

## SCHEDULES

### SCHEDULE 1

Article 4

#### RELEVANT AUTHORITIES

The following bodies and persons are relevant authorities by virtue of Article 4(1)(c)—

### PART I

#### *Health and personal social services*

1. A general health services provider, that is to say—
  - (a) an individual undertaking to provide general medical services or general dental services under Part VI of the [Health and Personal Social Services \(Northern Ireland\) Order 1972 \(NI 14\)](#);
  - (b) a person (whether an individual or a body) undertaking to provide general ophthalmic services or pharmaceutical services under Part VI of that Order; or
  - (c) an individual performing personal medical services or personal dental services in accordance with arrangements made under Article 15B of that Order (except as employees of, or otherwise on behalf of, a health and social services body or an independent provider).
2. An independent provider, that is to say a person (whether an individual or a body)—
  - (a) providing services of any kind under arrangements with a health and social services body or a general health services provider; and
  - (b) not being a health and social services body or a general health services provider.
3. Any person carrying on any of the following within the meaning of the [Children \(Northern Ireland\) Order 1995 \(NI 2\)](#)—
  - (a) a children's home or voluntary home;
  - (b) a residential care home, nursing home or private hospital in which children are accommodated.
4. A person providing day care to which Article 118(1)(b) of the [Children \(Northern Ireland\) Order 1995 \(NI 2\)](#) applies.

#### *Education*

5. The Board of Governors of a grant-aided school, within the meaning of the [Education and Libraries \(Northern Ireland\) Order 1986 \(NI 3\)](#).
6. The managers of an independent school, within the meaning of that Order.
7. The governing body of an institution of further education, within the meaning of the [Further Education \(Northern Ireland\) Order 1997 \(NI 15\)](#).

*Others*

8. The Northern Ireland Commissioner for Complaints.
9. The Assembly Ombudsman for Northern Ireland.
10. The Northern Ireland Film Commission.

**PART II**

*Justice and policing*

11. The Northern Ireland Court Service.
12. The Northern Ireland Policing Board and the Chief Constable of the Police Service of Northern Ireland.
13. The Juvenile Justice Board and any other body or person with whom the Secretary of State has made arrangements for the provision of juvenile justice centres or attendance centres under the [Criminal Justice \(Children\) \(Northern Ireland\) Order 1998 \(NI 9\)](#).
14. The Probation Board for Northern Ireland.
15. The Chief Inspector of Criminal Justice in Northern Ireland.
16. The Northern Ireland Legal Services Commission.
17. The Northern Ireland Law Commission.

*Others*

18. The Police Ombudsman for Northern Ireland.
19. The Parliamentary Commissioner for Administration.
21. The Information Commissioner
22. The Qualifications and Curriculum Authority.
22. The Northern Ireland Office.

**SCHEDULE 2**

**THE COMMISSIONER FOR CHILDREN AND  
YOUNG PEOPLE FOR NORTHERN IRELAND**

*Status*

- 1.—(1) The person for the time being holding the office of Commissioner for Children and Young People for Northern Ireland shall by that name be a corporation sole.
- (2) The Commissioner shall not be regarded—
  - (a) as the servant or agent of the Crown; or
  - (b) as enjoying any status, immunity or privilege of the Crown.

(3) The property held by the Commissioner shall not be regarded as property of, or held on behalf of, the Crown.

#### *General powers*

2.—(1) The Commissioner may do anything, apart from borrowing money, which he considers is—

- (a) appropriate for facilitating, or
- (b) incidental or conducive to,

the exercise of his functions.

(2) That includes in particular—

- (a) co-operating with other bodies exercising functions relating to children and young persons or their rights (whether in the United Kingdom or elsewhere);
- (b) acquiring, holding and disposing of real or personal property;
- (c) entering into contracts.

#### *Tenure of office*

3.—(1) Subject to the provisions of this paragraph, a person shall hold and vacate office as the Commissioner in accordance with the terms of his appointment.

(2) An appointment as the Commissioner shall be for a term of 4 years.

