



INTRODUCTION

The Human Rights Unit, in OFMDFM, issued a consultation paper on a Commissioner for Children for Northern Ireland on 9 August 2001 with a closing date for responses of 8 November 2001.

12,000 copies of the consultation paper were widely circulated to schools, interested parties, including politicians, voluntary and charitable organisations, and the general public. 4,000 Facilitators guides and 10,000 Children's versions were also sent to schools and youth groups.

Over 300 responses were received. However, as a number of these were in fact a collection of individual responses from, for example, a class of school children or youth group, the actual number of respondents is considerably higher.

We received responses in a wide variety of formats including video, sculpture and pictures. We are extremely grateful to everyone, and in particular the children and young people who put so much effort into responding. The responses from young people contained some extremely useful information about the role of the Commissioner, which we will pass on to him/her in due course.

A list of respondents can be found at the Annex. However, some respondents wished to remain anonymous and so their names have been omitted from this list.



GENERAL

There was overwhelming support for a Commissioner for Children in Northern Ireland with virtually all of responses welcoming the appointment.

A summary of the responses to the consultation document is set out below. The analysis follows the order that the questions were asked in the consultation paper.



Functions

We asked:

1. Do you think the Commissioner should carry out the functions in sections 3.3, which were promoting rights, advocacy, advice and watchdog functions? Are there functions which you believe should be omitted or added?
2. Should the Commissioner for Children have a role in promoting rights generally, and also in acting as an ombudsman, or should it be one or the other?
3. If the Commissioner is to have both sets of functions, what should the balance be between them?

Question 1

A large number of respondents answered this question. Almost everyone who responded agreed that the Commissioner should carry out the functions in section 3.3. Some respondents suggested that an additional number of functions should be added, such as:

- to monitor and evaluate the allocation of funding for children's services.
- to promote a higher priority for children and a higher visibility of children, in central, regional or local government and in civil society, and to improve public attitudes to children.

Question 2 & Question 3

The majority of people responding suggested that the Commissioner should have a role in promoting rights generally and also in acting as an ombudsman and that there should be a balance between the two roles. However, some respondents argued that the Commissioner's main role should be as an ombudsman and others felt the Commissioner's role should be that of "promoting rights". There was therefore no clear consensus on the point.



Complaints

We asked:

4. Should the Commissioner for children have a role in investigating complaints?

If so, what should that role be:

- All complaints; or
- Complaints, which cannot be dealt with by other authorities.

Question 4

Almost everyone who commented agreed the Commissioner should have a role in investigating complaints. A large number of respondents expressed the view that the Commissioner should only deal with complaints that could not be dealt with by other authorities. Few respondents said that the Commissioner should deal with all complaints.



Legal Proceedings

We asked:

5. Should the Commissioner have a role in legal proceedings?
- Assisting children to take cases, including financial assistance;
 - Taking cases in his or her own name where he or she believes that there has been a denial of children's rights;
 - Intervening in legal proceedings as a third party from a children's rights perspective;
 - Acting as an amicus curiae in proceedings from a children's rights perspective;
 - Representing children in legal proceedings.

Question 5

Again many respondents replied to this issue. Most respondents supported the Commissioner having a role in legal proceedings, and many felt the Commissioner should have a role in all the legal proceedings listed. Some respondents highlighted certain areas of legal proceedings that they felt the Commissioner should have a role in, for example, acting as amicus curiae.



Powers

We asked:

6. Bearing in mind the functions that you think a Commissioner should carry out, which of the powers set out in sections 3.4 (or other powers) do you think a Commissioner should have?
7. Should it be a specific criminal offence to obstruct the Commissioner in carrying out his or her functions or should obstruction be treated as contempt of court?

Question 6

There was general agreement to the Commissioner having the powers listed in section 3.4. A number of respondents commented that they did not agree to the Commissioner being required to give priority to the rights of the child over the rights of adults, where there is a conflict.

Question 7

Differing views were expressed with regard to this question. The majority of support was for the obstruction of the Commissioner to be treated as contempt of court. It was, however, commented by some that to obstruct the Commissioner should be a criminal offence.



Remit

We asked:

8. Should the Commissioner's remit cover all children up to the age of 18 years or just those considered at risk or in need?
9. Should the Commissioner's remit include young people who have been looked after by public authorities, up to the age of 21 years?
10. Should the Commissioner's remit extend to disputes between a child and his/her parents/guardian or between parent/guardian in relation to the exercise of parental responsibility?
11. Should the Commissioner's remit include children living here temporarily?
12. Should the Commissioner's remit include children in the juvenile justice system and the children of refugees and asylum seekers who come to Northern Ireland?

