary data gathered across the eight themes varied according to the frequency with which these themes were chosen by children and young people. The variable amount of primary data from children and young people presented in different sections of this report should be viewed in light of this.

1.6 Ethical Considerations

The ethical baseline of all NICCY's research and review work is that of 'do no harm'. This was an important consideration in this work and a number of measures were implemented to try and minimise risk to participants. These included:

- receipt of ethical approval from NICCY's Ethics and Shadow Ethics Committee for proposed methodology and operational concerns and safeguards prior to any direct contact with participants in the review
- piloting of proposed session structures and questionnaires
- training of NICCY staff and peer researchers in working with children and young people and using the agreed methodologies, prior to the commencement of fieldwork and the provision of adequate support and supervision throughout
- ensuring all staff and peer researchers were vetted and appropriately trained in child protection issues and that robust child protection protocols were in place, clearly explained to participants and gatekeepers and appropriately followed through
- understanding of informed consent as an ongoing process and clear explanation as to desired involvement of participants and proposed use of data gathered
- obtaining consent from all participants and, where advisable, from their parent or guardian also
- use of interpreters where desired, to allow children and young people to participate in their primary language



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- establishment and promotion of complaints mechanisms for all participants in the review
- promotion of 'reciprocity' – given the scale of this review, this took the form of a prize draw for all participants and provision of subsequent rights awareness workshops or legal and complaints assistance from NICCY where desired.

Further details of the ethical standards adhered to in this review are available from the 'Additional Resources' section of this report on NICCY's website.

1.7 Content and Structure of the Report

This report presents the combined outcomes of both strands of NICCY's review of the current state of children's rights within NI. It includes the findings of the primary data collection, with direct quotes from participants presented in colour in each chapter. It also includes a review of secondary data, including that of other studies published between January 2004 and June 2008, and a review of key policy and legislative developments that have taken place during this time.

Limits must always be set as to what can be included in any report. For the purposes of this review, the general cut-off point identified for inclusion in this report was the end of June 2008. Where significant policy or legislative developments have occurred after this, they have either been referenced within the text (if occurring prior to finalisation of that section of the report) or highlighted in a footnote for

the benefit of the reader (if occurring between finalisation of that section and commencement of the publication process). Anything occurring after, or being published after, mid November 2008 has not been included in this report as this is when the final publication process began.

Production of the final report was delayed slightly in order to allow for inclusion of the most recent Concluding Observations of the Committee on the Rights of the Child on the United Kingdom (UK) State party's third and fourth periodic reports on the measures it has taken to ensure effective implementation of the UNCRC. The commentary provided by the Committee on this is referenced in the relevant sections of this report.

The remainder of this report is structured thematically, according to the key groupings of rights afforded to all children and young people under the Convention. The chapters that follow are:

- chapter 2: General Measures of Implementation
- chapter 3: Civil Rights and Personal Protections
- chapter 4: Family Life and Alternative Care
- chapter 5: Health and Welfare
- chapter 6: Education
- chapter 7: Leisure, Play and Culture
- chapter 8: Children in Conflict with the Law and the Administration of Juvenile Justice.

A more detailed overview of the sections contained within each of these chapters is provided in the contents list. However, all follow

the same general structure of commencing with an overview of the rights that should be afforded children and young people within this sphere of their life and proceeding with an examination of a series of specific elements in relation to this. All conclude with the identification of priority areas for action which, if addressed, would serve to deliver more effective realisation of children's rights within NI.

1.8 Conclusion

As highlighted at the start of this chapter, the overall aim of this review was that of determining the current state of children's rights within NI for the purposes of informing both the future work of NICCY and that of others interested in the effective realisation of children's rights within NI. Whilst recognising the inevitable 'overview nature' of a review of this scale, it is hoped that the information contained within this report will prove a useful resource for others who, like the Commissioner for Children and Young People, are dedicated to improving the lives of children and young people within NI through more effective realisation of their rights.