(3) A person who ceases to be the Commissioner on the expiration of his first term of office shall be eligible for re-appointment, but a person who has been re-appointed by virtue of this subparagraph shall not be eligible for appointment or re-appointment as the Commissioner at any time after the end of his second term of office.

(4) A person may at any time resign his office as the Commissioner by notice to the First Minister and deputy First Minister.

(5) The First Minister and deputy First Minister acting jointly may remove a person from office as the Commissioner if satisfied that he has—

- (a) been convicted of a criminal offence;
- (b) become bankrupt or made an arrangement or composition with his creditors;
- (c) without reasonable excuse, failed to discharge his functions for a continuous period of 3 months; or
- (d) become unfit or unable to exercise his functions.

#### *Salary, etc.*

4.—(1) The Office may pay to or in respect of the Commissioner—

- (a) such remuneration,
- (b) such allowances, and
- (c) such sums for the provision of a pension,

as the Office may determine.

(2) Where a person ceases to hold office as Commissioner otherwise than on the expiration of his term of office and the Office determines that there are special circumstances that make it right for

that person to receive compensation, the Office may make to that person a payment of such amount as the Office may determine.

(3) A determination of the Office under this paragraph requires the approval of the Department of Finance and Personnel.

#### *Staff*

5.—(1) The Commissioner may appoint such number of officers as he may determine.

(2) The remuneration and other conditions of service of the officers appointed under this paragraph shall be determined by the Commissioner.

(3) The Commissioner may make such payments towards the provision of such pensions or allowances to or in respect of the officers appointed under this paragraph as he may determine.

(4) The reference in sub-paragraph (3) to pensions or allowances to or in respect of the officers appointed under this paragraph includes reference to pensions or allowances by way of compensation to or in respect of any of those officers who suffer loss of employment.

(5) A determination of the Commissioner under this paragraph requires the approval of the Office and the Department of Finance and Personnel.

(6) Employment as an officer of the Commissioner is among the kinds of employment to which a superannuation scheme under Article 3 of the [Superannuation \(Northern Ireland\) Order 1972 \(NI 10\)](#) can apply and, accordingly, in Schedule 1 to that Order (employments to which Article 3 can apply) the following entry shall be inserted at the appropriate place—

“Employment by the Commissioner for Children and Young People for Northern Ireland.”

#### *Exercise of functions of Commissioner*

6. Any function of the Commissioner may be exercised by any officer of the Commissioner who has been authorised (whether generally or specially) by him for the purpose.

#### *Seal*

7. The application of the seal of the Commissioner shall be authenticated by his signature or by the signature of any officer of the Commissioner who has been authorised (whether generally or specially) by him for the purpose.

#### *Evidence*

8. A document purporting to be an instrument issued by the Commissioner and to be duly executed under the Commissioner’s seal or to be signed by, or on behalf of, the Commissioner shall be received in evidence and shall, unless the contrary is proved, be taken to be such an instrument.

#### *Property*

9.—(1) Any real or personal property vested in the Commissioner shall (unless and until disclaimed or disposed of) vest in his successor in office.

(2) Where there is a vacancy in the office of Commissioner at the time when real or personal property would otherwise have vested, the property shall vest in the successor on his appointment.

### *Funding*

- 10.**—(1) The Office may make grants to the Commissioner of such amounts as it may determine.
- (2) Subject to sub-paragraph (3), the Commissioner shall pay to the Office all sums received by him in the course of, or in connection with, the carrying out of his functions.
- (3) Sub-paragraph (2) shall not apply to such sums, or sums of such description, as the Office may, with the approval of the Department of Finance and Personnel, direct.
- (4) Any sums received by the Office under sub-paragraph (2) shall be paid into the Consolidated Fund.