Question 8 & Question 9

There was a general consensus that the Commissioner's remit should cover all children up to the age of 18 and those who have been looked after by public authorities, up to the age of 21 years. A number of consultees suggested that the remit also be extended up to the age of 21 years for those young people with a disability or chronic health condition.

Question 10

There were mixed views with regard to question 10. Some respondents argued that the Commissioner's remit should extend to disputes between a child and his/her parents/guardian or between parent/guardian in relation to the exercise of parental responsibility and others argued that it should not.

Question 11

There was strong support from those who responded to this question for the Commissioner's remit to include children living here temporarily.

Question 12

Over a third of all responses received answered this question. The majority agreed that the Commissioner's remit should include children in the juvenile justice system and the children of refugees and asylum seekers who come to Northern Ireland.



Appointment and Accountability

We asked:

13. Who should appoint the Commissioner for Children?
14. Should young people be involved in the appointment arrangements and if so, how should this be done?
15. How long should the term of appointment be?
16. Should a Commissioner be eligible for reappointment?
17. To whom should the Commissioner be accountable and how?
18. Should children and young people be involved in the accountability arrangements and, if so, how might this be done?
19. Who should deal with complaints about the Commissioner for Children?

Question 13

There was no clear consensus as to who should appoint the Commissioner for Children with large number of responses stating that it should be either the First Minister and Deputy First Minister, or the Executive or the Assembly. Other responses suggested the appointment being made by the Queen, or by representatives from children's organizations, and some respondents suggested that the appointment should be made through an independent selection process complying with section 75 of the Northern Ireland Act 1998.

Question 14

The majority of people who responded to this question agreed that children should be involved in the appointment process. Some respondents elaborated on how this should be done. Many of these suggested that we should adopt the same approach as the one in Wales, while other suggestions were:

- children should be able to vote on who the Commissioner should be;
- a panel of at least ten children should interview short listed candidates; and
- school councils should vote on who the Commissioner should be.

Question 15 & Question 16

Almost half of those responding to these questions stated that the Commissioner should serve a four-year term renewable once. The remaining responses varied greatly some examples of these are as follows:

- seven year term not renewable;
- two years;
- appointed every five years;
- four years with an extension of two years.

Question 17 & Question 18

A large number of people responded to these questions. Some respondents gave more than one option when suggesting to whom the Commissioner should be responsible.

The majority opinion was that the Commissioner should be accountable to the Assembly while others suggested the Office of the First Minister and Deputy First Minister. Also many respondents were in support of the Commissioner being accountable to children and young people. Other responses suggested the Secretary of State; Westminster Parliament; the Executive; and Public Bodies.

Few respondents addressed the issue of how the Commissioner should be accountable. Some of those who responded commented that they thought the Commissioner should provide an annual report to the Assembly and others suggested he/she should provide an annual report to Westminster Parliament. Other suggestions included:

- providing a report to young people;
- regular meetings with representatives of children's and young people's groups to hear their views of the impact of the Commissioner; and
- providing an annual report to the Secretary of State.

Question 19

Different preferences were expressed about who should deal with complaints about the Commissioner including:

- the First Minister and Deputy First Minister;
- the Northern Ireland Ombudsman;
- the Northern Ireland Assembly;
- young people, with advice from children's organisations; and an independent body.



Other comments

Other areas on which respondents commented included the Commissioner's title and resources available. Many respondents expressed that his/her office should be called the Office of the Commissioner for Children and Young People for Northern Ireland as opposed to the Commissioner for Children for Northern Ireland. Further, almost half of all those responding commented on the importance of the Commissioner Office being adequately resourced in order to carry out all its functions.



Equality Impact Assessment (EQIA)

A very small number of consultees commented on the EQIA. Concerns were expressed that the consultation document did not take account of the fact that girls and boys have different experiences of growing up, nor did it address issues of sexual orientation. The comment was also made that the EQIA could have highlighted the potential to promote equality of opportunity for children with disabilities. These points have been taken into account in the development of the proposals.



The Way Forward

This analysis of responses has helped inform policy decisions on the way forward. Legislation is being drafted at present and it is intended to introduce it into the Assembly in the near future. The aim is that a Commissioner for Children and Young People will be in place by the autumn of this year.

Further details will be available in due course from this website.