### *Accounts*

- 11.**—(1) The Commissioner shall—
- (a) keep proper accounts and proper records in relation to the accounts, and
  - (b) prepare a statement of accounts in respect of each financial year.
- (2) The statement of accounts shall—
- (a) be in such form, and
  - (b) contain such information,
- as the Office may, with the approval of the Department of Finance and Personnel, direct.
- (3) The Commissioner shall, within such period after the end of each financial year as the Office may direct, send copies of the statement of accounts relating to that year to—
- (a) the Office, and
  - (b) the Comptroller and Auditor General.
- (4) The Comptroller and Auditor General shall—
- (a) examine, certify and report on every statement of accounts sent to him by the Commissioner under this paragraph, and
  - (b) send a copy of his report to the Office.
- (5) The Office shall lay a copy of the statement of accounts and of the Comptroller and Auditor General's report before the Assembly.
- (6) In this paragraph and paragraph 12 “financial year” means—
- (a) the period beginning with the day on which the first person appointed under Article 5(2) takes office and ending with the next 31st March following that date, and
  - (b) each successive period of twelve months ending with 31st March.

### *Annual report*

- 12.**—(1) As soon as practicable after the end of each financial year, the Commissioner shall send to the Office a report on the carrying out of his functions during that year.
- (2) A report under this paragraph in respect of any year shall give details of the steps taken by the Commissioner in that year for the purpose of complying with his duty under Article 7(5).
- (3) The Office—
- (a) shall lay a copy of every report sent to it under this paragraph before the Assembly; and
  - (b) shall send a copy of every such report to the Secretary of State.

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Commissioner for Children and Young People (Northern Ireland) Order 2003 No. 439*

*The Northern Ireland Assembly Disqualification Act 1975 (c. 25)*

**13.** In Part III of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (disqualifying offices) there shall be inserted, at the appropriate place—

“Commissioner for Children and Young People for Northern Ireland”.

*The Commissioner for Complaints (Northern Ireland) Order 1996 (NI. 7)*

**14.** In Schedule 2 to the Commissioner for Complaints (Northern Ireland) Order 1996 (bodies subject to investigation) there shall be inserted, at the appropriate place—

“The Office of the Commissioner for Children and Young People for Northern Ireland”.

*The Freedom of Information Act 2000 (c. 36)*

**15.** In Part VII of Schedule 1 to the Freedom of Information Act 2000 (offices and bodies which are public authorities for the purposes of the Act) there shall be inserted, at the appropriate place—

“The Commissioner for Children and Young People for Northern Ireland”.

*The Criminal Justice and Court Services Act 2000 (c. 43)*

**16.** In section 36(8) of the Criminal Justice and Court Services Act 2000 (regulated positions in Northern Ireland) at the end add—

“(d) Commissioner for Children and Young People for Northern Ireland appointed under the Commissioner for Children and Young People (Northern Ireland) Order 2003.”.

Schedule 3

Articles 8(4) and 9(7)

INVESTIGATIONS UNDER ARTICLE 8(4) OR 9(7)

*Interpretation*

**1.** In this Schedule any reference to an investigation is a reference to an investigation in relation to which the Commissioner has made a determination under—

- (a) Article 8(4); or
- (b) Article 9(7).

*Conduct of investigation*

**2.—(1)** In determining whether to conduct or discontinue an investigation, the Commissioner shall act in accordance with his own discretion.

(2) Where the Commissioner determines under Article 8(4) to conduct an investigation he shall—

- (a) produce terms of reference for the investigation;
- (b) send notice of the proposed investigation and a copy of the terms of reference to any relevant authority concerned and such other bodies or persons as the Commissioner thinks fit; and

- (c) afford to every such authority an opportunity to comment on the matters being investigated and to give oral or other evidence respecting those matters.
- (3) Where the Commissioner determines under Article 9(7) to conduct an investigation he shall—
  - (a) produce terms of reference for the investigation;
  - (b) send notice of the proposed investigation and a copy of the terms of reference to the relevant authority concerned; and
  - (c) afford to the relevant authority concerned an opportunity to comment on the matters being investigated and to give oral or other evidence respecting those matters.
- (4) An investigation shall be conducted in private.
- (5) Except as otherwise provided by this Order, the procedure for conducting an investigation shall be such as the Commissioner considers appropriate in the circumstances of the case; and, in particular, it is for the Commissioner to determine whether any person may be represented by counsel or solicitor or otherwise in the investigation.
- (6) The Commissioner may for the purposes of an investigation obtain information from such persons and in such manner, and make such enquiries, as he thinks fit.
- (7) Subject to sub-paragraph (8), in conducting an investigation the Commissioner shall not be obliged to hold any hearing, and no person shall be entitled as of right to be heard by the Commissioner.
- (8) If at any time during the course of an investigation it appears to the Commissioner that there may be grounds for making any report or recommendation that may adversely affect any relevant authority or person, the Commissioner shall afford to that authority or person—
  - (a) an opportunity to give oral or other evidence; and
  - (b) an opportunity of testing by cross-examination any evidence which may affect that authority or person.
- (9) The Commissioner may, if he thinks fit, pay to any person who attends or supplies information for the purposes of a formal investigation—
  - (a) sums in respect of expenses properly incurred by him;
  - (b) allowances by way of compensation for the loss of his time,in accordance with such scales and subject to such conditions as the Office may determine.
- (10) An investigation shall not affect—
  - (a) any action taken by a relevant authority or by any department or Minister with respect to that authority; or
  - (b) any power or duty of that authority, department or Minister to take further action with respect to any matters subject to the investigation.

#### *Report on investigation*

- 3.—**(1) Where the Commissioner has conducted an investigation pursuant to a determination under Article 8(4), he shall prepare a report on the outcome of the investigation and send it to—
  - (a) any relevant authority concerned and, where the report contains recommendations as to action to be taken by any other relevant authority, that relevant authority; and
  - (b) such other bodies or persons as the Commissioner thinks appropriate.
- (2) Where the Commissioner has conducted an investigation pursuant to a determination under Article 9(7), he shall prepare a report on the outcome of the investigation and send it to—

- (a) the relevant authority concerned and, where the report contains recommendations as to action to be taken by any other relevant authority, that relevant authority; and
  - (b) such other bodies or persons as the Commissioner thinks appropriate.
- (3) Apart from identifying any relevant authority concerned, a report under this paragraph shall not—
- (a) mention the name of any person; or
  - (b) contain any particulars which, in the Commissioner’s opinion, are likely to identify any person and can be omitted without impairing the effectiveness of the report,
- unless the Commissioner determines that it is necessary to do so (whether for the purposes of sub-paragraph (4) or otherwise).
- (4) A report under this paragraph may include recommendations as to action to be taken by a relevant authority mentioned in the report; and any such recommendations shall be accompanied by the Commissioner’s reasons for making them.
- (5) Where a report contains a recommendation as to action to be taken by a relevant authority, it shall be the duty of the authority to—
- (a) consider the recommendation; and
  - (b) determine what action (if any) to take in response to the recommendation.

*Further action following report on investigation*

- 4.—(1) Where the Commissioner has made a report under paragraph 3 which contains a recommendation in respect of a relevant authority, the Commissioner may by notice require that authority to provide the Commissioner within 3 months of the date of the notice with—
- (a) such information as will enable the Commissioner to determine whether the authority has complied with the recommendation or will be complying with it; or
  - (b) a statement of the authority’s reason for not complying with the recommendation.
- (2) A notice under sub-paragraph (1) shall include a statement that a failure by the authority to respond within the period mentioned in that sub-paragraph may be published in such manner as the Commissioner considers appropriate.
- (3) If, on receipt of a response from the authority, the Commissioner considers that—
- (a) the action taken or proposed to be taken by the authority to comply with the recommendation is inadequate; or
  - (b) the authority’s reason for not complying with the recommendation is inadequate,
- the Commissioner may send to the authority concerned a further notice setting out the inadequacy and requiring the authority to reconsider the matter and respond within one month of the date of the notice.
- (4) A notice under sub-paragraph (3) shall include a statement that a failure by the authority—
- (a) to provide what the Commissioner considers to be a satisfactory response; or
  - (b) to provide any response within the period mentioned in that sub-paragraph,
- may be published in such manner as the Commissioner considers appropriate.
- (5) The Commissioner shall include in the register maintained under Article 19(5) details of—
- (a) recommendations (together with the reasons for them) contained in reports made under paragraph 3;
  - (b) action taken by the Commissioner under sub-paragraphs (1) and (3); and



(c) the results of any such action.